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STATUTORY INSTRUMENTS

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**2003 No. 424**

**The Education and Libraries (Northern Ireland) Order 2003**

**PART IV  
SCHOOLS**

*Welfare and protection of pupils*

**Duty on Boards of Governors to safeguard and promote the welfare of pupils**

**17.**—(1) It shall be the duty of the Board of Governors of a grant-aided school to safeguard and promote the welfare of registered pupils at the school at all times when such pupils are—

- (a) on the premises of the school; or
- (b) in the lawful control or charge of a member of the staff of the school.

(2) Paragraph (1) does not apply in relation to pupils for whom accommodation is provided by the Board of Governors of a voluntary school (as to whom broadly corresponding provision is made by Article 176(1) of the [Children \(Northern Ireland\) Order 1995 \(NI 2\)](#)).

(3) Article 101 of the 1986 Order (directions by Department as to performance of duties imposed by or under the Education Orders) shall apply in relation to the duty imposed on the Board of Governors of a voluntary school by Article 176(1) of the Children (Northern Ireland) Order 1995 as it applies in relation to duties imposed on such a Board of Governors by or under any provision of the Education Orders.

**Child protection measures**

**18.**—(1) It shall be the duty of the Board of Governors of a grant-aided school—

- (a) to determine the measures to be taken at the school (whether by the Board of Governors, the staff of the school or other persons) with a view to protecting pupils from abuse (whether at school or elsewhere);
- (b) to review those measures—
  - (i) from time to time; and
  - (ii) (without prejudice to head (i)) at such times as the Department may direct;
- (c) in determining or reviewing those measures to have regard to any guidance given by the Department, the board for the area in which the school is situated and (in the case of a Catholic maintained school) the Council for Catholic Maintained Schools;
- (d) to prepare a written statement of such measures and to secure that—
  - (i) a copy of that statement is given (free of charge) to the parents of all registered pupils at the school and to the staff of the school; and
  - (ii) copies of the statement are available for inspection (at all reasonable times and free of charge) at the school; and

- (e) to secure that such measures are taken.
- (2) Directions under paragraph (1)(b)(ii) may be given—
  - (a) in relation to grant-aided schools generally;
  - (b) in relation to a class or description of grant-aided school; or
  - (c) in relation to any particular grant-aided school or schools.
- (3) In this Article “abuse” includes sexual abuse and abuse causing physical or mental harm to a child.

### **School discipline measures to prevent bullying**

**19.**—(1) Article 3 of the 1998 Order (responsibility of Board of Governors and principal for discipline) shall be amended as follows.

(2) In paragraph (2)(b) (consultation by Board of Governors before making or revising statement of general principles concerning discipline) for the words “the parents of registered pupils at the school” there shall be substituted “the registered pupils at the school and the parents of those pupils”.

(3) In paragraph (3)(a)(ii) (principal to determine measures to be taken to encourage good behaviour and respect for others on the part of pupils) at the end there shall be added “and, in particular, preventing all forms of bullying among pupils”.

(4) In paragraph (3) after sub-paragraph (a) there shall be inserted—

“(aa) before determining such measures, to consult the registered pupils at the school and the parents of those pupils;”.

### *Admissions*

### **Admission appeals: tribunal procedures and expenses**

**20.**—(1) In Article 15(8) of the 1997 Order (regulations as to constitution and procedure of admission appeal tribunals) after sub-paragraph (d) there shall be inserted—

“(dd) may provide for tribunals to sit in private, except in such circumstances as may be specified in, or determined in accordance with, the regulations;”.

(2) In Article 15(10) of the 1997 Order (travelling and subsistence allowances to members of admission appeal tribunals to be on such conditions and at such rates as the Department may determine) the words “, on such conditions and at such rates as the Department may determine,” shall be omitted.

(3) After that paragraph there shall be inserted—

“(10A) Payments under paragraph (10) shall be made at such rates and on such conditions as may be—

- (a) determined by the board; and
- (b) approved by the Department.”.

