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WELSH STATUTORY INSTRUMENTS

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**2014 No. 1132 (W. 111)**

**EDUCATION, WALES**

**The Federation of Maintained  
Schools (Wales) Regulations 2014**

<i>Made</i>	- - - -	<i>29 April 2014</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>30 April 2014</i>
<i>Coming into force</i>	- -	<i>22 May 2014</i>

The Welsh Ministers, in exercise of the powers conferred on the National Assembly for Wales in sections 19(2), (3) and (8), 20(2), (3) and (4A), 34(5), 35(4) and (5), 36(4) and (5), 210(7), and 214 of the Education Act 2002 and now vested in them<sup>(1)</sup> and in exercise of their powers in sections 6, 10, 11, 12, 13, 14, 18 and 32 of the Education (Wales) Measure 2011<sup>(2)</sup> make the following Regulations:

**PART 1**

**INTRODUCTION**

**Title, commencement and application**

1.—(1) The title of these Regulations is the Federation of Maintained Schools (Wales) Regulations 2014 and they come into force on 22 May 2014.

(2) These Regulations apply in relation to Wales.

**Revocation, transitional provisions and savings**

2.—(1) Subject to paragraph (3) Parts 1 to 13 of, and Schedules 1 to 10 to, the Federation of Maintained Schools and Miscellaneous Amendments (Wales) Regulations 2010<sup>(3)</sup> (“the 2010 Federation Regulations”) are revoked.

(2) A school federated in accordance with the 2010 Federation Regulations must reconstitute its governing body in accordance with these Regulations when the first of the following occurs—

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(1) [2002 c.32](#). The functions of the National Assembly for Wales under these sections were transferred to the Welsh Ministers under paragraph 30 of Schedule 11 to the Government of Wales Act [2006 \(c.32\)](#). Section 20(4A) was inserted by section 19 of the Education (Wales) Measure 2011.

(2) [2011 nawm 7](#).

(3) [2010/638 \(W.64\)](#).

- (a) a school joins the federation; or
- (b) within one year of the coming into force of these Regulations.

(3) Until the first of the events specified in paragraph (2) the composition of the governing body of a school federated may continue to be in accordance with Part 4 of the 2010 Federation Regulations.

## Interpretation

3.—(1) In these Regulations—

“the 1996 Act” (“*Deddf 1996*”) means the Education Act 1996<sup>(4)</sup>;

“the 1998 Act” (“*Deddf 1998*”) means the School Standards and Framework Act 1998<sup>(5)</sup>;

“the 2002 Act” (“*Deddf 2002*”) means the Education Act 2002;

“the 2011 Measure” (“*Mesur 2011*”) means the Education (Wales) Measure 2011<sup>(6)</sup>;

“the 2013 Act” (“*Deddf 2013*”) means the School Standards and Organisation (Wales) Act 2013<sup>(7)</sup>;

“acting head teacher” (“*pennaeth dros dro*”) means a person appointed to carry out the functions of the head teacher of the federation or of a federated school, pending the appointment of a head teacher or in the absence of the head teacher;

“appropriate diocesan authority” (“*awdurdod esgobaethol priodol*”) has the meaning given by section 142(1) and (4) of the 1998 Act;

“appropriate religious body” (“*corff crefyddol priodol*”) in relation to a school designated under section 69(3) of the 1998 Act as having a religious character that is not a Church in Wales school or a Roman Catholic Church school, means the body that the Welsh Ministers consider appropriate in relation to the religion or religious denomination to which the school belongs;

“day” (“*diwrnod*”) means school day as defined by section 579 of the 1996 Act;

“the federation date” (“*y dyddiad ffedereiddio*”) means the date on which governing bodies federate;

“governing body” (“*corff llywodraethu*”) means a governing body incorporated under section 19(1) of the 2002 Act or these Regulations as appropriate;

“the Government of Maintained Schools Regulations” (“*y Rheoliadau Llywodraethu Ysgolion a Gynhelir*”) means the Government of Maintained Schools (Wales) Regulations 2005<sup>(8)</sup>;

“local authority” (“*awdurdod lleol*”) means the local authority in Wales by which a maintained school is, or a proposed school is to be, maintained; and where a federation includes schools maintained by different local authorities in Wales, “relevant local authority” (“*awdurdod lleol perthnasol*”) means the local authority by which a maintained school is, or a proposed school is to be, maintained;

“local authority federation” (“*ffederasiwn awdurdod lleol*”) means a federation containing at least one federated school that has been federated by virtue of section 11 of the 2011 Measure (proposal by local authorities to federate schools) and by these Regulations;

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(4) 1996 c.56.

(5) 1998 c.31.

(6) 2011 nawm 7.

(7) 2013 anaw 1.

(8) S.I. 2005/2914 (W.211) as amended by the School Councils (Wales) Regulations 2005 (S.I. 2005/3200 (W.236)); and by the Staffing of Maintained Schools (Wales) Regulations 2006 (S.I. 2006/873 (W.81)) and by the Staffing of Maintained Schools (Miscellaneous Amendments) (Wales) Regulations 2007 (S.I. 2007/944 (W.80)), and by the Education (Miscellaneous Amendments relating to Safeguarding Children) (Wales) Regulations 2009 (S.I. 2009/2544 (W.206)), and by the Local Education Authorities and Children’s Services Authorities (Integration of Functions) (Subordinate Legislation) (Wales) Order 2010 (S.I. 2010/1142 (W.101)), and by the Government of Maintained Schools (Training Requirements for Governors) (Wales) Regulations 2013 (S.I. 2013/2124 (W.207)).

“the New Maintained Schools Regulations” (“*y Rheoliadau Ysgolion a Gynhelir Newydd*”) means the New Maintained Schools (Wales) Regulations 2005(9);

“new school” (“*ysgol newydd*”) has the same meaning as in regulation 3 of the New Maintained Schools Regulations;

“pupil” (“*disgybl*”) has the meaning given by section 3 of the 1996 Act;

“school council” (“*cyngor ysgol*”) means a council established in accordance with regulation 3 of the School Councils Regulations;

“the School Council Regulations” (“*y Rheoliadau Cyngorau Ysgol*”) means the School Councils (Wales) Regulations 2005(10);

“school teacher” (“*athro neu athrawes ysgol*”) is to be interpreted in accordance with section 122 of the 2002 Act;

“small school” (“*ysgol fach*”) is to be interpreted in accordance with an Order made under section 15 of the 2011 Measure;

“school organisation proposal functions” (“*swyddogaethau cynigion trefniadaeth ysgolion*”) means the functions in sections 42, 43, 45, 53 and 80 of the 2013 Act;

“the Staffing Regulations” (“*y Rheoliadau Staffio*”) means the Staffing of Maintained Schools (Wales) Regulations 2006(11) and;

“working day” (“*diwrnod gwaith*”) means any day other than a Saturday, a Sunday or a day which is a bank holiday within the meaning of section 1 of the Banking and Financial Dealings Act 1971(12).

(2) Any reference in these Regulations to—

- (a) the governing body or governors of a school is to be construed, in relation to a federated school, as a reference to the governing body or governors of the federation;
- (b) the instrument of government of a school is to be construed, in relation to a federated school, as a reference to the instrument of government of the federation; and
- (c) a head teacher includes a reference to an acting head teacher.

## PART 2

### ESTABLISHING OR JOINING A FEDERATION

#### General

4.—(1) A federation may comprise of at least two but no more than six of the following—

- (a) community schools, community special schools and maintained nursery schools(13) (and no other category of school);
- (b) foundation schools(14) (and no other category of school); or
- (c) voluntary controlled and voluntary aided schools(15) (and no other category of school).

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(9) S.I. 2005/2912 (W.209) amended by S.I. 2010/1142 (W.101).

(10) S.I. 2005/3200 (W.236).

(11) S.I. 2006/873 (W.81) as amended by the Staffing of Maintained Schools (Miscellaneous Amendments) (Wales) Regulations 2007 (S.I. 2007/944 (W.80)) and by the Staffing of Maintained Schools (Wales) (Amendment) Regulations 2009 (S.I. 2009/2708 (W.226)) and by S.I. 2009/2544 (W.206) and by the Staffing of Maintained Schools (Wales) (Amendment No. 2) Regulations 2009 (S.I. 2009/3161 (W.275)) and by S.I. 2010/1142 (W.101).

(12) 1971 c.80.

(13) Within the meaning of section 20 of, and Schedule 2 to, the 1998 Act and section 39(1) of the 2002 Act.

(14) Within the meaning of section 20 of, and Schedule 2 to, the 1998 Act.

(15) Within the meaning of section 20 of, and Schedule 2 to, the 1998 Act.

(2) Regulations 5 to 7 apply where governing bodies propose to federate in accordance with section 10 of the 2011 Measure.

(3) Regulation 8 applies where it is proposed to establish a new school and either—

- (a) the temporary governing body wish to federate with one or more governing bodies; or
- (b) the local authority or, where the school is to be a foundation or voluntary school proposals for the establishment of which were published by promoters, the promoters propose that the school should be a federated school.

(4) Regulations 9 and 10 apply where a local authority exercises its power to federate schools in accordance with section 11 of the 2011 Measure.

(5) Regulations 11 and 12 apply where a local authority exercises its power to federate small schools in accordance with section 11 of the 2011 Measure.

### **Procedure for federation – governing body proposed**

5.—(1) Where a governing body is considering federation, it must first consider a report on the proposal.

(2) The report must be specified as an item on the agenda for the meeting of which notice has been given in accordance with regulation 57(4).

(3) Where a governing body proposes that it should federate with the governing body of a federation, it must give notice of the proposal to the governing body of the federation.

(4) Upon receipt of the notice, the governing body of the federation must consider whether it should—

- (a) give preliminary consent to the governing body joining the federation; or
- (b) determine that the governing body should not join the federation.

### **Publication of proposals – governing body proposed**

6.—(1) Where a governing body decides that it should federate with one or more other governing bodies and, where necessary, preliminary consent in accordance with regulation 5(4)(a) has been given, they must jointly with the other governing body or bodies publish proposals for federation.

(2) The proposals must contain the following—

- (a) the name or names of the governing body or bodies with which the governing body proposes to federate and confirmation that the governing body, or those governing bodies, have resolved likewise to federate;
- (b) the proposed size of the governing body of the federation;
- (c) the proposed number of governors for each category of governor;
- (d) the proposed arrangements for staffing the schools within the federation;
- (e) the proposed federation date;
- (f) the identity of the admission authority or authorities for the schools within the federation;
- (g) the date, not less than six weeks after the publication of the proposals, by which written representations may be made to the governing body regarding the proposals and the address to which they should be sent; and
- (h) such other matters as the governing bodies consider appropriate.

(3) The governing bodies proposing to federate must publish the proposals by sending them to—

- (a) the relevant local authorities;
- (b) the head teacher of each school;

- (c) the school council of each school;
  - (d) in the case of any school with a foundation—
    - (i) the foundation governors; and
    - (ii) any trustees of a trust relating to the school;
  - (e) where any of the schools are designated under section 69(3) of the 1998 Act as having a religious character, the appropriate diocesan authority in the case of a Church in Wales or Roman Catholic Church school, or the appropriate religious body in the case of any other such school;
  - (f) all staff paid to work at any of the schools;
  - (g) every person known by them to be a parent of a registered pupil at any of the schools;
  - (h) every trade union known to them to have members paid to work at any of the schools; and
  - (i) such other persons as the governing bodies consider appropriate.
- (4) A copy of the proposals must be made available for inspection at all reasonable times at each school.
- (5) The proposed federation date in paragraph (2)(e) must be not less than 125 days following the publication of the proposals for federation by the governing body pursuant to paragraph (1).

#### **Consideration of responses to proposals and determination as to whether to proceed – governing body proposed**

- 7.—(1) The governing bodies proposing to federate must jointly consider any responses to the proposals and each governing body must determine whether—
- (a) to proceed with the proposals for federation as published;
  - (b) to proceed with the proposals for federation with such modifications as the governing body considers appropriate; or
  - (c) not to proceed with the proposals for federation.
- (2) The modifications referred to in paragraph (1)(b) must not include a change in the identity of the governing bodies proposing to federate.
- (3) All the governing bodies that have determined to proceed must jointly give notice of that fact to the relevant local authority or local authorities.

#### **New schools wishing to federate**

- 8.—(1) Where it is proposed that a new school should federate with one or more schools or a federation, paragraph (2) or (3) applies as appropriate.
- (2) Where a temporary governing body has been established, regulations 5 to 7 have effect as if references to a governing body proposing to federate were references to a temporary governing body proposing to federate.
- (3) Where a temporary governing body is yet to be established, regulations 5 to 7 have effect as if—
- (a) references to the governing body proposing to federate were references to the local authority or, where proposals are to establish a voluntary school proposals for the establishment of which were published by promoters, the promoters;
  - (b) regulation 5(2) were omitted; and

- (c) in regulation 6(2)(a) for “the governing body propose to federate” there were substituted “the local authority or the promoters propose that the temporary governing body of the new school should federate”.
- (4) Parts 1 to 3 and 5 to 7 of the New Maintained Schools Regulations are to apply to a temporary governing body constituted pursuant to this regulation.
- (5) Where it is proposed that two or more new schools should federate, with or without one or more other schools or other federation, the local authority may make arrangements providing for the constitution of a single temporary governing body for those new schools.
- (6) Where the proposed federation includes schools which are maintained by two or more local authorities, those local authorities must agree amongst themselves which local authority may make arrangements providing for the constitution of a single temporary governing body for those new schools.
- (7) Where one or more of the new schools referred to in paragraph (2) is to be a voluntary school proposals for the establishment of which were published by promoters, the local authority must consult the promoters—
- (a) as to whether the power given to the local authority in paragraph (2) should be exercised; and
  - (b) if the local authority proposes to exercise it, as to the date on which the arrangements should be made.
- (8) Schedule 1 applies to a temporary governing body constituted pursuant to this regulation.

#### **Procedure for federation - local authority proposed**

9.—(1) Where a local authority makes a proposal under section 11 of the 2011 Measure that does not involve the federation of only small schools the published proposals must contain the following—

- (a) the name or names of the governing body or bodies which the local authority is proposing to federate;
  - (b) the proposed size of the governing body of the federation;
  - (c) the proposed number of governors for each category of governor;
  - (d) the proposed arrangements for staffing the schools within the federation;
  - (e) the proposed federation date;
  - (f) the identity of the admission authority or authorities for the schools within the federation;
  - (g) the date, not less than six weeks after the publication of the proposals, by which written representations may be made to the local authority regarding the proposals and the address to which they should be sent;
  - (h) in the case of a proposal for a federation that includes a maintained school not maintained by the proposing local authority confirmation that the local authority that maintains the school in question has given its consent;
  - (i) in the case of a proposal that includes a foundation or voluntary school confirmation that the appropriate diocesan authority or the person or persons by whom the foundation governors are appointed (as the case may be) has given consent; and
  - (j) such other matters as the local authority considers appropriate.
- (2) The local authority must publish the proposals by sending them to—
- (a) any other relevant local authority;
  - (b) the head teacher of each school;

- (c) the school council of each school;
  - (d) in the case of any school with a foundation—
    - (i) the foundation governors; and
    - (ii) any trustees of a trust relating to the school;
  - (e) where any of the schools are designated under section 69(3) of the 1998 Act as having a religious character, the appropriate diocesan authority in the case of a Church in Wales or Roman Catholic Church school, or the appropriate religious body in the case of any other such school;
  - (f) all staff paid to work at any of the schools;
  - (g) every person known by them to be a parent of a registered pupil at any of the schools;
  - (h) every trade union known to them to have members paid to work at any of the schools; and
  - (i) such other persons as the local authority considers appropriate.
- (3) A copy of the proposals must be published on the local authority’s website.
- (4) A copy of the proposals must be made available for inspection at all reasonable times at each school.
- (5) The proposed federation date in paragraph (1)(e) must be not less than 125 days following the publication of the proposals for federation by the governing body pursuant to section 11 of the 2011 Measure.

