

SCHEDULES

SCHEDULE 14

Section 136.

STAFFING OF COUNTY, CONTROLLED AND SPECIAL AGREEMENT SCHOOLS WITH DELEGATED BUDGETS

Introductory

- 1 (1) In this Schedule “the school” means a county, controlled or special agreement school at any time when it has a delegated budget.
- (2) References in this Schedule to a vacancy in any post include a prospective vacancy in the post.
- (3) References in this Schedule to staff qualification requirements are to any requirements with respect to—
- (a) qualifications,
 - (b) health and physical capacity, or
 - (c) fitness on educational grounds or in any other respect,
- of teachers and other persons employed in work that brings them regularly into contact with persons who have not attained the age of 19 which for the time being apply under regulations under section 218 of the Education Reform Act 1988.
- (4) References in this Schedule to the chief education officer of a local education authority include any officer of the authority nominated by the chief education officer.

Appointment of head teacher and deputy head teacher

- 2 Paragraphs 3 to 7 apply in relation to an appointment to fill a vacancy in the post of head teacher or deputy head teacher of the school.
- 3 The governing body shall notify the local education authority of the vacancy in writing before taking any of the steps mentioned below.
- 4 (1) Where the vacancy is in the post of head teacher and either the post has not been filled, or it appears to the governing body that the post will not be filled, by an appointment made in accordance with paragraphs 5 to 7 before the date on which it falls vacant—
- (a) the governing body shall recommend a person for appointment as acting head teacher, and
 - (b) the local education authority shall appoint the person recommended unless he does not meet any staff qualification requirements which are applicable in relation to his appointment.
- (2) Where the vacancy is in the post of deputy head teacher and either the post has not been filled, or it appears to the governing body that the post will not be filled, by an appointment made in accordance with paragraphs 5 to 7 before the date on which it falls vacant—

- (a) the governing body may recommend a person for appointment as acting deputy head teacher, and
 - (b) if they do recommend a person, the local education authority shall appoint him unless he does not meet any staff qualification requirements which are applicable in relation to his appointment.
- (3) If the authority decline to appoint a person recommended by the governing body for appointment as acting head teacher, the governing body shall recommend another person for appointment.
- 5 Before recommending a person for appointment as head teacher or deputy head teacher, the governing body shall advertise the vacancy in such publications circulating throughout England and Wales as they consider appropriate.
- 6 (1) The governing body shall appoint a selection panel consisting of at least three of their members to perform the functions conferred on them by this paragraph.
- (2) The selection panel shall—
- (a) interview such applicants for the post as they think fit,
 - (b) where they consider it appropriate to do so, recommend to the governing body for appointment one of the applicants interviewed by them, and
 - (c) if their recommendation is approved by the governing body, recommend the applicant in question to the local education authority for appointment.
- (3) If the panel are unable to agree on a person to recommend to the governing body, or the governing body do not approve their recommendation, the governing body—
- (a) may, if they think fit, re-advertise the vacancy in the manner required by paragraph 5, and
 - (b) whether or not they re-advertise the vacancy, may require the panel to repeat the steps mentioned in sub-paragraph (2).
- 7 (1) The local education authority shall appoint the person recommended by the selection panel unless he does not meet any staff qualification requirements which are applicable in relation to his appointment.
- (2) If the authority decline to appoint the person recommended by the panel, the governing body—
- (a) may, if they think fit, re-advertise the vacancy in the manner required by paragraph 5, and
 - (b) whether or not they re-advertise the vacancy, may require the panel to repeat the steps mentioned in paragraph 6(2).

Appointment of other teachers

- 8 Subject to paragraph 9, paragraphs 10 to 14 apply in relation to an appointment to fill a vacancy in any teaching post (whether full-time or part-time) at the school, other than the post of head teacher or deputy head teacher.
- 9 (1) Paragraphs 10 to 14 do not apply in relation to a temporary appointment to fill such a vacancy—
- (a) for a period not exceeding four months, or
 - (b) where it appears to the governing body that the period for which the person appointed will hold the post in question will not exceed four months.