### **Parental preferences for admission to nursery schools**

**21.**—(1) In Article 23 of 1998 Order (arrangements for applications for admission to pre-school education to be made directly to the Board of Governors of the school concerned) for paragraphs (1) and (2) there shall be substituted—

“(1) Every board shall make arrangements for the parent of a child resident in the area of the board—

- (a) to express (in order of preference) his preferences as to the school at which he wishes pre-school education to be provided for his child;
- (b) where any of those schools provides both full time and part-time pre-school education, to express his preference as to which kind of pre-school education he wishes to be provided for his child; and
- (c) to give reasons for his preferences.

(2) Where the parent of a child has expressed his preferences under arrangements under paragraph (1)—

- (a) the parent shall be taken as making an application for admission of the child to the school which is the first preference of the parent; and
- (b) if that application is refused, the parent shall then be taken as making an application for admission of the child to the school which is the second preference of the parent,

and so on, taking each preference of the parent in order.

(2A) Where—

- (a) a school provides both full-time and part time education; and
- (b) a parent's expressed preferences include both,

paragraph (2) shall be read as if references to admission to a school were references to admission to a school for the particular kind of pre-school education (that is to say part-time or full-time) which is specified in the preference in question.”.

(2) This Article does not apply in relation to any admission to a school taking effect, or proposed admission which would take effect, in a school year ending on or before 31st July 2004.

### **Admission to special schools of children resident outside Northern Ireland**

**22.**—(1) A board may make arrangements for the admission to a special school in its area of a child who is resident outside Northern Ireland and has special educational needs.

(2) Arrangements made in respect of a child under this Article shall not be for a period of more than one school year at a time; but further arrangements may be made under this Article for a subsequent school year in respect of the same child and the same special school.

(3) A board may only enter into arrangements under this Article in respect of a special school and a school year (or a part thereof) if the board is of the opinion that doing so will not, in the school year in question, prevent the admission to the school of a child resident in Northern Ireland.

(4) Articles 128 to 131 of the 1989 Order (which restrict the charges which can be made in respect of pupils at a grant-aided school) shall not apply to a special school in relation to a pupil admitted to the school in accordance with arrangements under this Article; and accordingly in Article 127 of the 1989 Order after paragraph (4) there shall be inserted—

“(4A) Those Articles do not apply to a special school in relation to a pupil admitted to the school in accordance with arrangements under Article 22 of the Education and Libraries (Northern Ireland) Order 2003.”.

(5) A board may, in respect of a pupil admitted to a special school in accordance with arrangements under this Article, make such charges as it may determine.

*Miscellaneous***Removal of members of Boards of Governors**

**23.**—(1) The Department may by regulations provide for the removal by the Department of all of the voting and co-opted members of the Board of Governors of a grant-aided school (“the relevant school”)—

- (a) in prescribed circumstances; or
- (b) in such circumstances as may be determined by the Minister of Education in accordance with the regulations.

(2) Regulations under paragraph (1)—

- (a) shall provide for the formation of a new Board of Governors for the relevant school;
- (b) may provide for the exercise by a prescribed person or body of prescribed functions of the Board of Governors of the relevant school during such period as may be prescribed; and
- (c) may, for the purposes of any provision made by virtue of sub-paragraph (a) or (b), provide for any prescribed provisions of the Education Orders to apply in relation to the relevant school with such modifications as may be prescribed.

(3) Regulations under paragraph (1) shall require the Department before exercising any power of removal conferred by the regulations—

- (a) to consult such bodies and persons as may be prescribed;
- (b) to give to the Board of Governors of the relevant school such notice as may be prescribed of its intention to exercise the power of removal;
- (c) to afford the Board of Governors an opportunity to make representations to the Department concerning the matter; and
- (d) to consider any representations so made.

(4) The Department may by regulations provide for the removal from office by a relevant authority of any member of the Board of Governors of a grant-aided school appointed by it—

- (a) in prescribed circumstances; or
- (b) in such circumstances as may be determined by the Minister of Education in accordance with the regulations.

(5) Regulations under paragraph (4)—

- (a) shall provide for the appointment of a person to hold office in place of the member removed for the remainder of his term of office; and
- (b) may for that purpose provide for any prescribed provisions of the Education Orders to apply in relation to that appointment with such modifications as may be prescribed.