**Consideration of responses to proposals and determination as to whether to proceed – local authority proposed**

- 10.**—(1) The local authority must consider any responses to the proposals and publish a summary of the responses together with the local authority’s comments on the local authority’s website.
- (2) The local authority must determine whether—
- (a) to proceed with the proposals for federation as published;
  - (b) to proceed with the proposals for federation with such modifications as the local authority consider appropriate; or
  - (c) not to proceed with the proposals for federation.
- (3) The modifications referred to in paragraph (2)(b) must not include a change in the identity of the governing bodies that the local authority is proposing to federate.
- (4) Any determination under paragraph (2) must be published on the local authority’s website and a copy of the determination sent to—
- (a) any other relevant local authority;
  - (b) the head teacher of each school;
  - (c) in the case of any school with a foundation—
    - (i) the foundation governors; and
    - (ii) any trustees of a trust relating to the school;
  - (d) where any of the schools are designated under section 69(3) of the 1998 Act as having a religious character, the appropriate diocesan authority in the case of a Church in Wales or Roman Catholic Church school, or the appropriate religious body in the case of any other such school; and
  - (e) such other persons as the local authority considers appropriate.

### **Procedure for federation - small schools**

**11.**—(1) Where a local authority makes a proposal under section 11 of the 2011 Measure that involves only the federation of small schools the published proposals must contain the following—

- (a) the name or names of the governing body or bodies which the local authority is proposing to federate;
- (b) the proposed size of the governing body of the federation;
- (c) the proposed number of governors for each category of governor;
- (d) the proposed arrangements for staffing the schools within the federation;
- (e) the proposed federation date;
- (f) the identity of the admission authority or authorities for the schools within the federation;
- (g) in the case of a proposal for a federation that includes a maintained school not maintained by the proposing local authority confirmation that the local authority that maintains the school in question has given its consent;
- (h) in the case of a proposal that includes a foundation or voluntary school confirmation that the appropriate diocesan authority or the person or persons by whom the foundation governors are appointed (as the case may be) has given consent; and
- (i) such other matters as the local authority considers appropriate.

(2) The local authority must publish the proposals by sending them to the governing body and school council of each small school that it intends to federate inviting a response from the governing body within 20 school days.

(3) The local authority must also send copies of the proposals to—

- (a) any other relevant local authority;
- (b) the head teacher of each school;
- (c) in the case of any school with a foundation—
  - (i) the foundation governors; and
  - (ii) any trustees of a trust relating to the school; and
- (d) where any of the schools are designated under section 69(3) of the 1998 Act as having a religious character, the appropriate diocesan authority in the case of a Church in Wales or Roman Catholic Church school, or the appropriate religious body in the case of any other such school.

(4) A copy of the proposals must be published on the local authority's website.

(5) A copy of the proposals must be made available for inspection at all reasonable times at each school.

(6) The proposed federation date in paragraph (1)(e) must be not less than 100 days following the publication of the proposals for federation by the governing body pursuant to section 11 of the 2011 Measure.

### **Consideration of responses to proposals and determination as to whether to proceed – small schools**

**12.**—(1) The local authority must consider any responses to the proposals and publish a summary of the responses together with the local authority's comments on the local authority's website.

(2) The local authority must determine whether—

- (a) to proceed with the proposals for federation as published;



- (b) to proceed with the proposals for federation with such modifications as the local authority consider appropriate; or
  - (c) not to proceed with the proposals for federation.
- (3) The modifications referred to in paragraph (2)(b) must not include a change in the identity of the governing bodies proposing to federate.
- (4) Any determination under paragraph (2) must be published on the local authority’s website and a copy of the determination sent to—
- (a) any other relevant local authority;
  - (b) the head teacher of each school;
  - (c) in the case of any school with a foundation—
    - (i) the foundation governors; and
    - (ii) any trustees of a trust relating to the school;
  - (d) where any of the schools are designated under section 69(3) of the 1998 Act as having a religious character, the appropriate diocesan authority in the case of a Church in Wales or Roman Catholic Church school, or the appropriate religious body in the case of any other such school; and
  - (e) such other persons as the local authority considers appropriate.

### **Incorporation of governing bodies of federations and dissolution of former governing bodies**

**13.**—(1) On the federation date—

- (a) the governing bodies of the federating schools or federations are dissolved;
- (b) the governing body of the federation is incorporated;
- (c) all land and property which, immediately before the federation date, was held by the governing body of a federating school or federation transfers to, and by virtue of these Regulations vests in, the governing body of the federation; and
- (d) all rights and liabilities subsisting immediately before the federation date which were acquired or incurred by the governing body of a federating school or federation be transferred to the governing body of the federation.

(2) Section 198 of the Education Reform Act 1988<sup>(16)</sup> (which, with Schedule 10 to that Act, makes further provision in relation to transfers of property, rights and liabilities) applies in relation to transfers effected by this regulation as they apply in relation to transfers to which that section and Schedule apply.

## **PART 3**

### **CATEGORIES OF GOVERNOR**

#### **Parent governors**

**14.**—(1) In these Regulations “parent governor” (“*rhiant-lywodraethwr*”) means—

- (a) a person who is elected in accordance with paragraphs 3 to 8 of Schedule 2 as a member of the governing body of a federation by parents of registered pupils at a federated school and is such a parent at the time when that person is elected, or

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(16) 1988 c.40.

- (b) a person appointed as a parent governor in respect of a federated school in accordance with paragraphs 9 to 11 of Schedule 2.
- (2) Schedule 2 applies to the election and appointment of parent governors.
- (3) A person is disqualified from election or appointment as a parent governor of a federation if that person is—
  - (a) an elected member of the local authority;
  - (b) employed by the local authority in connection with its education functions; or
  - (c) paid to work at the school in the federation for more than 500 hours in any twelve month period.
- (4) A person is not disqualified from continuing to hold office as a parent governor when that person ceases to be a parent of a registered pupil at a federated school or to fulfil any of the requirements set out in paragraphs 10 and 11 of Schedule 2 (as the case may be) unless that person is otherwise disqualified under these Regulations.

### **Teacher governors**

- 15.**—(1) In these Regulations “teacher governor” (“*athro-lywodraethwr*”) means a person—
- (a) who is elected in accordance with Schedule 3 as a governor by school teachers at any school within the federation; and
  - (b) who is such a school teacher at a time when that person is elected.
- (2) Upon ceasing to work at the school a teacher governor is disqualified from continuing to hold office as such a governor.
- (3) Subject to paragraph (4) a person is disqualified from election as a teacher governor to a governing body if that person—
- (a) has previously been elected as a teacher governor to the same governing body within the last two years; or
  - (b) is employed to work at the same federated school as any person elected as a teacher governor to that governing body within the last two years.
- (4) Paragraph (3)(b) does not apply to any person employed to work at two or more federated schools in the federation.

### **Staff governors**

- 16.**—(1) In these Regulations “staff governor” (“*staff-lywodraethwr*”) means a person —
- (a) who is elected in accordance with Schedule 3 as a member of the governing body of a federation by persons who are employed to work at the federation or at a federated school otherwise than as a school teacher; and
  - (b) who is a person so working at the time when that person is elected.
- (2) Upon ceasing to work at a school within the federation, a staff governor of a school is disqualified from continuing to hold office as such a governor.
- (3) Subject to paragraph (4) a person is disqualified from election as a staff governor to a governing body if that person—
- (a) has previously been elected as a staff governor to the same governing body within the last two years; or
  - (b) is employed to work at the same federated school as any person elected as a staff governor to that governing body within the last two years.

(4) Paragraph (3)(b) does not apply to any person employed to work at two or more schools in the federation.

### **Local authority governors**

17.—(1) In these Regulations “local authority governor” (*“llywodraethwr awdurdod lleol”*) means a governor appointed to be a member of the governing body of a federation by the local authority that maintains the federated schools.

(2) Where the federation includes schools which are maintained by two or more local authorities, those local authorities must agree amongst themselves who will appoint such governors and, if more than one governor is to be appointed, in what proportion.

(3) A person is disqualified from appointment or continuing to hold office as a local authority governor if that person is eligible to be a teacher or staff governor.

### **Community governors**

18.—(1) In these Regulations—

“community governor” (*“llywodraethwr cymunedol”*) means a person who is appointed as such by the governing body of a federation and who is—

- (a) a person who lives or works in the community served by the federation; or
- (b) a person who, in the opinion of the governing body, is committed to the good government and success of the federation.

(2) A person is disqualified from appointment or continuing to hold office as a community governor if that person is—

- (a) a registered pupil at one of the federated schools;
- (b) eligible to be a teacher or staff governor; or
- (c) an elected member of the local authority.

### **Additional community governors**

19. In these Regulations “additional community governor” (*“llywodraethwr cymunedol ychwanegol”*) means a governor appointed in accordance with regulation 31.

### **Foundation governors**

20.—(1) In these Regulations—

(a) “foundation governor” (*“llywodraethwr sefydledig”*) means a person who is appointed to be a member of the governing body of a federation in respect of a particular federated school, otherwise than by the local authority, and who—

- (i) where the federation includes a federated school which has a particular religious character<sup>(17)</sup>, is appointed for the purpose of securing that that character is preserved and developed at that federated school;
- (ii) where the federation includes a federated school to which a trust relates, is appointed for the purpose of securing that the federated school is conducted in accordance with that trust, or
- (iii) where the federation includes a school which has neither a religious character nor a trust, is appointed as a foundation governor of the federation by a person previously

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<sup>(17)</sup> As designated by Order of the Welsh Ministers under section 69(3) of the 1998 Act.

named in the federated school's instrument of government as having the power to appoint foundation governors;

- (b) “ex officio foundation governor” (*“llywodraethwr sefydledig ex officio”*) means a foundation governor who is the holder of an office by virtue of which that person is entitled to be a foundation governor;
- (c) “substitute governor” (*“dirprwy-lywodraethwr”*) means a foundation governor appointed to act in place of an ex officio foundation governor—
  - (i) who is unwilling or unable to act as governor;
  - (ii) who has been removed as a governor under regulation 38(2); or
  - (iii) if there is a vacancy in the office by virtue of which such a governorship exists.

(2) An ex officio foundation governor is, upon ceasing to hold the office from which that person's governorship derives, disqualified from continuing to hold office as such a governor.

### **Partnership governors**

**21.**—(1) In these Regulations “partnership governor” (*“llywodraethwr partneriaeth”*) means a person who is nominated as a partnership governor and appointed as such in accordance with Schedule 4.

(2) A person is disqualified from nomination or appointment as a partnership governor of a federation if that person is—

- (a) a parent of a registered pupil at a school within the federation;
- (b) a registered pupil at a school within the federation;
- (c) eligible to be a teacher or staff governor of the federation;
- (d) an elected member of a relevant local authority; or
- (e) employed by a relevant local authority in connection with its functions as a local authority.

### **Sponsor governors**

**22.** In these Regulations “sponsor governor” (*“noddwr-lywodraethwr”*) means a person nominated as a sponsor governor and appointed as such by the governing body of a federation in accordance with Schedule 5.

### **Representative governors**

**23.** In these Regulations “representative governor” (*“llywodraethwr cynrychiadol”*) means a person who is appointed as such in accordance with Schedule 6.

### **Associate pupil governors**

**24.**—(1) In these Regulations “associate pupil governor” (*“disgybl-lywodraethwr cyswllt”*) means a registered pupil nominated by the school council to be a member of the federated governing body and appointed as such by the federated governing body in accordance with regulation 7 of the School Council Regulations.

(2) The maximum number of associate pupil governors on any federated governing body is two.

## PART 4

### COMPOSITION OF GOVERNING BODIES OF A FEDERATION

#### General principles

**25.**—(1) Subject to paragraphs (2) and (3), the instrument of government for a federation must specify the size of the membership of the governing body of the federation, being no fewer than 15 and no more than 27 governors.

(2) In determining the size of the membership of the governing body of a federation the following governors must not be included—

- (a) any associate pupil governors appointed in accordance with regulations 26 to 30;
- (b) any additional governors appointed by virtue of section 6 of the 2013 Act (*power to appoint additional governors*); and
- (c) any additional governors appointed by virtue of section 13 of the 2013 Act (*power of Welsh Ministers to appoint additional governors*).

(3) In determining the size of the membership of the governing body of a federation any additional community governors appointed in accordance with regulation 31 must be included.

(4) Subject to regulations 26 to 30, the instrument of government must specify the numbers of governors from each of the following categories of governor to be elected or appointed—

- (a) parent governors;
- (b) teacher governors;
- (c) staff governors;
- (d) local authority governors;
- (e) community governors;
- (f) foundation governors;
- (g) partnership governors;
- (h) sponsor governors;
- (i) representative governors; and
- (j) additional community governors.

(5) Where application of this regulation and regulations 26 to 30 produces a number other than a whole number, the governing body must specify either the whole number next above or the whole number next below (at their choice) providing that the total number of governors may not exceed the limit set in this regulation.

#### Federation comprising only community, community special and maintained nursery schools

**26.**—(1) The governing body of a federation containing any combination of community schools, community special schools and maintained nursery schools<sup>(18)</sup> (and no other category of school) is to comprise the following—

- (a) for each federated school at least one but no more than two parent governors elected or appointed in accordance with paragraphs 3 to 11 of Schedule 2 to represent the interests of parents of registered pupils at that school;
- (b) at least one but no more than two teacher governors;

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<sup>(18)</sup> Within the meaning of section 20 of, and Schedule 2 to, the 1998 Act and section 39(1) of the 2002 Act.

- (c) at least one but no more than two staff governors;
  - (d) at least two but no more than four local authority governors;
  - (e) subject to sub-paragraph (f) at least two but no more than four community governors; and
  - (f) one representative governor where the federation contains at least one community special school to take the place of one community governor required by sub-paragraph (e).
- (2) The governing body of the federation must in addition include—
- (a) the head teacher of the federation, unless that person resigns the office of governor in accordance with regulation 37; or
  - (b) (if there is no head teacher of the federation) the head teacher of each federated school, unless that person resigns the office of governor in accordance with regulation 37.
- (3) The governing body of the federation may in addition—
- (a) appoint one sponsor governor; and
  - (b) appoint up to two associate pupil governors where the federation contains secondary schools.

#### **Federation comprising only foundation schools**

**27.**—(1) The governing body of a federation containing foundation schools<sup>(19)</sup> only is to comprise the following—

- (a) for each federated school at least one but no more than two parent governors elected or appointed in accordance with paragraphs 3 to 11 of Schedule 2 to represent the interests of parents of registered pupils at that school;
  - (b) at least one but no more than two teacher governors;
  - (c) at least one but no more than two staff governors;
  - (d) at least two but no more than four local authority governors;
  - (e) at least two but no more than four community governors; and
  - (f) at least two but no more than five foundation governors (or partnership governors, as appropriate in respect of any school without a foundation)..
- (2) The governing body of the federation must in addition include—
- (a) the head teacher of the federation, unless that person resigns the office of governor in accordance with regulation 37; or
  - (b) (if there is no head teacher of the federation) the head teacher of each federated school, unless that person resigns the office of governor in accordance with regulation 37.
- (3) The governing body of the federation may in addition—
- (a) appoint one sponsor governor; and
  - (b) appoint up to two associate pupil governors where the federation contains secondary schools.