- (2) Where it appears to the governing body in the case of any post that it would be appropriate to make an appointment such as is mentioned in sub-paragraph (1)—
- (a) they may recommend a person for appointment to the post on such terms as to the duration of the appointment as they may specify, and
 - (b) the local education authority shall appoint the person recommended on the terms specified unless he does not meet any staff qualification requirements which are applicable in relation to his appointment.
- 10 Before taking any of the steps mentioned below, the governing body shall—
- (a) determine a specification for the post in consultation with the head teacher, and
 - (b) send a copy of the specification to the local education authority.
- 11 (1) The local education authority may nominate for consideration for appointment to the post any person who appears to them to be qualified to fill it and who at the time of his nomination either—
- (a) is an employee of theirs or has been appointed to take up employment with them at a future date, or
 - (b) is employed by the governing body of an aided school maintained by them.
- (2) The authority shall not nominate a person within sub-paragraph (1)(b) without the consent of the governing body of the aided school.
- 12 (1) The governing body may advertise the vacancy at any time after they have sent a copy of the specification for the post to the local education authority in accordance with paragraph 10, and shall do so unless either—
- (a) they accept for appointment to the post a person nominated by the local education authority under paragraph 11, or
 - (b) they decide to recommend to the authority for appointment to the post a person who is already employed to work at the school.
- (2) Where the governing body advertise the vacancy, they shall do so in a manner likely in their opinion to bring it to the notice of persons (including employees of the authority) who are qualified to fill it.
- 13 (1) Where the governing body advertise the vacancy, they shall—
- (a) interview such applicants for the post and such of the persons (if any) nominated by the local education authority under paragraph 11 as they think fit, and
 - (b) where they consider it appropriate to do so, either recommend to the authority for appointment one of the applicants interviewed by them or notify the authority that they accept for appointment any person nominated by the authority under paragraph 11.
- (2) If the governing body are unable to agree on a person to recommend or accept for appointment, they may repeat the steps mentioned in sub-paragraph (1)(a) and (b), with or without first re-advertising the vacancy in accordance with paragraph 12(2).
- 14 (1) The local education authority shall appoint the person recommended or accepted for appointment by the governing body unless (in the case of a person other than one nominated by the authority) he does not meet any staff qualification requirements which are applicable in relation to his appointment.

- (2) If the authority decline to appoint a person recommended by the governing body, the governing body shall repeat such of the steps mentioned in paragraph 13(1)(a) and (b) as they think fit, with or without first re-advertising the vacancy in accordance with paragraph 12(2).
- 15 The governing body may, in relation to the filling of a particular vacancy or a vacancy of a kind specified by them, delegate any of their functions under paragraphs 9 to 14—
- (a) to one or more governors,
 - (b) to the head teacher, or
 - (c) to one or more governors and the head teacher acting together.

Advice of chief education officer on appointments of teachers

- 16 (1) The chief education officer of the local education authority shall be entitled to attend, for the purpose of giving advice—
- (a) all proceedings (including interviews) of the governing body, and of any selection panel appointed under paragraph 6, relating to appointments to which paragraphs 3 to 7 apply, and
 - (b) all proceedings (including interviews) of the governing body, and of any persons to whom any functions of the governing body under paragraphs 9 to 14 are delegated, relating to appointments to which paragraph 9 applies or to which paragraphs 10 to 14 apply.
- (2) The chief education officer shall offer such advice as he considers appropriate with respect to—
- (a) the appointment of a head teacher, a deputy head teacher, an acting head teacher or an acting deputy head teacher, or
 - (b) any matter arising in connection with such an appointment.
- (3) If requested to do so by the governing body, the chief education officer shall give such advice as he considers appropriate in relation to any appointment to which paragraph 9 applies or to which paragraphs 10 to 14 apply.
- (4) Any advice given by the chief education officer to—
- (a) the governing body,
 - (b) any selection panel appointed under paragraph 6, or
 - (c) any persons to whom any functions of the governing body under paragraphs 9 to 14 are delegated,
- with respect to any matter which relates to an appointment and falls to be determined by them shall be considered by them before determining that matter, whether or not the advice was given at their request.

Advice of head teacher on appointments of teachers

- 17 Except in relation to the appointment of a head teacher—
- (a) paragraph 16(1) applies in relation to the head teacher (if not otherwise entitled to be present at the proceedings there mentioned) as it applies in relation to the chief education officer, and
 - (b) paragraph 16(4) applies in relation to advice given by the head teacher as it applies in relation to advice given by the chief education officer.

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

Appointment of non-teaching staff

- 18 (1) Where the governing body wish to appoint a person to work in a non-teaching post at the school, they may recommend a person to the local education authority for appointment to the post.
- (2) A recommendation under this paragraph shall be in writing and shall specify—
- (a) the duties to be performed by the person appointed (including, where the post is part-time, his hours of work);
 - (b) the grade (on the scale of grades currently applicable in relation to employment with the authority) which the governing body consider appropriate for the post; and
 - (c) where the authority have a discretion with respect to the remuneration to be paid to a person appointed to the post, the determination of any matter to which that discretion applies and which the governing body consider appropriate in the case of the person recommended for appointment.
- (3) Before selecting a person to recommend under this paragraph and determining in relation to such a recommendation any matters mentioned in sub-paragraph (2), the governing body shall consult—
- (a) the head teacher (where he would not otherwise be involved in the decision), and
 - (b) if the post involves (or in the case of a new post, it is proposed that it should involve) work at the school for 16 hours a week or more, the chief education officer of the authority.
- (4) For the purposes of sub-paragraph (2)(c), the authority are to be regarded as having a discretion with respect to the remuneration to be paid to a person appointed to a post if any provisions regulating the rates of remuneration or allowances payable to persons in the authority's employment either—
- (a) do not apply in relation to that appointment, or
 - (b) leave to the authority any degree of discretion as to rate of remuneration or allowances in the case of that appointment.
- 19 (1) The local education authority shall appoint a person recommended to them under paragraph 18 unless he does not meet any staff qualification requirements which are applicable in relation to his appointment.
- (2) Any such appointment shall be on such terms as to give effect, so far as they relate to any matter mentioned in paragraph 18(2), to the governing body's recommendation in respect of that matter.