(6) Regulations under paragraph (4) shall require the relevant authority before exercising any power of removal conferred by the regulations—

- (a) to consult such bodies and persons as may be prescribed;
- (b) to give to such persons or bodies as may be prescribed such notice as may be prescribed of its intention to exercise the power of removal;
- (c) to afford to such bodies or persons as may be prescribed an opportunity to make representations to the relevant authority concerning the matter; and
- (d) to consider any representations so made.

(7) This Article and any regulations under this Article have effect in relation to a grant-aided school notwithstanding any provision for the time being contained in—

(a) the scheme of management of the school; or  
(b) any other instrument of government of the school;  
and any such scheme or instrument shall have effect accordingly.

(8) In this Article, in relation to a Board of Governors—

“co-opted members” means members co-opted under Article 122 or 139 of the 1989 Order;

“relevant authority” means a body by which, or person by whom, any member of the Board of Governors is appointed;

“voting members” has the same meaning as Article 122 of the 1989 Order.

(9) In this Article “appoint” includes nominate and choose.

### **Development proposals for grant aided schools**

**24.** In Article 14 of the 1986 Order (development proposals for grant-aided schools) for paragraph (5) there shall be substituted—

“(5) Before a proposal concerning an existing school is submitted to the board under paragraph (2), the person making the proposal shall consult the following persons (or representatives of them)—

- (a) the Board of Governors of the school concerned;
- (b) the teachers employed at that school; and
- (c) the parents of registered pupils at that school.

(5A) Before a proposal concerning an existing school is submitted to the Department by the board under paragraph (1) or (3), the board shall consult the following persons (or representatives of them)—

- (a) the Board of Governors of the school concerned;
- (b) the teachers employed at that school; and
- (c) the parents of registered pupils at that school.

(5B) Before a proposal concerning any school is submitted to the Department by the board under paragraph (1), (2) or (3), the board shall consult the trustees and managers (or representatives of them) of any other school which would, in the opinion of the board, be affected by the proposal.”.

### **Appeals against expulsion: tribunal procedures**

**25.** In Article 49(10) of the 1986 Order (regulations as to constitution and procedure of tribunals hearing appeals against expulsion of pupils) after sub-paragraph (d) there shall be inserted—

“(da) may provide for an appeal tribunal in considering an appeal to have regard in particular to any matters specified in the regulations;

(db) may provide for appeal tribunals to sit in private, except in such circumstances as may be specified in, or determined in accordance with, the regulations;”.

### **Curriculum, etc. complaints: tribunal procedures**

**26.** In Article 33(3) of the 1989 Order (regulations as to constitution and procedure of tribunal hearing complaints concerning curriculum and related matters) after sub-paragraph (aa) there shall be inserted—

“(ab) may provide for the tribunal in considering a complaint to have regard in particular to any matters specified in the regulations;

- (ac) may provide for the tribunal to sit in private, except in such circumstances as may be specified in, or determined in accordance with, the regulations;”.

### **Consultation of schools by sampling**

**27.**—(1) In Article 31 of the 1989 Order (provision of information) in paragraph (4) (persons and bodies to be consulted before regulations are made under that Article) for the words “every grant-aided school appearing to it to be affected” there shall be substituted “a sample of affected schools”.

- (2) After that paragraph there shall be inserted—

“(4A) In paragraph (4) “a sample of affected schools” means a number of grant-aided schools selected by the Department as being a representative sample of all such schools affected by the regulations.”.

(3) In Article 11 of the 1998 Order (school performance targets) in paragraph (3) (persons and bodies to be consulted before regulations are made under that Article) in sub-paragraph (c) for the words “every grant-aided school appearing to it to be affected” there shall be substituted “a sample of affected schools”.

- (4) After that paragraph there shall be inserted—

“(3A) In paragraph (3)(c) “a sample of affected schools” means a number of grant-aided schools selected by the Department as being a representative sample of all such schools affected by the regulations.”.

### **Costs under approved contracts**

**28.** In Article 25(4) of the 1997 Order (definition of costs of relevant authority on foot of an approved contract) for the words from “the payments made” to the end there shall be substituted “all sums paid or payable by the relevant authority under the contract, whether so paid or payable during the term of the contract or on or after its termination”.