#### **Federation comprising voluntary controlled schools only**

**28.**—(1) The governing body of a federation containing voluntary controlled schools<sup>(20)</sup> only is to comprise the following—

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<sup>(19)</sup> Within the meaning of section 20 of, and Schedule 2 to, the 1998 Act.

<sup>(20)</sup> Within the meaning of section 20 of, and Schedule 2 to, the 1998 Act.

- (a) for each federated school at least one but no more than two parent governors elected or appointed in accordance with paragraphs 3 to 11 of Schedule 2 to represent the interests of parents of registered pupils at that school;
  - (b) at least one but no more than two teacher governors;
  - (c) at least one but no more than two staff governors;
  - (d) at least two but no more than four local authority governors;
  - (e) at least two but no more than four community governors; and
  - (f) at least two but no more than five foundation governors.
- (2) The governing body of the federation must in addition include—
- (a) the head teacher of the federation, unless that person resigns the office of governor in accordance with regulation 37; or
  - (b) (if there is no head teacher of the federation) the head teacher of each federated school, unless that person resigns the office of governor in accordance with regulation 37.
- (3) The governing body of the federation may in addition—
- (a) appoint one sponsor governor; and
  - (b) appoint up to two associate pupil governors where the federation contains secondary schools.

#### **Federation comprising voluntary aided schools only**

**29.**—(1) The governing body of a federation containing voluntary aided schools<sup>(21)</sup> only is to comprise the following—

- (a) at least one parent governor elected or appointed in accordance with paragraphs 3 to 11 of Schedule 2;
  - (b) at least one but no more than two teacher governors;
  - (c) at least one but no more than two staff governors;
  - (d) at least one but no more than two local authority governors; and
  - (e) such number of foundation governors as will lead to their outnumbering all the other governors mentioned in sub-paragraphs (a) to (d), paragraph (2) and regulation 31 by no more than one.
- (2) The governing body of the federation must in addition include—
- (a) the head teacher, unless that person resigns the office of governor in accordance with regulation 37; or
  - (b) (if there is no head teacher of the federation) the head teacher of each federated school, unless that person resigns the office of governor in accordance with regulation 37.
- (3) The governing body of the federation may, in addition, appoint up to two associate pupil governors where the federation contains secondary schools.

#### **Federation comprising voluntary controlled and voluntary aided schools**

**30.**—(1) The governing body of a federation containing any combination of voluntary controlled schools and voluntary aided schools (and no other category of school) is to comprise the following—

- (a) at least one parent governor elected or appointed in accordance with paragraphs 3 to 11 of Schedule 2;

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(21) Within the meaning of section 20 of , and Schedule 2 to, the 1998 Act.

- (b) at least one but no more than two teacher governors;
  - (c) at least one but no more than two staff governors;
  - (d) at least one but no more than two local authority governors;
  - (e) at least one but no more than two community governors; and
  - (f) such number of foundation governors as will lead to their outnumbering all the other governors mentioned in sub-paragraphs (a) to (e), paragraph (2) and regulation 31 by no more than one.
- (2) The governing body of the federation must in addition include—
- (a) the head teacher of the federation, unless that person resigns the office of governor in accordance with regulation 37; or
  - (b) (if there is no head teacher of the federation) the head teacher of each federated school, unless that person resigns the office of governor in accordance with regulation 37.
- (3) The governing body of the federation may in addition appoint up to two associate pupil governors where the federation contains secondary schools.

### **Additional Community Governors**

**31.**—(1) This paragraph applies to the governing body of a federation which includes one or more of the following—

- (a) any community, voluntary or foundation school which is a primary school; and
- (b) any maintained nursery school;

which serves an area for which there are one or more community councils.

(2) The instrument of government of a school must provide for the governing body of a federation to include (in addition to the governors required by virtue of regulations 26 to 30, as the case may be) one additional community governor nominated by the community council.

(3) If a school serves an area for which there are two or more community councils, the governing body may seek nominations from one or more of those councils for the one additional community governor referred to in paragraph (2).

### **Notification of vacancies and appointments**

**32.**—(1) Subject to paragraphs (2) and (3), where a vacancy in the office of an appointed member of the governing body arises, the clerk to the governing body must as soon as is reasonably practicable give notice in writing of that fact to the person entitled to appoint or nominate a person to that office.

(2) Subject to paragraph (3), the clerk to the governing body must, at least two months before the date of the expiry of the term of office of an appointed member, give notice in writing of that fact to the person entitled to appoint or nominate a person to that office.

(3) Paragraphs (1) and (2) do not apply where the person entitled to appoint a person to the office in question has already notified the clerk to the governing body in writing of the person appointed or nominated.

(4) Where any person other than a governing body makes an appointment or nominates a person to be appointed to the governing body, that person must give written notice of the appointment or the nomination to the clerk to the governing body specifying the name and usual place of residence of the person so appointed or nominated.

(5) For the purposes of this regulation, “appointed member” (“*aelod a benodwyd*”) means—

- (a) a foundation governor;



- (b) a local authority governor;
- (c) a community governor (including an additional community governor);
- (d) a representative governor;
- (e) a sponsor governor; and
- (f) a partnership governor.

### **Joint appointments**

#### **33.** If—

- (a) the instrument of government of a school provides for one or more of the governors to be appointed by persons acting jointly; and
- (b) those persons fail to make an agreed appointment;

the appointment is to be made by, or in accordance with a direction given by, the Welsh Ministers.

### **Surplus Governors**

**34.**—(1) Where a federation has more governors of a particular category than are provided for by the instrument of government for the school, such number of governors of that category as is required to eliminate the excess must cease to hold office in accordance with paragraphs (2) and (3) unless a sufficient number resign.

(2) The governors who are to cease to hold office are to be determined on the basis of seniority, the governors whose current period of office as a governor of any category at the school is the shortest being the first to cease to hold office.

(3) Where it is necessary for the purposes of paragraph (2) to select one or more governors from a group of equal seniority, it must be done by drawing lots.

(4) For the purposes of this regulation, additional community governors are treated as if they constituted a separate category of governor.

## **PART 5**

### **QUALIFICATIONS AND TERM OF OFFICE**

#### **Qualifications and disqualifications**

**35.** Schedule 7 sets out the circumstances in which a person is qualified for or disqualified from holding or continuing in office as a governor.

#### **Term of office**

**36.**—(1) Subject to paragraphs (2) to (9), a governor holds office for a fixed period of four years from the date of that person's election or appointment.

(2) Paragraph (1) does not apply to any governor who is the head teacher of the federation or a federated school, or to any ex officio foundation governor, who may hold office for as long as that person holds the position from which that person's governorship derives.

(3) Paragraph (1) does not apply to any foundation governor whose term of office is to be determined by the person who appointed that governor, up to a maximum of four years.

(4) Paragraph (1) does not apply to any additional governor, additional foundation governor or interim executive member appointed under sections 6, 7, 13 or 14 of the 2013 Act whose term of office is to be determined by the person who appointed that governor, up to a maximum of four years.

(5) Paragraph (1) does not apply to any teacher governor or staff governor who is to hold office for a period of two years from the date of that person's appointment.

(6) Paragraph (1) does not apply to any parent governor of a maintained nursery school who is to hold office for a fixed period of two years from the date of that person's election or appointment.

(7) Paragraph (1) does not apply to any associate pupil governor who is to hold office for a period of one year from the date of that person's appointment. Nothing in this paragraph prevents an associate pupil governor from being re-appointed at the expiration of that person's term of office.

(8) A substitute governor may hold office until the earlier of the following—

- (a) the expiry of four years from the date when that person's appointment takes effect;
- (b) the date when the original governor (not having been removed from office under regulation 38 (2)) gives written notice to the clerk to the governing body to the effect that that person is able and willing to act as a foundation governor; or
- (c) the date when a person other than the original governor takes office in the post by virtue of which the ex officio foundation governorship exists.

(9) This regulation does not prevent a governor from—

- (a) being elected or appointed for a further term, save as otherwise provided in these Regulations;
- (b) resigning that person's office in accordance with regulation 37(1);
- (c) being removed from office under regulations 38 to 40; or
- (d) being disqualified, by virtue of any provision of these Regulations, from holding or continuing to hold office.

(10) In this regulation "the original governor" ("*y llywodraethwr gwreiddiol*") means the ex officio foundation governor in whose place the substitute governor is appointed to act.

### **Resignation**

**37.—**(1) A governor may at any time resign from office by giving written notice to the clerk to the governing body.

(2) The head teacher may withdraw their resignation at any time by giving written notice to the clerk to the governing body.

(3) An ex officio foundation governor may resign as governor either permanently or temporarily, but that person's resignation does not prejudice the ex officio governorship of that person's successor in the office from which the ex officio governorship derives.

### **Removal of local authority, foundation, representative, additional community and sponsor governors**

**38.—**(1) Any local authority governor, foundation governor, or representative governor may be removed from office by the person who appointed that governor, who must give written notice thereof to the clerk to the governing body and to the governor so removed.

(2) An ex officio foundation governor may be removed from office by the person named in the instrument of government as the person entitled to remove that governor and that person must give written notice thereof to the clerk to the governing body and to the governor so removed.

(3) Any additional community governor or sponsor governor may be removed by the person who nominated that governor who must give written notice thereof to the clerk to the governing body and to the governor so removed.

#### **Removal of community governors**

**39.** The governing body may remove any community governor (except an additional community governor) from office in accordance with the procedure set out in regulation 41.

#### **Removal of appointed parent governors, partnership governors and associate pupil governors**

**40.** Any parent governor appointed by the governing body under paragraphs 9 to 11 of Schedule 2, any partnership governor and any associate pupil governor may be removed by the governing body in accordance with the procedure set out in regulation 41.

#### **Procedure for removal of governors by the governing body**

**41.—(1)** This regulation applies in relation to the removal of a governor from office in accordance with regulation 39 or 40.

(2) A resolution to remove a governor from office which is passed at a meeting of the governing body does not have effect unless—

- (a) before the governing body resolve to remove the governor from office, the governor or governors proposing that person's removal at that meeting state their reasons for doing so and the governor whom it is proposed to remove is given an opportunity to make a statement in response; and
- (b) the matter of the governor's removal from office is specified as an item of business on the agenda for the meeting.

(3) After a resolution to remove a governor from office has been passed the governing body must inform the person removed from office of the reasons for the removal in writing.

## **PART 6**

### **INSTRUMENT OF GOVERNMENT, STAFFING, SCHOOL COUNCILS AND CHARITABLE STATUS**

#### **Duty to have regard to guidance**

**42.** In respect of the making of instruments of government, the matters to be dealt with in such instruments, the form of such instruments, and the review and variation of such instruments, governing bodies and local authorities must have regard to any guidance given from time to time by the Welsh Ministers.

#### **Contents and form of instrument of government**

**43.—(1)** The instrument of government for a federation must set out—

- (a) the name of the federation;
- (b) the names and categories of the federated schools within the federation;
- (c) the name of the governing body of the federation;

- (d) subject to paragraph (4), the manner in which the governing body is to be constituted in accordance with Part 4, specifying—
  - (i) the number of governors in each category of governor;
  - (ii) the categories of person from whom or from amongst whose members nominations for the appointment of any additional community governor or sponsor governor are authorised by these Regulations; and
  - (iii) the total membership of the governing body;
- (e) where the term of office for a category of governor is to be less than four years, the length of that term of office;
- (f) where the federation has foundation governors—
  - (i) the name of any person who is entitled to appoint such governors and, if there is more than one such person entitled to appoint, the basis upon which such appointments are made;
  - (ii) details of any foundation governorship to be held ex officio by the holder of a named office; and
  - (iii) the name of any person who is entitled to remove any ex officio foundation governor and to appoint any substitute governor;
- (g) where the federation includes a community special school, the name of any appropriate body or appropriate voluntary organisation entitled to nominate a person for appointment as a representative governor under Schedule 6;
- (h) where there is a trust relating to a federated school, that fact;
- (i) where a federated school is a foundation or a voluntary school designated under section 69(3) of the 1998 Act as having a religious character, a single description of the religious ethos of each such school; and
- (j) the date when the instrument of government takes effect.

(2) The manner in which the governing body is to be constituted, as set out in accordance with sub-paragraph (1)(d), must accord with the provisions of these Regulations.

(3) The instrument of government must (subject to any statutory provision) comply with any trust relating to a federated school.

(4) Sub-paragraphs (d) and (e) of paragraph (1) do not apply to associate pupil governors.

### **Procedure for making an instrument**

**44.**—(1) In this regulation, where reference is made to the local authority and the federation is to include schools maintained by different local authorities, the reference is to be taken as a reference to whichever of those local authorities the governing bodies of the schools agree between them should make the instrument of government for the federation.

(2) The governing bodies of the schools which are to form the federation must jointly prepare a draft instrument of government and submit it to the local authority.

(3) Where the federation will have foundation governors, the governing bodies of the proposed federation must not submit the draft to the local authority unless it has been approved in respect of each foundation or voluntary school by—

- (a) that school's foundation governors;
- (b) the trustees of any trust relating to such a school;
- (c) in the case of a Church in Wales or Roman Catholic Church school, the appropriate diocesan authority; and

- (d) in the case of any other school designated under section 69(3) of the 1998 Act as having a religious character, the appropriate religious body.

(4) If—

- (a) the local authority is content that the draft complies with all the applicable provisions; or
- (b) there is agreement between the local authority, the governing bodies and (where the federation will have foundation governors) the persons mentioned in paragraph (3) that the draft should be revised to any extent, and the revised draft complies with all the applicable statutory provisions;

the instrument of government is to be made by the local authority in the form of the draft or (as the case may be) the revised draft.

(5) If, in the case of a federation which will have foundation governors, there is at any time disagreement as to the content of the draft among the persons mentioned in paragraph (3), any of those persons may refer the draft to the Welsh Ministers who must give such direction as they think fit having regard, in particular, to the categories of schools which are proposed to be included within the federation.

(6) If neither of sub-paragraphs (a) and (b) of paragraph (4) applies in the case of a federation which will not have foundation governors, the local authority must—

- (a) inform the governing body of the federation of the reasons why it is not content with the draft instrument of government; and
- (b) give the governing body of the federation a reasonable opportunity to reach agreement with it on revising the draft;

and the instrument of government must be made by the local authority either in the form of a revised draft agreed between it and the governing body of the federation or (in the absence of such agreement) in such form as it thinks fit having regard, in particular, to the categories of school included in the federation.

### **Review of instruments of government**

**45.—**(1) The governing body or the local authority may review the instrument of government at any time after it is made.

(2) Where on any review the governing body or the local authority decides that the instrument of government should be varied, the governing body or (as the case may be) the local authority must notify the other of its proposed variation together with its reasons for proposing such a variation.

(3) Where the governing body has received notification under paragraph (2), it must inform the local authority as to whether or not it is content with the proposed variation and, if not content, its reasons.

(4) Where the federation has foundation governors, the governing body must not—

- (a) give the local authority any notification under paragraph (2); or
- (b) inform the local authority under paragraph (3) that it is content with the local authority's proposed variation;

unless the persons listed in regulation 44(3) have approved the proposed variation.

(5) If—

- (a) whichever of the governing body and the local authority is the recipient of a notification under paragraph (2) agrees with the proposed variation; or
- (b) there is agreement between the local authority, the governing body and (if the federation has foundation governors) the other persons listed in regulation 44(3) that some other variation should be made instead;

the local authority must vary the instrument of government accordingly.