The clerk to the governing body

- 20 (1) Where there is a vacancy in the office of clerk to the governing body of the school, the local education authority shall appoint a person selected by the governing body.
- (2) Before selecting a person to recommend for such appointment, the governing body shall consult the chief education officer of the authority.

Discipline

- 21 (1) The regulation of conduct and discipline in relation to the staff of the school, and any procedures for giving members of the staff opportunities for seeking redress of any

grievances relating to their employment, shall be under the control of the governing body.

- (2) The governing body shall establish—
- (a) disciplinary rules and procedures, and
 - (b) procedures such as are mentioned in sub-paragraph (1),
- and shall take such steps as appear to them to be appropriate for making them known to the staff at the school.
- (3) Where the implementation of any determination made by the governing body in the exercise of their control over the conduct and discipline of the staff requires any action which—
- (a) is not within the functions exercisable by the governing body by virtue of this Act, but
 - (b) is within the power of the local education authority,
- the authority shall take that action at the request of the governing body.

Suspension

- 22 (1) Both the governing body and the head teacher shall have power to suspend any person employed to work at the school where, in the opinion of the governing body or (as the case may be) the head teacher, his exclusion from the school is required.
- (2) The governing body or head teacher shall, when exercising that power, immediately inform the local education authority and the head teacher or (as the case may be) governing body.
- (3) A suspension under this paragraph may only be ended by the governing body.
- (4) The governing body shall, on ending such a suspension, immediately inform the authority and the head teacher.
- (5) In this paragraph “suspend” means suspend without loss of emoluments.

Dismissal, etc.

- 23 (1) Where the governing body determine—
- (a) that any person employed to work at the school should cease to work there, or
 - (b) that the clerk to the governing body should be dismissed,
- they shall notify the local education authority in writing of their determination and the reasons for it.
- (2) If in a case within sub-paragraph (1)(a) the person concerned is employed to work solely at the school (and he does not resign), the authority shall, before the end of the period of 14 days beginning with the date on which the notification under sub-paragraph (1) is given, either—
- (a) give him such notice terminating his contract of employment with the authority as is required under that contract, or
 - (b) terminate that contract without notice if the circumstances are such that they are entitled to do so by reason of his conduct.
- (3) If in a case within sub-paragraph (1)(a) the person concerned is not employed to work solely at the school, the authority shall require him to cease to work at the school.

- (4) In a case within sub-paragraph (1)(b), the authority shall dismiss the clerk to the governing body on receipt of the notification from the governing body.
- 24 (1) Where paragraph 23(3) applies, no part of the costs incurred by the local education authority in respect of the emoluments of the person concerned, so far as they relate to any period falling after the expiration of his contractual notice period, shall be met from the school's budget share.
- (2) The reference in sub-paragraph (1) to the person's contractual notice period is to the period of notice that would have been required under his contract of employment with the authority for termination of that contract if such notice had been given on the date on which the notification under paragraph 23(1) was given.
- 25 (1) The governing body shall—
- (a) make arrangements for giving any person in respect of whom they propose to make a determination under paragraph 23(1) an opportunity of making representations as to the action they propose to take (including, if he so wishes, oral representations to such person or persons as the governing body may appoint for the purpose), and
- (b) have regard to any representations made by him.
- (2) The governing body shall also make arrangements for giving any person in respect of whom they have made a determination under paragraph 23(1) an opportunity of appealing against it before they notify the local education authority of the determination.
- 26 (1) The head teacher (except where he is the person concerned) and the chief education officer of the local education authority shall be entitled to attend, for the purpose of giving advice, all proceedings of the governing body relating to a determination under paragraph 23(1).
- (2) The governing body shall consider any advice given by a person who is entitled to attend such proceedings under this paragraph before making a determination under paragraph 23(1).
- 27 (1) The local education authority shall not dismiss a person employed by them to work solely at the school except as provided by paragraph 23.
- (2) Sub-paragraph (1) does not apply in a case where the dismissal of the person in question is required under regulations under section 218(6) of the Education Reform Act 1988 (regulations prohibiting or restricting employment or further employment of teachers etc. in cases of misconduct or on medical or educational grounds).

School meals staff

- 28 Nothing in paragraphs 18, 19 and 21 to 27 applies in relation to the appointment of a person to work at the school, or in relation to a person so employed, where—
- (a) the person concerned is to be, or is, employed to work solely in connection with the provision of meals, and
- (b) less than 50 per cent. of the person's remuneration will be, or is, met from the school's delegated budget.