(6) If, in the case of a federation which has foundation governors, at any time the persons listed in regulation 44(3) disagree with the proposed variation any of those persons may refer it to the Welsh Ministers; and on such a reference the Welsh Ministers must give such direction as they think fit having regard, in particular, to the categories of school which make up the federation.

(7) If neither sub-paragraphs (a) and (b) of paragraph (5) applies in the case of a federation which does not have foundation governors, the local authority must—

- (a) inform the governing body of the reasons—
  - (i) why it is not content with the governing body’s proposed variation, or as the case may be;
  - (ii) why it wishes to proceed with its own variation; and
- (b) give the governing body a reasonable opportunity to reach agreement with it with regard to the variation;

and the instrument of government must be varied by it either in the manner agreed between it and the governing body or (in the absence of such agreement) in such manner as it thinks fit having regard, in particular, to the categories of school which make up the federation.

(8) Nothing in this regulation is to be taken as requiring the local authority to vary the instrument of government if it does not consider it appropriate to do so.

(9) Where an instrument of government is varied under this regulation the instrument must set out the date on which the variation takes effect.

### **Other requirements relating to instruments of government**

**46.**—(1) The local authority must ensure that the persons set out in paragraph (2) are provided (free of charge) with—

- (a) a copy of the federation’s instrument of government; and
  - (b) where any variation is made to the federation’s instrument of government, a consolidated version of the instrument of government incorporating all variations made by the local authority (other than any variations which have ceased to have effect).
- (2) The persons who are to be provided with the information referred to in paragraph (1) are—
- (a) every member of the governing body of the federation;
  - (b) the head teacher of the federation or each federated school, whether or not the head teacher is a member of the governing body;
  - (c) the trustees of any trust relating to a federated school;
  - (d) in the case of a Church in Wales federated school or Roman Catholic Church federated school, the appropriate diocesan authority;
  - (e) in the case of any other federated school designated under section 69(3) of the 1998 Act as having a religious character, the appropriate religious body; and
  - (f) the Welsh Ministers.

### **Staffing of federations**

**47.** The Staffing Regulations apply to the staffing of federations subject to the modifications in Schedule 8.

### **School Council Regulations**

**48.** The School Council Regulations apply to the governing body of a federation and its members subject to the modifications in Schedule 9.

### **Charitable status of federations**

**49.**—(1) The governing body of a federation which includes a foundation, or voluntary school is a charity which is an exempt charity for the purposes of the Charities Act 2011(**22**), but no governing body of a federation which includes only community, community special or maintained nursery schools is a charity.

(2) So far as it is a charity, any institution which—

- (a) is administered by or on behalf of any governing body of a federation which includes a foundation or voluntary school; and
- (b) is established for the general purposes of, or for any special purpose of, or in connection with, that body or that federation or any foundation or voluntary school within that federation;

must also be an exempt charity for the purposes of the Charities Act 2011.

(3) In this regulation, “charity” (“*elusen*”) and “institution” (“*sefydliad*”) have the same meaning as in the Charities Act 2011.

## **PART 7**

### **APPOINTMENT, FUNCTIONS AND REMOVAL OF OFFICERS**

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

**50.**—(1) Subject to paragraph (2) and to sections 6 (*power to appoint additional governors*) and 13 (*power of Welsh Ministers to appoint additional governors*) of the 2013 Act, the governing body must elect a chair and a vice-chair from among their number annually.

(2) A governor who is paid to work at the federation or at a federated school or who is a pupil at a federated school is not eligible to be chair or vice-chair of the governing body of the federation in question.

(3) Subject to paragraphs (5) and (6), the chair or vice-chair is to hold office until that person’s successor has been elected in accordance with paragraph (1).

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

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

- (a) when that person ceases to be a member of the governing body;
- (b) if that person is paid to work at the federation or federated school in question;
- (c) if that person is removed from office in accordance with regulation 52 or replaced by a chair nominated by the local authority pursuant to section 6 of the 2013 Act or the Welsh Ministers pursuant to section 13 of the 2013 Act; or
- (d) in the case of the vice-chair, that person is elected in accordance with paragraph (6) to fill a vacancy in the office of chair.

(6) Where a vacancy arises in the office of chair or vice-chair, the governing body must at its next meeting elect one of its number to fill that vacancy, subject to paragraph (2) and to sections 6 or 13 of the 2013 Act.

(7) Any election of the chair or vice-chair which is contested must be held by secret ballot.

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

(9) Where in the circumstances referred to in paragraph (8) the vice-chair is absent from the meeting or there is at the time a vacancy in the office of vice-chair, the governing body must elect one of its number to act as chair for the purposes of that meeting, subject to paragraph (2).

(10) The clerk to the governing body is to act as chair during that part of any meeting at which the chair is to be elected.

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

**51.**—(1) The chair may, where in that person's opinion the circumstances mentioned in paragraph (2) apply, exercise any function of the governing body which can be delegated under regulation 62(1).

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

- (a) the federation or a federated school;
- (b) any pupil at a federated school, or that pupil's parent; or
- (c) a person who works at the federation or a federated school.

(3) In paragraph (2), "delay" ("*oedi*") 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 is to read as if it were a reference to the vice-chair.

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

**52.**—(1) Subject to paragraphs (3) and (4), the governing body may by resolution remove the chair from office, unless that person has been nominated by the local authority under section 6 of the 2013 Act or the Welsh Ministers pursuant to section 13 of the 2013 Act.

(2) Subject to paragraphs (3) and (4), the governing body may by resolution remove the vice-chair from office.

(3) A resolution to remove the chair or vice-chair from office does 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 57.

(4) Before the governing body resolves to remove the chair or the 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 the 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**

**53.**—(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 the governing body.

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

- (a) a governor;
- (b) a non-governor member of any committee of the governing body; or
- (c) the head teacher of the federation or of a federated school.

(4) Notwithstanding paragraph (2), the governing body may, if the clerk fails to attend a meeting, appoint any one of its number (who is not the head teacher of the federation or of a federated school) 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 no federated school has a delegated budget<sup>(23)</sup>, 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**

**54.**—(1) The clerk to the governing body must—

- (a) convene meetings of the governing body in accordance with regulation 57;
- (b) attend meetings of the governing body and ensure minutes of the proceedings are produced in accordance with regulation 59;
- (c) maintain a register of members of the governing body 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 regulations 32 (*notification of vacancies and appointments*), 37 (*resignation*), 38 (*removal of governors*), 50(4) (*resignation of chair or vice chair*), and 57(4) (*convening meetings*) of, and paragraph 14 of Schedule 7 (*notification of disqualification*) to, these Regulations;
- (f) report to the governing body as required on the discharge of that person's functions; and
- (g) perform such other functions as may be determined by the governing body from time to time.

(2) The clerk to the governing body may provide it with advice on its functions and procedures.

## **PART 8**

### **MEETINGS AND PROCEEDINGS OF GOVERNING BODIES**

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

**55.**—(1) Subject to regulations 56 and 75 of, and Schedule 10 to, these Regulations the following persons are entitled to attend any meeting of the governing body—

- (a) subject to regulation 61, a governor;

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<sup>(23)</sup> See section 39(2) of the 2002 Act.

- (b) the clerk to the governing body;
  - (c) the head teacher; and
  - (d) such other persons as the governing body may determine.
- (2) The reference to head teacher in paragraph (1)(c) means—
- (a) the head teacher of the federation (whether or not that person is a governor); or
  - (b) (if there is no head teacher of the federation) the head teacher of each federated school (whether or not that person is a governor).

### **Exclusion of associate pupil governors from meetings**

**56.** The governing body must exclude associate pupil governors from any governing body discussion relating to—

- (a) staff appointments, staff pay, staff discipline, performance management of staff, grievances submitted by staff or dismissal of staff;
- (b) admissions;
- (c) individual pupil discipline;
- (d) election, appointment and removal of governors;
- (e) the budget and financial commitments of the governing body;
- (f) in the case of a federated voluntary aided school, the trust deed relating to that school; or
- (g) any other matter that, by reason of its nature, the governing body is satisfied is and should remain confidential.

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

**57.—**(1) The governing body must hold at least one meeting during every school term.

(2) Meetings of the governing body must be convened by the clerk and, without prejudice to paragraph (3), 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 sub-paragraph (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 the clerk must convene a meeting as soon as is reasonably practicable.

(4) Subject to paragraphs (5), (6) and (7), the clerk must give written notice of the meeting, a copy of the agenda, and any reports or other papers to be considered at the meeting at least five clear working days in advance to—

- (a) each governor;
- (b) the head teacher of the federation or (if there is no head teacher of the federation) of a federated school (whether or not that person is a governor); and
- (c) the local authority.

(5) Where the chair so determines, on the ground that there are matters demanding urgent consideration, it is 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 that person directs.

(6) This paragraph applies in relation to any meeting at which—

- (a) the removal of the chair or vice-chair from office;
- (b) the suspension of any governor;
- (c) the removal of a community governor or sponsor governor; or
- (d) a decision to serve notice of discontinuance of a federated school under section 80 of the 2013 Act;

is to be considered.

(7) Where paragraph (6) applies—

- (a) written notice of the meeting, a copy of the agenda and any reports or other papers to be considered at the meeting must be given at least seven clear working days in advance; and
- (b) the power of the chair to direct that a meeting be held within a shorter period does not apply.

(8) The functions of the chair in this regulation may be exercised by the vice-chair in the absence of the chair or where there is a vacancy in the office of chair.

(9) A meeting of the governing body and its proceedings are not invalidated by reason of any person not having received written notice of the meeting or a copy of the agenda.

#### **Quorum and proceedings of the governing body**

**58.**—(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 excluding any vacancies and any governors suspended from that meeting in accordance with regulation 61.

(2) Subject to paragraph (3) every question to be decided at a meeting of the governing body must be determined by a majority of the votes of the governors present and voting on the question.

(3) Associate pupil governors may not vote on any question to be determined at a meeting of the governing body.

(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), has a second or casting vote.

(5) No decision to serve notice of discontinuance of a federated school under section 80 of the 2013 Act whether taken by the governing body or by a committee, has effect unless it is confirmed by the governing body at a meeting held not less than twenty eight clear working 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 57(7).

(6) 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) the federation having more governors of a particular category than are provided for by the instrument of government<sup>(24)</sup>.

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(24) See section 20(1) of the 2002 Act and regulation 34.

### **Minutes and papers**

**59.**—(1) The clerk (or the person appointed to act as clerk for the purpose of the meeting in accordance with regulation 53(4)) 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 (or the person acting as chair) at the next meeting.

(2) The person acting as clerk to the governing body for the purposes of any meeting must record immediately before the entry recording the minutes of that meeting in the book or pages used for that purpose the names of those members of the governing body and of any other person present at the meeting concerned.

(3) The governing body must supply a copy of the draft or signed minutes of a particular meeting to the local authority that maintains the school in question on request by the local authority concerned.

### **Publication of minutes and papers**

**60.**—(1) Subject to paragraph (2), the governing body must, as soon as reasonably practicable, make available for inspection at each of the federated schools by any interested person, a copy of—

- (a) the agenda for every meeting;
- (b) the signed minutes of every such meeting;
- (c) any report or other paper considered at any such meeting; and
- (d) the draft minutes of any meeting, if they have been approved by the person acting as chairman of that meeting.

(2) The governing body may exclude from any item required to be made available in pursuance of paragraph (1) any material relating to—

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

(3) Each page of published copies of any draft minutes of proceedings of meetings approved by the chair must indicate that they are draft minutes.

### **Suspension of governors**

**61.**—(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 six months on one or more of the following grounds—

- (a) that the governor, being a person paid to work at the federation or federated school, is the subject of disciplinary proceedings in relation to that person's employment;
- (b) that the governor is the subject of proceedings in any court or tribunal, the outcome of which may be that that person is disqualified from continuing to hold office as a governor under Schedule 7;
- (c) that the governor has acted in a way that is inconsistent with the ethos or with the religious character of a federated school and has brought or is likely to bring the federation, a federated school, the governing body or that person's office into disrepute; or
- (d) that the governor is in breach of that person's duty of confidentiality to the federation or a federated school or to any member of staff or to any pupil at the federation or a federated 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 of which notice has been given in accordance with regulation 57(7).

(3) Before a vote is taken on a resolution to suspend a governor, the governor proposing the resolution must at the meeting state their 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 75(2).

(4) Nothing in this regulation is to be read as affecting the right of a governor who has been suspended—

- (a) to receive notices of, and agendas and reports or other papers for, meetings of the governing body; or
- (b) to attend a meeting of the governing body convened in accordance with regulation 41 to consider that person's removal from office;

during the period of suspension.

(5) Nothing in this regulation is to be read as preventing a governing body from suspending a governor who has been suspended under paragraph (1) for a further fixed period or periods, whether or not on the same ground as that of the original suspension, and paragraphs (1) to (4) apply in relation to each suspension.

(6) A governor is not disqualified from continuing to hold office under paragraph 5 of Schedule 7 for failure to attend any meeting of the governing body while suspended under this regulation.

### **Delegation of functions**

**62.**—(1) Subject to regulation 63 of these Regulations, regulation 3(2) of the Religious Character of Schools (Designation Procedure) Regulations 1998<sup>(25)</sup> and regulation 7 of the School Government (Terms of Reference) (Wales) Regulations 2000<sup>(26)</sup>, the governing body may delegate any of its functions to—

- (a) a committee;
- (b) any governor; or
- (c) the head teacher of the federation or of a federated school (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 it has delegated annually.

### **Restrictions on delegation and specified committees**

**63.**—(1) The governing body may not delegate under regulation 62(1) its functions under the following regulations—

- (a) those in Part 3 (categories of governors);
- (b) those in Part 4 (composition of governing bodies of a federation);
- (c) those in Part 5 (removal of governors);

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(25) [S.I. 1998/2535](#), as amended in relation to Wales by the Education (New Schools) (Wales) Regulations 1999 ([S.I.1999/2243 \(W.3\)](#)) and by the New Maintained Schools (Wales) Regulations 2005 ([S.I. 2005/2912 \(W.209\)](#)).

(26) [S.I. 2000/3027 \(W.195\)](#) as amended by the School Government (Terms of Reference) (Amendment) (Wales) Regulations 2002 ([S.I. 2002/1396 \(W.138\)](#)) and by the Education Act 2002 (Transitional Provisions and Consequential Amendments) (Wales) Regulations 2005 ([S.I. 2005/2913 \(W.210\)](#)) and by the School Teacher Appraisal (Wales) Regulations 2011 ([S.I. 2011/2940 \(W.316\)](#)).

- (d) those in Part 6 (instruments of government);
- (e) regulations 50 and 52 (election and removal of chair and vice chair);
- (f) regulation 53 (appointment and removal of the clerk to the governing body);
- (g) regulation 61 (suspension of governors);
- (h) regulation 62 (delegation of functions);
- (i) regulation 66 (establishment of committees);

nor may it delegate its functions in respect of head teacher and deputy head teacher selection panels under regulations 10(9) to (20), 24(8) to (19) and 34 of the Staffing Regulations (as modified by Schedule 8).

- (2) The governing body may not delegate to an individual under regulation 62(1)—
  - (a) its school organisation proposal functions;
  - (b) the functions in:
    - (i) a scheme made by the local authority under section 48(1)(27) 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;
    - (ii) section 88(1) to (3) of the Education and Inspections Act 2006(28) (*responsibility of governing body for discipline*);
    - (iii) sections 88(29), 89(30), 89A(31) and 90(8)(32) of the 1998 Act (which relate to the determination of admission arrangements), section 90(1)(33) of the 1998 Act (which relates to the reference to the National Assembly for Wales of objections about admission arrangements), or section 94(34) of the 1998 Act in so far as it relates to the determination of appeal arrangements by the governing body;
    - (iv) section 63(35) of the 1998 Act (*school attendance targets*);
    - (v) section 439(7) of the 1996 Act (*school attendance orders*);
    - (vi) sections 95(2) and 97(3)(36) of the 1998 Act (appeal against a decision of the local authority to admit a child and referral to the Assembly in respect of a direction made by the local authority to admit a child); or
  - (c) the functions that must be delegated to the committees specified in regulations 67 to 69.

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(27) Amended by section 40 of, and Schedule 5 to, the 2002 Act; and by section 57 of, and Schedule 5 to, the Education and Inspections Act 2006 (c.40).

(28) 2006 c.40.

(29) Amended by section 43(1) of the Education and Inspections Act 2006 (c.40), Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), section 54(1) and 64(2) of, and by Schedule 13 to the Education Act 2011.

(30) Amended by paragraph 5 of Schedule 4 to the 2002 Act; and by sections 41, 45, 46(1), and 184 of, and by Part 6 of Schedule 18 to the Education and Inspections Act 2006 (c.40). Subsection (1A) was inserted by section 106 of the Education Act 2005 (c.18). Section 89 was further amended by paragraphs 53 and 57 of Part 2 of Schedule 1 to the Education and Skills Act 2008 (c.25).

(31) Inserted by section 47(2) of the 2002 Act. Further amended by paragraphs 53 and 58 of Part 2 of Schedule 1 to the Education and Skills Act 2008.

(32) Substituted by section 47 of the Education and Inspections Act 2006 (c.40). Further amended by paragraphs 53 and 62 of Part 2 of Schedule 1 to the Education and Skills Act 2008.

(33) Sub-paragraph (1)(b) was substituted by section 41(1) and (8)(a) of the Education and Inspections Act 2006 (c.40). Further amended by paragraphs 53 and 62 of Part 2 of Schedule 1 to the Education and Skills Act 2008 (c.25).

(34) Amended by sections 50 and 51 of, and paragraph 8 of Schedule 4 to, the 2002 Act; and by section 51(1) of the Education and Inspections Act 2006 (c.40). Further amended by section 152 of the Education and Skills Act 2008.

(35) Amended by section 53 of, and Part 3 of Schedule 21 to, the 2002 Act.

(36) Amended by section 49 of the Education and Inspections Act 2006 (c.40).

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

64.—(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 of the federation or (if there is no head teacher of the federation) of a federated school (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 9**

### **COMMITTEES OF GOVERNING BODIES**

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

65. This Part does not apply in relation to head teacher and deputy head teacher selection panels established under regulations 10 or 24 of the Staffing Regulations (as modified by Schedule 8).

#### **Establishment of committees of the governing body**

66.—(1) This regulation applies to committees of the governing body subject to regulations 67, 68 and 69.

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

(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) A committee must elect a member of that committee to act as chair in the absence of the chair appointed under paragraph (3).

(5) No person who is employed to work at the federation or a federated school, nor a registered pupil of the federation or a federated school may act as chair of a committee.

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

(7) The membership of a committee may include associate pupil governors and persons who are not governors and the extent to which such members are entitled to vote is to be determined by the governing body.

(8) The majority of members on any committee must be governors excluding associate pupil governors.

#### **Staff disciplinary and dismissal committee and disciplinary and dismissal appeals committee**

67.—(1) The following functions of the governing body of a federation must be delegated to a committee, to be known as the staff disciplinary and dismissal committee—

- (a) where a federated school is a community, voluntary controlled or community special school, the initial determination under regulation 17(1) of the Staffing Regulations (as modified by Schedule 8) that any person employed by the local authority to work at the federation or federated school should cease to work there;

- (b) where a federated school is a foundation or voluntary aided school, the initial decision under regulation 29(1) of the Staffing Regulations (as modified by Schedule 8) that a person employed to work at the federation or federated school should have that person's contract of employment with the governing body terminated or should not have that person's contract renewed (except where the dismissal is pursuant to a direction of the local authority under paragraph 7 of Part 2 of Schedule 2 to the 2002 Act); and
  - (c) the hearing of representations in relation to a decision which must be delegated under this paragraph.
- (2) The hearing of any appeal in respect of a decision that must be delegated under paragraph (1) must be delegated to a committee, known as the disciplinary and dismissal appeals committee.
- (3) The staff disciplinary and dismissal committee must include not less than three governors, but where allegations are made against a member of staff that involve issues of child protection the committee must include not less than two governors and an independent person who is not a governor.
- (4) The disciplinary and dismissal appeals committee must include no fewer governors than the staff disciplinary and dismissal committee whose decision is subject to appeal and where allegations are made against a member of staff that involve issues of child protection the committee must include an independent person who was not involved in the staff disciplinary and dismissal committee's decision.
- (5) For the purposes of paragraphs (3) and (4) a person is to be regarded as independent in the following circumstances—
- (a) where the person is not a governor of the federation or a federated school;
  - (b) where the person is not a parent of a current or former pupil at the federated school;
  - (c) where the person is not a current or former member of staff at the federation or the federated school in question;
  - (d) where the person is not currently employed by the local authority that maintains the federated school in question.
- (6) The quorum for a meeting of the staff disciplinary and dismissal committee and the disciplinary and dismissal appeals committee and any vote on any matter at the committees is the same as the minimum requirements for the composition of those committees specified in this regulation.
- (7) Where a disciplinary and dismissal appeals committee is considering an appeal against a decision of the staff disciplinary and dismissal committee, no member of the staff disciplinary and dismissal committee whose decision is subject to appeal may take part in the proceedings of the disciplinary and dismissal appeals committee.
- (8) Neither the head teacher of the federation or a federated school nor an associate pupil governor may be a member of the staff disciplinary and dismissal committee or the disciplinary and dismissal appeal committee.
- (9) No member of the staff disciplinary and dismissal committee or the disciplinary and dismissal appeals committee who is not a governor is entitled to vote in any proceedings of the committee in question, save for the independent member of each committee appointed in accordance with paragraph (3) or (4).



### **Pupil discipline and exclusions committee**

**68.**—(1) The governing body of a federation must establish a committee, to be known as the pupil discipline and exclusions committee, to discharge the functions conferred on it by or under regulations made under section 52(3) and (4) of the 2002 Act (*exclusion of pupils*)(**37**).

(2) The pupil discipline and exclusions committee must consist of either three or five governors, but must not include the head teacher of the federation or a federated school or any associate pupil governor.

(3) The quorum for a meeting of the pupil discipline and exclusions committee and any vote on any matter before the committee is three members of the committee.

(4) The chair of the pupil discipline and exclusions committee may exercise any function conferred on the governing body by or under regulations made under section 52(3) and (4) of the 2002 Act (*exclusion of pupils*) in a case where—

- (a) a pupil has been excluded for a fixed period in circumstances in which that pupil would, as a result of the exclusion, lose an opportunity to take any public examination; and
- (b) it appears to the chair that it would not be practical for a quorate meeting of the committee to take place for any purpose referred to in such regulations before the time when the pupil would be due to take that examination.

### **Admissions committee**

**69.**—(1) Where the governing body of a federation is the admissions authority for a federated school it must establish a committee, to be known as the admissions committee, to exercise its powers to determine whether any child should be admitted to the federated school.

(2) A committee established under paragraph (1) must consist of—

- (a) the head teacher or the acting head teacher of the federation; or
- (b) (if there is no head teacher or acting head teacher of the federation) the head teacher or the acting head teacher of the federated school; and
- (c) at least two other governors (excluding associate pupil governors).

(3) The quorum for the admissions committee and any vote on any matter at the committee is the same as the minimum requirement for the composition of the committee specified in this regulation.

### **Clerks to committees**

**70.**—(1) The governing body must appoint a clerk to each committee established in accordance with regulations 67 to 69 and may appoint a clerk to any other committee established by it.

(2) Neither the head teacher of the federation or of a federated school nor an associate pupil governor may be appointed as a clerk under paragraph (1).

(3) 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 of the federation or of a federated school) to act as 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;

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(37) See the Education (Pupil Exclusions and Appeals) (Maintained Schools) (Wales) Regulations 2003 (S.I. 2003/3227 (W.308)) as amended by the Education (Pupil Exclusions and Appeals) (Wales) (Miscellaneous Amendments) Regulations 2004 (S.I. 2004/1805 (W.193)).

- (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 may be determined by the governing body from time to time.

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

**71.**—(1) Subject to paragraphs (2) and (3) and Schedule 10 to these Regulations the following persons are entitled to attend any meeting of a committee—

- (a) any member of the committee, provided that person is not a governor who has been suspended in accordance with regulation 61;
- (b) the head teacher of the federation or (if there is no head teacher of the federation) of a federated 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 a member who is not a governor from any part of its meeting which that person is otherwise entitled to attend when the business under consideration concerns an individual member of staff or pupil.

(3) Paragraph (1)(b) does not apply in relation to the committees referred to in regulations 67 and 68 or in relation to any committee or selection panel exercising any function under the Staffing Regulations (as modified by Schedule 8).

### **Meetings of committees**

**72.**—(1) Subject to paragraph (2) meetings of a committee must 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 that committee, so far as such direction is not inconsistent with any direction given under sub-paragraph (a).

(2) Where a clerk has not been appointed, committee meetings must be convened by the chair who, when exercising this function, must comply with any direction given by the governing body.

(3) Subject to any direction given in accordance with paragraphs (1) or (2), at least five clear working days in advance the clerk must give to each member of the committee and to the head teacher of the federation or of a federated school (whether or not that person 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;

but where the chair of the committee so determines on the ground that there are matters demanding urgent consideration, it is 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 that person directs or decides (as the case may be).

(4) The proceedings of a committee are not invalidated by—

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

(5) Subject to regulations 67(6), 68(3) and 69(4), the quorum for a meeting of a committee 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 committee excluding any vacancies and any associate pupil governors.

(6) Subject to paragraph (8) no vote on any matter may be taken at a meeting of a committee unless the majority of members of the committee present are governors excluding associate pupil governors.

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

(8) Where there is an equal division of votes the person who is acting as chair for the purposes of the meeting has a second or casting vote, provided that such person is a governor excluding associate pupil governors.

### **Minutes of meetings of committees**

**73.**—(1) Minutes of the proceedings of a meeting of a committee must be drawn up by the clerk to the committee or by 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 of the next meeting of the committee.

(2) Any committee of the governing body must supply their local authority with a copy of the draft or signed minutes of any meeting of theirs on request by that local authority.

### **Publication of minutes and papers**

**74.**—(1) Subject to paragraph (2) the committee must, as soon as reasonably practicable, make available for inspection at each of the federated schools forming part of the federation 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.

(2) The committee may exclude from any item required to be made available in pursuance of paragraph (1) any material relating to—

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

## **PART 10**

### **RESTRICTIONS ON PERSONS TAKING PART IN PROCEEDINGS OF THE GOVERNING BODY OR ITS COMMITTEES**

#### **Restrictions on persons taking part in proceedings**

**75.**—(1) In this regulation and in Schedule 10—

- (a) “relevant person” (“*person perthnasol*”) means a governor, a member of a committee who is not a governor, the head teacher of the federation or of a federated school (whether or not that person 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 federation or a federated school” (“*cyfarfod o’r ffederasiwn neu ysgol ffederal*”) is a reference to a meeting of the governing body or of a committee, including a selection panel established under the Staffing Regulations (as modified by Schedule 8).
- (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;
  - (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; or
  - (c) a relevant person has a pecuniary interest in any matter;
- that person, if present at a meeting of the federation or a federated school at which the matter is the subject of consideration, must disclose that person’s interest, withdraw from the meeting and not vote on the matter in question.
- (3) Nothing in this regulation or in Schedule 10 is to be construed as precluding—
- (a) the governing body, or a committee, from—
    - (i) allowing a person who appears to it to be able to give evidence to attend any hearing conducted by it into any matter and to present that person’s evidence; or
    - (ii) hearing representations from a relevant person acting in a capacity other than that of a relevant person; or
  - (b) a relevant person from entering into a contract with the governing body from which that person is entitled to profit.
- (4) A person who is acting as the clerk to a meeting of the federation or a federated school is not required to withdraw from a meeting by this regulation or Schedule 10 unless that person’s appointment to office, that person’s remuneration, or disciplinary action against that person is the subject of consideration, but if this regulation or Schedule 10 would have otherwise required that person to withdraw, that person may not act in any capacity other than that of a clerk.
- (5) Where there is any dispute as to whether a relevant person is required by this regulation, or by Schedule 10 to withdraw from a meeting of the federation or a federated school and not vote, that question is to be determined by the other governors present at the meeting.
- (6) Schedule 10 makes provision about pecuniary interests and other specified conflicts of interest.

## PART 11

### INFORMATION AND FUNDING

#### **Information for the governing body of a federation**

**76.—**(1) Immediately before the federation date, the governing body of a school which is to become a federated school must prepare, for the purpose of assisting the governing body of the federation, a written report on the action which it has taken in the discharge of its functions relating to the school.

(2) All minutes and papers of a governing body of a school which is to become a federated school on the federation date, including the report prepared under paragraph (1), is to be made available to the governing body of the federation.

### **Financing of federations**

77. Except as provided by regulation 78, Chapter 4 of Part 2 of the 1998 Act (*financing of maintained schools*) applies to federated schools and their governing bodies as it applies to other maintained schools and their governing bodies.

### **Modification of Chapter 4 of Part 2 of the 1998 Act**

78.—(1) In its application to a federated school in Wales, other than one for which a temporary governing body is established pursuant to regulation 81 or 88, section 50(38) of the 1998 Act (*effect of financial delegation*) is to have effect subject to the following modifications.

(2) In subsection (1), for “maintained” substitute “federated”.

(3) In subsection (2) for “any amounts are made available by the authority to the governing body” substitute “any amounts in respect of a federated school are made available by the local authority to the governing body of a federation”.

(4) In subsection (3)—

(a) for “the governing body may spend any such amounts” substitute “the governing body of a federation may spend any amounts made available under subsection (2), or previously made available to the governing bodies of the federated schools before federation”; and

(b) for paragraph (a) substitute—

“(a) for any purposes of the federated school to which the amounts relate;

(ab) for any purposes of any other federated school within the federation;

(ac) for any purposes of the federation; or”.

(5) In subsection (4) for ““purposes of the school” in subsection (3) does not include” substitute “any reference to the purposes of a federated school or a federation in subsection 3(a), (ab) and (ac) does not include”.

(6) In subsection (6), for “the head teacher” substitute “the head teacher of the federation or to the head teachers of federated schools”.

(7) In subsection (7), for “school” substitute “federation”.

## **PART 12**

### **FEDERATED SCHOOLS LEAVING FEDERATIONS**

#### **Procedure for a school to leave a non local authority federation**

79.—(1) This regulation applies to a request made to a governing body of a federation for a federated school (“the relevant school”) to leave the federation where the relevant school does not form part of a local authority federation.

(2) A request may not be made if the relevant school is subject to an intervention by a local authority or the Welsh Ministers under Chapter 1 of Part 2 of the 2013 Act unless the local authority or the Welsh Ministers (as the case may be) agree to the request being made.

(3) The request must be made in writing and signed by —

(a) two or more governors;

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(38) Subsection (1) was amended by section 40 of, and Schedule 3 to, the 2002 Act. Subsection (4)(za) was inserted by section 40 of, and Schedule 3 to, the 2002 Act. Subsection (5) was amended by paragraph 10 of Schedule 21 to the 2002 Act. Subsection (1) was further amended by section 117 of, and Schedule 18 to, the Education Act 2005 (c. 18).

- (b) one fifth of the parents of registered pupils at the relevant school;
  - (c) two fifths of staff who are paid to work at the relevant school;
  - (d) the local authority;
  - (e) the trustees of the relevant school; or
  - (f) a body entitled to appoint foundation governors to the governing body of the federation.
- (4) The governing body of the federation must give notice of the request to—
- (a) all relevant local authorities;
  - (b) the head teacher of the federation or (if there is no head teacher of the federation) the head teacher of each federated school;
  - (c) where the relevant school is a foundation or voluntary school with a religious foundation, any trustees of a trust relating to the relevant school and, in the case of a Church in Wales or Roman Catholic Church school, the appropriate diocesan authority, or the appropriate religious body in the case of all other such schools;
  - (d) a body entitled to appoint foundation governors to the governing body of the federation;
  - (e) the trustees of a trust of any federated school of the federation;
  - (f) all staff paid to work at the relevant school;
  - (g) every person known by it to be a parent of a registered pupil at the relevant school;
  - (h) every trade union known by it to have members paid to work at any of the schools; and
  - (i) such other persons as the governing body of the federation considers appropriate.
- (5) Notice under paragraph (4) must be given within the period of five clear working days beginning with the date on which the request was received.
- (6) A request under paragraph (1) is to be taken to have been received by a governing body of a federation if given or sent to the chair or to the clerk of the governing body of a federation.
- (7) Not less than fourteen clear working days after the governing body of a federation has given notice of the request in accordance with paragraph (4), the governing body must consider the request and all responses received from the persons to whom notification of the request was sent and must decide whether—
- (a) subject to paragraph (10), the relevant school should leave the federation and, if so, on what date it should do so (“the de-federation date”) (“*y dyddiad dadffedereiddio*”);
  - (b) the federation should be dissolved, and if so, on what date; or
  - (c) the relevant school should not leave the federation.
- (8) Such a decision does 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 57(4).
- (9) The governing body of a federation must give notice in writing of its decision under paragraph (7) within five clear working days to those persons referred to in paragraph (4).
- (10) The de-federation date specified by the governing body must be not less than 125 days after the day on which notice of the governing body decision under paragraph (9) was given.

### **Procedure for a school to leave a local authority federation**

**80.**—(1) This regulation applies to a request made to the maintaining local authority for a federated school (“the relevant school”) to leave the local authority federation.

(2) A request may not be made if the relevant school is subject to an intervention by a local authority or the Welsh Ministers in Chapter 1 of Part 2 of the 2013 Act unless the local authority or the Welsh Ministers (as the case may be) agree to the request being made.

- (3) The request must be made in writing and signed by—
- (a) two or more governors;
  - (b) one fifth of the parents of registered pupils at the relevant school;
  - (c) two fifths of staff who are paid to work at the relevant school;
  - (d) the local authority;
  - (e) the trustees of the relevant school; or
  - (f) a body entitled to appoint foundation governors to the governing body of the federation.
- (4) The maintaining local authority of the relevant school must give notice of the request to—
- (a) all relevant local authorities;
  - (b) the head teacher of the federation or (if there is no head teacher of the federation) the head teacher of each federated school;
  - (c) where the relevant school is a foundation or voluntary school with a religious foundation, any trustees of a trust relating to the relevant school and, in the case of a Church in Wales or Roman Catholic Church school, the appropriate diocesan authority, or the appropriate religious body in the case of all other such schools;
  - (d) a body entitled to appoint foundation governors to the governing body of the federation;
  - (e) the trustees of a trust of any federated school of the federation;
  - (f) all staff paid to work at the relevant school;
  - (g) every person known by them to be a parent of a registered pupil at the relevant school;
  - (h) every trade union known by them to have members paid to work at any of the schools; and
  - (i) such other persons as the local authority consider appropriate.
- (5) Notice under paragraph (4) must be given within the period of five clear working days beginning with the date on which the request was received.
- (6) A request under paragraph (1) is to be taken to have been received by the local authority if given or sent to the chief education officer<sup>(39)</sup>.
- (7) Not less than fourteen clear working days after the local authority has given notice of the request in accordance with paragraph (4), the local authority must consider the request and all responses received from the persons to whom notification of the request was sent and must decide whether—
- (a) subject to paragraph (9), the relevant school should leave the federation and, if so, on what date it should do so (“the de-federation date”) (“*y dyddiad dadffedereiddio*”);
  - (b) the federation should be dissolved, and if so, on what date; or
  - (c) the relevant school should not leave the federation.
- (8) The local authority must give notice in writing of its decision under paragraph (7) within five clear working days to those persons referred to in paragraph (4).
- (9) The de-federation date specified by the governing body must be not less than 125 days after the day on which notice of the governing body decision under paragraph (8) was given.

### **Decision to permit federated school to leave a federation**

**81.**—(1) Upon notification that a governing body of a federation has resolved or that the local authority has decided that a federated school should leave a federation paragraphs (2) or (3) are to apply.

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(39) Within the meaning of section 532 of the 1996 Act.

- (2) Where one of only two federated schools is to leave a federation, the federation is to be dissolved in accordance with Part 13.
- (3) Where paragraph (2) does not apply,
- (a) the local authority must—
    - (i) establish a temporary governing body in respect of the school leaving the federation in accordance with Parts 3 and 4 of the New Maintained Schools Regulations; and
    - (ii) issue a new instrument of government for that school in accordance with Part 5 of the Government of Maintained Schools Regulations;
  - (b) the governing body of the federation must review the instrument of government of the federation in accordance with regulation 45.
- (4) For the purpose of paragraph (3)(a)(ii)—
- (a) the reference in regulation 33 of the Government of Maintained Schools Regulations to “governing bodies” is treated as a reference to “temporary governing bodies”; and
  - (b) references in regulation 34 of the Government of Maintained Schools Regulations to—
    - (i) “governing body” are treated as references to “temporary governing body”; and
    - (ii) “foundation governors” are treated as references to “temporary foundation governors”.

#### **Availability of amounts representing budget share**

**82.** Subject to any provision made by or under a scheme made under section 48(1) of the 1998 Act, the temporary governing body of a school leaving a federation may spend any sum made available by the local authority under section 50(1) of that Act<sup>(40)</sup> to the governing body of the federation in respect of the school leaving the federation, as it thinks fit for any purposes of that school.

#### **Incorporation of governing body of a school leaving a federation**

**83.** On the de-federation date the temporary governing body of the de-federated school is incorporated as the governing body of that school under the name given in the school’s instrument of government.

#### **Transfer of property**

- 84.**—(1) On the de-federation date—
- (a) all land or property, which, immediately before the de-federation date, was held by the governing body of the federation for the purposes of the de-federated school transfers to, and by virtue of these Regulations vests in, the governing body incorporated under regulation 83; and
  - (b) all rights and liabilities subsisting immediately before the de-federation date which were acquired or incurred by the governing body of the federation for the purposes of the de-federated school transfer to the governing body incorporated under regulation 83.
- (2) Section 198 of and Schedule 10 to the Education Reform Act 1988<sup>(41)</sup> (which make provision in relation to transfers of property, rights and liabilities) apply in relation to transfers effected by this regulation as they apply in relation to transfers to which that section and Schedule apply.

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<sup>(40)</sup> As modified by regulation 75 of these Regulations.

<sup>(41)</sup> 1988 c.40.



## PART 13

### DISSOLUTION OF FEDERATIONS

#### **Dissolution by governing body of non local authority federations**

**85.**—(1) Subject to paragraph (3) where—

- (a) a governing body of a federation decides that the federation should be dissolved; or
- (b) a governing body of a federation decides that one of only two federated schools should leave the federation,

the governing body of a federation must give notice of the decision and the proposed date of dissolution to the persons mentioned in paragraph (2) within fourteen clear working days of the decision.

(2) The persons to be notified are—

- (a) all relevant local authorities;
- (b) the head teacher of the federation or (if there is no head teacher of the federation) each head teacher of a federated school;
- (c) every member of staff paid to work at the federation or a federated school;
- (d) every person known by the governing body to be a parent of a registered pupil at a federated school;
- (e) where a federated school is a foundation or voluntary school with a religious foundation, the foundation governors, any trustees of a trust relating to the federated school and, in the case of a Church in Wales or Roman Catholic Church school, the appropriate diocesan authority, or the appropriate religious body in the case of all other such schools;
- (f) every trade union known to them to have members paid to work at any of the schools; and
- (g) such other persons as the governing body of the federation considers appropriate.

(3) Nothing in this regulation applies to the governing body of a local authority federation.

(4) The proposed date of dissolution specified by the governing body must be not less than 125 days after the day on which notice is given under paragraph (1) .

#### **Dissolution by governing body of local authority federations**

**86.**—(1) Where—

- (a) a governing body of a local authority federation decides that the federation should be dissolved; or
- (b) a governing body of a local authority federation decides that one of only two federated schools should leave the federation,

the governing body must seek the consent of any maintaining local authority that the federation should be dissolved.

(2) If consent under paragraph (1) is given, the governing body must give notice of their decision and the proposed date of dissolution to the persons mentioned in paragraph (3) within fourteen clear working days of the consent being given.

(3) The persons to be notified are—

- (a) all relevant local authorities;
- (b) the head teacher of the federation or (if there is no head teacher of the federation) each head teacher of a federated school;

- (c) every member of staff paid to work at the federation or a federated school;
  - (d) every person known by the governing body to be a parent of a registered pupil at a federated school;
  - (e) where a federated school is a foundation or voluntary school with a religious foundation, the foundation governors, any trustees of a trust relating to the federated school and, in the case of a Church in Wales or Roman Catholic Church school, the appropriate diocesan authority, or the appropriate religious body in the case of all other such schools;
  - (f) every trade union known to them to have members paid to work at any of the schools; and
  - (g) such other persons as the governing body of the federation considers appropriate.
- (4) The proposed date of dissolution specified by the governing body must be not less than 125 days after the day on which notice is given under paragraph (2) .

### **Dissolution by local authority of local authority federations**

87.—(1) Where—

- (a) a maintaining local authority of a local authority federation determines that the federation should be dissolved; or
- (b) a maintaining local authority of a local authority federation determines that one of only two federated schools should leave the federation,

the local authority must give notice of the fact and the propose date of dissolution to the persons mentioned in paragraph (2) within fourteen clear working days of making that determination.

(2) The persons to be notified are—

- (a) all relevant local authorities;
- (b) the head teacher of the federation or (if there is no head teacher of the federation) each head teacher of a federated school;
- (c) every member of staff paid to work at the federation or a federated school;
- (d) every person known by the governing body to be a parent of a registered pupil at a federated school;
- (e) where a federated school is a foundation or voluntary school with a religious foundation, the foundation governors, any trustees of a trust relating to the federated school and, in the case of a Church in Wales or Roman Catholic Church school, the appropriate diocesan authority, or the appropriate religious body in the case of all other such schools;
- (f) a body entitled to appoint foundation governors to the governing body of the federation;
- (g) the trustees of a trust of any federated school of the federation;
- (h) every trade union known to them to have members paid to work at any of the schools; and
- (i) such other persons as the local authority considers appropriate.

(3) Not less than fourteen clear working days after the local authority has given notice of the determination in accordance with paragraph (2), the local authority must consider the determination and all responses received from the persons to whom notification of the determination was sent and must decide whether—

- (a) the federation should be dissolved and, if so, on what date;
- (b) that one of only two federated schools should leave the federation, and if so, on what date; or
- (c) the federation should not be dissolved.

(4) The local authority must give notice in writing of its decision under paragraph (2) within five clear working days to those persons referred to in paragraph (4).

### **Establishment of temporary governing body**

**88.**—(1) Upon receipt of the notice issued under regulation 85, 86 or 87 the relevant local authority or local authorities must—

- (a) establish a temporary governing body in respect of each school in accordance with Parts 3 and 4 of the New Maintained Schools Regulations; and
  - (b) issue a new instrument of government for each school in accordance with Part 5 of the Government of Maintained Schools Regulations.
- (2) For the purposes of regulation 88(1)(b)—
- (a) the reference in regulation 32 of the Government of Maintained Schools Regulations to “governing bodies” is treated as a reference to “temporary governing bodies”; and
  - (b) references in regulation 34 of the Government of Maintained Schools Regulations to—
    - (i) “governing body” are treated as references to “temporary governing body”; and
    - (ii) “foundation governors” are treated as references to “temporary foundation governors”.

### **Availability of amounts representing budget share**

**89.** Subject to any provision made by or under a scheme made under section 48(1) of the 1998 Act, the temporary governing body of each school may spend any sum made available by the local authority under section 50(1) of that Act<sup>(42)</sup> to the governing body of the federation in respect of each school, as they think fit for any purposes of that school.

### **Incorporation of governing body of a school leaving a federation**

**90.** On the date of dissolution the temporary governing body of each federated school is incorporated as the governing body of each de-federated school under the name given in the school’s instrument of government.

### **Transfer of property**

- 91.**—(1) On the date of dissolution—
- (a) all land or property which, immediately before the date of dissolution, was held by the governing body of the federation for the purposes of each de-federated school, transfers to, and by virtue of these Regulations vests in, the new governing body of each de-federated school incorporated under regulation 88; and
  - (b) all rights and liabilities subsisting immediately before the date of dissolution which were acquired or incurred by the governing body of the federation for the purposes of each de-federated school transfer to the new governing body of each de-federated school incorporated under regulation 90.
- (2) Section 198 of and Schedule 10 to the Education Reform Act 1988<sup>(43)</sup> (which make provision in relation to transfers of property, rights and liabilities) are to apply in relation to transfers effected by this regulation as they apply in relation to transfers to which that section and Schedule apply.

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<sup>(42)</sup> As modified by regulation 78 of these Regulations.

<sup>(43)</sup> 1988 c.40.

## PART 14

### AMENDMENTS TO REGULATIONS

#### Amendments to the Collaboration Between Education Bodies (Wales) Regulations 2012

**92.**—(1) The Collaboration Between Education Bodies (Wales) Regulations 2012<sup>(44)</sup> are amended as follows.

(2) In regulation 3(1)—

(a) in the definition of “the Federation of Maintained Schools Regulations” for “the Federation of Maintained Schools and Miscellaneous Amendments (Wales) Regulations 2010”, substitute “the Federation of Maintained Schools (Wales) Regulations 2014”;

(b) in the appropriate place in alphabetical order insert—

“federation” (*“ffederasiwn”*) and “federated school” (*“ysgol ffederal”*) are to be interpreted in accordance with section 21 of the Education (Wales) Measure 2011<sup>(45)</sup>;

federation transition period” (*“cyfnod pontio’r ffederasiwn”*) means the period of time after a determination has been made to proceed with the proposals for a federation under regulations 7(1), 10(2), or 12(2) of the Federation of Maintained Schools (Wales) Regulations 2014 but before the federation date;”.

(3) In regulation 4—

(a) in paragraph (1) for “Where” substitute “Subject to paragraph (5) where”;

(b) in sub-paragraph (a) of paragraph (1) for “regulation 59” substitute “regulation 62”;

(c) in paragraph (4) for “regulations 59 to 61” substitute “regulations 62 to 64”; and

(d) after paragraph (4) insert—

“(5) During the federation transition period nothing in these Regulations prevents the governing bodies of schools intending to federate from forming a joint selection panel.”.

(4) In regulation 7(2) for “32 of, and paragraphs 2 to 12” substitute “35 of, and paragraphs 2 to 13”.

#### Amendments to the Government of Maintained Schools (Training Requirements for Governors) (Wales) Regulations 2013

**93.**—(1) The Government of Maintained Schools (Training Requirements for Governors) (Wales) Regulations 2013<sup>(46)</sup> are amended as follows.

(2) In regulation 2(1)—

(a) omit the definition of the 2010 Regulations;

(b) in the appropriate place insert—

““the 2014 Regulations” (*“Rheoliadau 2014”*) means the Federation of Maintained Schools (Wales) Regulations 2014;”;

(c) in the definition of “chair of a governing body” for “regulation 47 of the 2010 Regulations” substitute “regulation 50 of the 2014 Regulations”;

(d) in the definition of “a governor” for “2010” substitute “2014”;

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<sup>(44)</sup> 2012/2655 (W.287)

<sup>(45)</sup> 2011 nawm 7

<sup>(46)</sup> 2013/2124 (W.207)

- (3) In regulation 4—
  - (a) in paragraph (4)(b) for “regulation 38 of the 2010 Regulations” substitute “regulation 41 of the 2014 Regulations”;
  - (b) in paragraph (5) for “2010” substitute “2014”; and
  - (c) in paragraph (6) for “32 of, and Schedule 7 to, the 2010 Regulations” substitute “35 of, and Schedule 7 to the 2014 Regulations”.
- (4) In regulation 5—
  - (a) in paragraph (4)(b) for “regulation 38 of the 2010 Regulations” substitute “regulation 41 of the 2014 Regulations”;
  - (b) in paragraph (5) for “2010” substitute “2014”; and
  - (c) in paragraph (6) for “32 of, and Schedule 7 to, the 2010 Regulations” substitute “35 of, and Schedule 7 to the 2014 Regulations”.
- (5) Omit regulation 7.

**Amendments to the Government of Maintained Schools (Clerk to a Governing Body) (Wales) Regulations 2013**

**94.**—(1) The Government of Maintained Schools (Clerk to a Governing Body) (Wales) Regulations 2013(47) are amended as follows.

- (2) In regulation 2(1)—
  - (a) omit the definition of the 2010 Regulations; and
  - (b) in the appropriate place insert—

““the 2014 Regulations” (“*Rheoliadau 2014*”) means the Federation of Maintained Schools (Wales) Regulations 2014;”.
- (3) In regulation 3(1)(b) for “50 to perform the functions set out in regulation 51 of the 2010 Regulations” substitute “53 to perform the functions set out in regulation 54 of the 2014 Regulations”.
- (4) In regulation 4—
  - (a) in sub-paragraph (c) of paragraph (1) for “50 to perform the functions set out in regulation 51 of the 2010 Regulations” substitute “53 to perform the functions set out in regulation 54 of the 2014 Regulations”;
  - (b) for sub-paragraph (d) of paragraph (1) substitute—

“(d) a person appointed by virtue of regulation 70(1) to perform the functions set out in regulation 70(5) in respect of a committee established in accordance with regulations 67 to 69 of the 2014 Regulations; or”; and
  - (c) in sub-paragraph (c) of paragraph (3) for “50 of the 2010” substitute “53 of the 2014”.

29 April 2014

*Huw Lewis*  
Minister for Education and Skills, one of the  
Welsh Ministers

## SCHEDULE 1

Regulation 8

## Temporary governing bodies of new schools intending to federate

**General principles**

1. The size of the membership of the temporary governing body, being no fewer than 15 and no more than 27 temporary governors, is to be determined by the local authority.
2. In determining the size of the membership of the temporary governing body, the local authority must not include any temporary associate pupil governors.
3. In determining the size of the membership of the temporary governing body, the local authority must include any temporary additional community governors appointed in accordance with paragraph 11.
4. Where application of paragraphs 5 to 10 produces a number other than a whole number, the local authority is to specify either the whole number next above or the whole number next below (at their choice) provided that the total number of temporary governors is within the limits set in paragraph 1.

**Temporary governing body for new community, community special and maintained nursery schools**

- 5.—(1) A temporary governing body constituted for any combination of two or more proposed community schools, community special schools and maintained nursery schools (and no other category of school) is to be comprised as follows—
  - (a) for each proposed school at least one but no more than two temporary parent governors appointed to represent the interests of the parents of children who are, or are likely to become, registered pupils at that school;
  - (b) at least one but no more than two temporary teacher governors;
  - (c) at least one but no more than two temporary staff governors;
  - (d) at least two but no more than four temporary local authority governors;
  - (e) subject to sub-paragraph (f) at least two but no more than four temporary community governors; and
  - (f) one temporary representative governor where the proposed federation contains at least one proposed community special school to take the place of an equal number of the community governors required by sub-paragraph (e).
- (2) The temporary governing body of the federation must in addition include—
  - (a) the head teacher or the head teacher designate of the federation, unless that person resigns the office of governor in accordance with regulation 37; or
  - (b) (if there is no head teacher or head teacher designate of the federation) the head teacher or the head teacher designate of each proposed school, unless that person resigns the office of governor in accordance with regulation 37.

**Temporary governing body for new voluntary controlled schools**

- 6.—(1) A temporary governing body constituted for two or more proposed voluntary controlled schools only, is to be comprised as follows—

- (a) for each proposed school at least one but no more than two temporary parent governors appointed to represent the interests of the parents of children who are, or are likely to become, registered pupils at that school;
  - (b) at least one but no more than two temporary teacher governors;
  - (c) at least one but no more than two temporary staff governors;
  - (d) at least two but no more than four temporary local authority governors;
  - (e) at least two but no more than four temporary community governors; and
  - (f) at least two but no more than five temporary foundation governors.
- (2) The temporary governing body of the federation must in addition include—
- (a) the head teacher or the head teacher designate of the federation, unless that person resigns the office of governor in accordance with regulation 37; or
  - (b) (if there is no head teacher or head teacher designate of the federation) the head teacher or the head teacher designate of each proposed school, unless that person resigns the office of governor in accordance with regulation 37.

#### **Temporary governing body for new voluntary aided schools**

7.—(1) A temporary governing body constituted for two or more proposed voluntary aided schools only, is to be comprised as follows—

- (a) at least one temporary parent governor;
  - (b) at least one but no more than two temporary teacher governors;
  - (c) at least one but no more than two temporary staff governors;
  - (d) at least one but no more than two temporary local authority governors; and
  - (e) such number of temporary foundation governors as will lead to their outnumbering all the other governors mentioned in paragraphs (a) to (d), sub-paragraph (2) and paragraph 11 by no more than one.
- (2) The temporary governing body of the federation must in addition include—
- (a) the head teacher or the head teacher designate of the federation, unless that person resigns the office of governor in accordance with regulation 37; or
  - (b) (if there is no head teacher or head teacher designate of the federation) the head teacher or the head teacher designate of each proposed school, unless that person resigns the office of governor in accordance with regulation 37.

#### **Temporary governing body for new voluntary controlled and voluntary aided schools**

8.—(1) A temporary governing body constituted for any combination of two or more proposed voluntary controlled and voluntary aided schools (and no other category of school) is to be comprised as follows—

- (a) at least one temporary parent governor;
- (b) at least one but no more than two temporary teacher governors;
- (c) at least one but no more than two temporary staff governors;
- (d) at least one but no more than two temporary local authority governors;
- (e) at least one but no more than two temporary community governors; and
- (f) such number of temporary foundation governors as will lead to their outnumbering all the other governors mentioned in paragraphs (a) to (e), sub-paragraph (2) and paragraph 11 by no more than one.

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- (2) The temporary governing body of the federation must in addition include—
- (a) the head teacher or the head teacher designate of the federation, unless that person resigns the office of governor in accordance with regulation 37; or
  - (b) (if there is no head teacher or head teacher designate of the federation) the head teacher or the head teacher designate of each proposed school, unless that person resigns the office of governor in accordance with regulation 37.

#### **Temporary sponsor governors**

**9.** A temporary governing body constituted in accordance with paragraphs 5 and 6 may, in addition, appoint one temporary sponsor governor.

#### **Temporary associate pupil governors**

**10.** A temporary governing body constituted in accordance with paragraphs 5 to 8 may, in addition, appoint up to two temporary associate pupil governors where the proposed schools are secondary schools.

#### **Temporary additional community governors**

**11.—(1)** This paragraph applies to a temporary governing body constituted in accordance with paragraphs 5 to 8 for one or more of the following—

- (a) any proposed community or voluntary school which is to be a primary school; and
- (b) any proposed maintained nursery school;

which serves an area for which there are one or more community councils.

(2) The instrument of government of a proposed school must provide for the temporary governing body to include (in addition to the governors required by virtue of paragraphs 5 to 10, as the case may be) one temporary additional community governor nominated by the community council.

(3) If a proposed school serves an area for which there are two or more community councils, the temporary governing body may seek nominations from one or more of those councils.

## SCHEDULE 2

Regulation 14

### Election and appointment of parent governors

- 1.** Subject to paragraph 2(2), in this Schedule “appropriate body” (“*corff priodol*”) means—
- (a) the local authority where the federated school is a community school, community special school, a voluntary controlled school or a maintained nursery school; or
  - (b) the governing body of the federation where the federated school is a foundation school or voluntary aided school.

**2.—(1)** Where a local authority is the appropriate body in relation to a school, that local authority may delegate to the head teacher of the school, or to the head teacher of the federation, any of its functions under this Schedule.

(2) The local authority is the appropriate body in relation to a school within paragraph 1(b) if the governing body of the federation and the local authority so agree.

**3.** Subject to paragraphs 4 to 8 the appropriate body must make all necessary arrangements for the election of parent governors.



4. The appropriate body must determine for the purposes of an election of parent governors, any question whether a person is a parent of a registered pupil at the school.

5. The duty conferred by paragraph 3—

- (a) does not include power to impose any requirement as to the minimum number of votes required to be cast for a candidate to be elected, but
- (b) does include the power to make provision as to qualifying dates.

6. Any election which is contested must be held by secret ballot.

7.—(1) The arrangements made under paragraph 3 must provide for every person who is entitled to vote to have an opportunity to do so by post.

(2) For the purposes of sub-paragraph (1), “post” (“*post*”) includes delivery by hand.

(3) The arrangements made under paragraph 3 may provide for every person who is entitled to vote to have an opportunity to do so by electronic means.

8. Where a vacancy for a parent governor arises, the appropriate body must take such steps as are reasonably practicable to secure that every person who is known to them to be a parent of a registered pupil at the school is—

- (a) informed of the vacancy and that it is required to be filled by election;
- (b) informed that that person is entitled to stand as a candidate and vote in the election; and
- (c) given the opportunity to do so.

9. The number of parent governors required must be made up of parent governors appointed by the governing body if one or more vacancies for parent governors arises and either—

- (a) the number of parents standing for election is less than the number of vacancies;
- (b) at least 50 per cent of the registered pupils at the school are boarders and it would, in the opinion of the appropriate body, be impractical for there to be an election of parent governors; or
- (c) in the case of a school which is a community special school in a hospital, it would, in the opinion of the appropriate body, be impractical for there to be an election of parent governors.

10.—(1) Except where paragraph 11 applies, in appointing a parent governor to represent a federated school, the governing body of a federation must appoint—

- (a) a parent of a registered pupil at the school;
- (b) a parent of a registered pupil at another school within the federation; or
- (c) a parent of a child of compulsory school age, or in the case of a maintained nursery school, of or under compulsory school age.

(2) The governing body must only appoint a person referred to in paragraph (1)(b) or (c) if there is no other person to be appointed from an earlier paragraph in the list set out in sub-paragraph (1).

11.—(1) Where the school is a community special school, in appointing a parent governor the governing body of a federation must appoint—

- (a) a parent of a registered pupil at the school;
- (b) a parent of a child of compulsory school age with special educational needs;
- (c) a parent of a person of any age with special educational needs; or
- (d) a parent of a child of compulsory school age.

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(2) The governing body of a federation must only appoint a person referred to in paragraph (1) (b), (c) or (d) if there is no other person to be appointed from an earlier paragraph in the list set out in sub-paragraph (1).

### SCHEDULE 3

Regulations 15 and 16

#### Election of teacher and staff governors

1. Subject to paragraphs 2 to 4, the governing body of the federation must make all necessary arrangements for the election of teacher and staff governors.
2. The governing body of the federation is to determine for the purposes of an election of teacher and staff governors whether a person is a school teacher or otherwise employed to work at the school.
3. The duty conferred by paragraph 1—
  - (a) does not include power to impose any requirements as to the minimum number of votes required to be cast for a candidate to be elected; but
  - (b) includes the power to make provision as to qualifying dates.
4. Any election which is contested must be held by secret ballot.

### SCHEDULE 4

Regulation 21

#### Appointment of partnership governors

1. Where a partnership governor is required, the governing body of a federation—
  - (a) must seek nominations from parents of registered pupils at schools in the federation which have no foundation, and from such other persons in the community served by the federation as they consider appropriate; and
  - (b) may seek nominations from parents of registered pupils at other schools in the federation as they consider appropriate.
2. No person may nominate for appointment, or appoint, a person as a partnership governor unless that person would be eligible for appointment by the governing body of the federation as a community governor.
3. Subject to paragraph 4(2), no governor may nominate a person for appointment as a partnership governor.
- 4.—(1) The governing body must appoint such number of partnership governors as is required by the instrument of government from among eligible nominees.
  - (2) If the number of eligible nominees is less than the number of vacancies, the number of partnership governors required may be made up by persons selected by the governing body of the federation.
- 5.—(1) Where the governing body of a federation makes an appointment under paragraph 4(2), having rejected any person nominated under paragraph 1, it must give written reasons for its decision to the local authority and to the person rejected.

(2) Where the federation includes schools maintained by more than one local authority, the reference in sub-paragraph (1) to the local authority is to be taken as a reference to each local authority.

6. The governing body of a federation must make all necessary arrangements for and determine all other matters relating to the nomination and appointment of partnership governors.

## SCHEDULE 5

Regulation 22

### Appointment of sponsor governors

1. In this Schedule, “sponsor” (“*noddwr*”) in relation to a federation means—
  - (a) a person who gives or has given substantial financial assistance (which for these purposes includes benefits in kind) to the federation or to a federated school other than pursuant to statutory obligation; or
  - (b) any other person (not being otherwise represented on the governing body of a federation) who provides or has provided substantial services to the federation or to the federated school.

2. Where the federation has one or more sponsors, the governing body of the federation may determine that the instrument of government is to provide for the governing body of the federation to appoint such number of sponsor governors, not exceeding two, nominated in accordance with paragraph 3.

3. The governing body of a federation must seek nominations for such appointments from the federation’s or a federated school’s sponsor or (as the case may be) from one or more of the federation’s or federated school’s sponsors.

## SCHEDULE 6

Regulation 23

### Appointment of representative governors

1.—(1) In relation to a community special school established in a hospital, the local authority must designate as the appropriate body—

- (a) one local health board or more than one board to act jointly; or
- (b) the National Health Service trust;

with which the school is most closely associated and the appropriate body must appoint a representative governor to take the place of one of the number of community governors appointed in accordance with regulation 26.

(2) For the purposes of this Schedule “National Health Service trust” (“*ymddiriedolaeth Gwasanaeth Iechyd Gwladol*”) means a body established by the Welsh Ministers under section 18 of the National Health Service (Wales) Act 2006(48).

2. Where a community special school is not established in a hospital—
  - (a) the local authority may designate one voluntary organisation or more than one such organisation to act jointly as the appropriate voluntary organisation concerned with matters in respect of which the school is specially organised; and

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(48) 2006.c.42.

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- (b) where an appropriate voluntary organisation is so designated, it must appoint the representative governor to take the place of one of the number of community governors appointed in accordance with regulation 26.

## SCHEDULE 7

Regulation 35

### Qualifications and disqualifications

#### General

1. Save in the case of associate pupil governors no person is qualified to be a governor unless that person is aged 18 or over at the date of that person's election or appointment.
2. No person may at any time hold the office of more than one governor of the same school.
3. Save as otherwise provided in these Regulations, the fact that a person is qualified to be elected or appointed as a governor of a particular category at a federation does not disqualify that person from election or appointment or from continuing as a governor of any other category at that federation.

#### Mental disorder

4. A person is disqualified from holding or for continuing to hold office as a governor of a federation at any time when that person is liable to be detained under the Mental Health Act 1983<sup>(49)</sup> or under any re-enactment or statutory modification of that Act in force from time to time.

#### Failure to attend meetings

5.—(1) This paragraph applies to any governor who is not a governor by virtue of that person's office.

(2) A governor, who, without the consent of the governing body, has failed to attend the meetings thereof for a continuous period of six months beginning with the date of the first such meeting that person failed to attend, is, on the expiry of that period, disqualified from continuing to hold office as a governor of that federation.

(3) Where a governor has sent an apology to the clerk to the governing body before a meeting which that person does not propose to attend, the minutes of the meeting must record the governing body's consent or otherwise to the absence and a copy of the minutes must be sent to the governor concerned at that person's normal place of residence.

(4) A governor who has been disqualified as a governor of a federation under sub-paragraph (2) is not qualified for election, nomination or appointment as a governor of any category at that federation during the twelve months immediately following that person's disqualification under sub-paragraph (2).

#### Bankruptcy

6. A person is disqualified from holding or continuing to hold office as a governor of a federation if—

- (a) that person has been adjudged bankrupt or sequestration of that person's estate has been awarded and (in either case) that person has not been discharged and the bankruptcy order

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<sup>(49)</sup> 1983 c.20.

has not been annulled or rescinded or a moratorium period under a debt relief order applies in relation to that person; or

- (b) that person has made a composition or arrangement with, or granted a trust deed for, that person's creditors and has not been discharged in respect of it.

### **Disqualification of company directors**

7. A person is disqualified from holding or from continuing to hold office as a governor of a federation at any time when that person is subject to—

- (a) a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986(50);
- (b) a disqualification order under Part 2 of the Companies (Northern Ireland) Order 1989(51);
- (c) a disqualification undertaking accepted under the Company Directors Disqualification (Northern Ireland) Order 2002(52); or
- (d) an order made under section 429(2)(b) of the Insolvency Act 1986(53) (*failure to pay under county court administration order*).

### **Disqualification of charity trustees**

8. A person is disqualified from holding or from continuing to hold office as a governor of a federation if—

- (a) that person has been removed from the office of trustee for a charity by an order made by the Charity Commissioners or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity for which that person was responsible or to which that person was privy, or to which that person contributed or which that person facilitated by that person's conduct; or
- (b) that person has been removed, under section 34 of the Charities and Trustee Investment (Scotland) Act 2005(54) (*powers of Court of Session to deal with management of charities*), from being concerned in the management or control of any body.

### **Persons whose employment is prohibited or restricted**

9. A person is disqualified from holding or from continuing to hold office as a governor of a federation at any time when that person is—

- (a) included in the list of teachers and workers with children or young persons whose employment is prohibited or restricted under section 1 of the Protection of Children Act 1999(55);
- (b) subject to a direction of the Welsh Ministers or the Secretary of State under section 142 of the 2002 Act(56);
- (c) disqualified from working with children under sections 28, 29 or 29A of the Criminal Justice and Court Services Act 2000(57);

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(50) 1986 c.46.

(51) No. 2404 (N.I. 18).

(52) No. 3150 (N.I. 4).

(53) 1986 c.45.

(54) 2005 asp 10.

(55) 1999 c.14; and as saved by article 5 of the Safeguarding Vulnerable Groups Act 2006 (Commencement No.6 Transitional Provisions and Savings) Order 2009 which is S.I. 2009/2611.

(56) Repealed for certain purposes by the Safeguarding Vulnerable Groups Act 2006 c.47 (*see* section 63)

(57) 2000 c.43 sections 28, 29 and 29A have been repealed for certain purposes by section 63 of the Safeguarding Vulnerable Groups Act 2006.

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- (d) disqualified from registration under Part XA of the Children Act 1989<sup>(58)</sup> for childminding or providing day care;
- (e) disqualified from registration under Part 3 of the Childcare Act 2006<sup>(59)</sup>;
- (f) barred from regulated activity relating to children in accordance with section 3(2) of the Safeguarding Vulnerable Groups Act 2006<sup>(60)</sup>;
- (g) subject to a direction by the appropriate authority under section 167A of the 2002 Act<sup>(61)</sup>;
- (h) by virtue of an order made under section 470 or section 471 of the 1996 Act<sup>(62)</sup>, disqualified from being the proprietor of any independent school or from being a teacher or other employee in any school; or
- (i) disqualified from registration under Part 2 of the Children and Families (Wales) Measure 2010<sup>(63)</sup>

### **Criminal convictions**

**10.**—(1) Subject to sub-paragraph (5), a person is disqualified from holding, or continuing to hold, office as a governor of a federation where any of sub-paragraphs (2) to (4) or (6) apply to that person.

(2) This sub-paragraph applies to a person if—

- (a) within the period of five years ending with the date immediately preceding the date on which that person’s appointment or election as governor would otherwise have taken effect or, as the case may be, on which that person would otherwise have become a governor by virtue of that person’s office; or
- (b) since that person’s appointment or election as governor or, as the case may be, since that person became a governor by virtue of that person’s office;

that person has been convicted, whether in the United Kingdom or elsewhere, of any offence and has had passed on them a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine.

(3) This sub-paragraph applies to a person if within the period of 20 years ending with the date immediately preceding the date on which that person’s appointment or election as governor would otherwise have taken effect or, as the case may be, on which that person would otherwise have become a governor by virtue of that person’s office, that person has been convicted as aforesaid of any offence and has had passed on them a sentence of imprisonment for a period of not less than two and a half years.

(4) This sub-paragraph applies to a person if that person has at any time been convicted as aforesaid of any offence and that person has had passed on them a sentence of imprisonment for a period of not less than five years.

(5) For the purposes of sub-paragraphs (2) to (4), any conviction by or before a court outside the United Kingdom of an offence which, if the facts giving rise to the offence had taken place in any part of the United Kingdom, would not have constituted an offence in that part of the United Kingdom under the law in force at the time the facts given rise to the offence had taken place, must be disregarded.

(6) This sub-paragraph applies to a person if—

<sup>(58)</sup> 1989 c.41. Repealed by section 73 of the [Children and Families \(Wales\) Measure 2010 \(nawm 1\)](#).

<sup>(59)</sup> 2006 c.21.

<sup>(60)</sup> 2006 c.47.

<sup>(61)</sup> Section 167A was inserted by section 169 of the Education and Inspections Act 2006 (c.40), but it is not yet in force.

<sup>(62)</sup> Repealed by section 216 of the Education Act 2002.

<sup>(63)</sup> 2010 [nawm 1](#)

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- (a) within the period of five years ending with the date immediately preceding the date on which that person's appointment or election as governor would otherwise have taken effect or, as the case may be, on which that person would otherwise have become a governor by virtue of that person's office; or
- (b) since that person's appointment or election as governor or, as the case may be, since that person became a governor by virtue of that person's office;

that person has been convicted under section 547 of the 1996 Act<sup>(64)</sup> (*nuisance or disturbance on school premises*) or under section 85A of the Further and Higher Education Act 1992<sup>(65)</sup> (*nuisance or disturbance on educational premises*) of an offence and has been sentenced to a fine.

### **Governors of more than two schools**

**11.**—(1) Save in the case of associate pupil governors no person may at any time hold office as governor in more than two federations.

(2) For the purposes of sub-paragraph (1) no account is to be taken of ex officio governorships, governorships to which the New Maintained Schools Regulations apply or any appointment under sections 6, 7, 13 or 14 of the 2013 Act.

### **Failure to complete required training**

**12.**—(1) A governor, who, has remained suspended from office by virtue of regulation 4 or 5 of the Government of Maintained Schools (Training Requirements for Governors) (Wales) Regulations 2013 (“the 2013 Regulations”) for a continuous period of 6 months is, on the expiry of that period, disqualified from holding office as a governor of any school.

(2) A governor who has been disqualified as a governor of a school under sub-paragraph (1) is not qualified for election, nomination or appointment as a governor of any category at any school until such time as that governor has completed the training required by virtue of regulation 4 or 5 of the 2013 Regulations.

### **Refusal to make an application for a criminal records certificate**

**13.** A person is disqualified from holding or continuing to hold office as a governor at any time when that person refuses a request by the governing body to make an application under section 113B of the Police Act 1997<sup>(66)</sup> for a criminal records certificate.

### **Notification to clerk**

**14.** Where—

- (a) by virtue of any paragraphs 6 to 11 a person is disqualified from holding, or for continuing to hold, office as a governor of a federation; and
- (b) that person is, or is proposed to become, a governor;

that person must give notice of that fact to the clerk to the governing body.

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<sup>(64)</sup> As amended by paragraph 163 of Schedule 30 to the 1998 Act and by section 206 of, and Schedule 20, to the 2002 Act and by section 6 of, and Schedule 1 to, the Education and Inspections Act 2006 (c.40).

<sup>(65)</sup> 1992 c.13; inserted by section 206 of and Schedule 20 to the 2002 Act.

<sup>(66)</sup> 1997 c.50; inserted by section 163 of the Serious Organised Crime and Police Act 2005 (c.15). Subsections (2A) and (12) were inserted, and subsection (6) was amended, by the Police Act 1997 (Criminal Records) (Electronic Communications) Order 2009 (S.I. 2009/203). Paragraph (a) of subsection (10) was substituted for paragraph (a) and (b) as originally enacted by paragraph 149 of Schedule 16 to the Armed Forces Act 2006 (c.52).

## SCHEDULE 8

Regulation 47

### Modification of the Staffing Regulations

1. In regulation 3, after paragraph (7) insert the following paragraph—
  - “(8) In these Regulations —
    - (a) any reference to the head teacher or deputy head teacher of a school is to be construed as a reference to the head teacher or deputy head teacher of a federation or of a federated school; and
    - (b) where reference is made to the authority and a federation includes schools maintained by more than one authority, the reference is to be taken as a reference to each.”
2. In regulation 4, for paragraph (1) substitute—
  - “(1) A governing body and an authority must exercise their respective functions under these Regulations and any other enactment with a view to ensuring that there is employed, or engaged otherwise than under contracts of employment, a staff suitable and sufficient in numbers for the purpose of securing the provision of education appropriate to the ages, abilities, aptitudes and needs of the pupils having regard to any arrangements for the utilisation of the services of staff employed or engaged otherwise than at the federation or federated school in question.”
3. In regulation 6(1)(a), after “sending a copy to the” insert “relevant”.
4. In regulations 7(1), (2)(a) to (c) and (4)(c), 24A(2) and (5), 27(1) and (3), 29(1) and (4), and 32(1) for “school” in each place it occurs substitute “federation or federated school”.
5. In regulation 7(3) for “school’s staff” substitute “federation or federated school staff”.
6. In regulation 7(4)(a) for “school” substitute “federation”.
7. In regulation 7(4)(b) and (d) for “school” substitute “federated school”.
8. In regulations 9 and 20 after “This Part applies to” insert “federated schools which are”.
9. In regulations 9A(3), 9B and 20A(3), for “school” in each place it occurs substitute “federation or a federated school”.
10. In regulation 10(11) for “work at the school” substitute “work at the federation or a federated school”.
11. In regulations 12(1), 12(4), 12(9)(b), 12(15), 15A(1), (2) and (5), 17(1) to (3), (8) and (11), 26(1), (5), (10)(b) and (15) for “school” in each place it occurs substitute “federation or federated school”.
12. In regulations 15A(4), 18(3) and 24A(4) for “work at the school” in each place it occurs substitute “work at the federation or a federated school”.
13. In regulation 16 for paragraph (1) substitute—
  - “(1) Subject to regulation 18—
    - (a) both the governing body and the head teacher of the federation have the power to suspend any person employed, or engaged otherwise than under a contract of employment, to work at the federation; and
    - (b) both the governing body and the head teacher of a federated school have the power to suspend any person employed to work, or engaged otherwise than under a contract of employment, at that federated school,



where, in the opinion of the governing body or (as the case may be) the head teacher, his or her suspension is required.””

14. In regulation 17(4) for “school’s” substitute “federated school’s”.

15. In regulation 18(1) for “work at a school” substitute “work at a federation or a federated school”.

16. In regulation 18(3) for “school” in the first place it occurs substitute “federated school”.

17. In regulations 18A and 26A for “school” substitute “federation or federated school”.

18. In regulation 19(1) after “applies to a” insert “federated”.

19. In regulation 19(2)(a) after “teachers at the” insert “federated”.

20. In regulation 19(4) after “apply to a” insert “federated”.

21. In regulation 23(1) after “foundation school” insert “which is a federated school and”.

22. In regulation 23(5) for “school” substitute “federated school”.

23. In regulation 24, after paragraph (8) insert—

“(8A) The foundation governors appointed in respect of a particular federated voluntary aided school must agree any recommendation at paragraph (8)(c) in respect of the head teacher of that school.”.

24. In regulation 24A for paragraph (1) substitute—

“(1) No person supplied by an employment business to a federation or federated school may begin work as a teacher or member of support staff at the federation or federated school unless the governing body have received—

(a) written notification from the employment business in relation to that person—

(i) that the checks referred to in regulation 15A(6) have been made;

(ii) that an application for a disclosure and barring service certificate has been made, or such a certificate has been obtained in response to an application by that or another employment business; and

(iii) whether, if the employment business has obtained such a certificate before the person is due to begin work at the federation or federated school, it disclosed any matter or information, or any information was supplied to the employment business in accordance with section 113B(6) of the Police Act 1997; and

(b) where the employment business has obtained a disclosure and barring service certificate before the person is due to begin work at the federation or federated school, and it discloses any matter or information, or any information was provided to the employment business in accordance with section 113B(6) of the Police Act 1997, a copy of the certificate.”.

25. In regulation 28 for paragraph (1) substitute—

“(1) Both the governing body and the head teacher—

(a) of the federation have the power to suspend any person employed, or engaged otherwise than under a contract of employment, to work at the federation; and

(b) of a federated school have the power to suspend any person employed to work, or engaged otherwise than under a contract of employment, at that federated school,

where, in the opinion of the governing body or (as the case may be) the head teacher, his or her suspension is required.””

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26. In regulation 32, for paragraph (2) substitute—

“(2) Regulations 16 and 17 apply in relation to the suspension, dismissal or withdrawal from the federation or federated school of any member of the staff who is employed by the authority as they apply in relation to the suspension, dismissal or withdrawal from a federation or federated school to which Part 2 of these Regulations applies of a person who is employed to work at the federation or federated school.”.
27. In regulation 32(3) for “the school” substitute “a federated school” and for “as if it were a school” substitute “as if it were a federated school”.
28. In regulations 33(1) and 34(1) after “voluntary aided school” insert “which is a federated school”.
29. In regulation 35, after “school” insert “which is to be a federated school”.

## SCHEDULE 9

Regulation 48

### Modification of the School Councils Regulations

1. In regulation 2 in the definition of “school” for “maintained school” substitute “maintained school which is a federated school” and for “maintained nursery school” substitute “maintained nursery school which is a federated school”.
2. In regulation 2 in the definition of “infant school” for “maintained school” substitute “maintained school which is a federated school”.
3. In regulation 2 in the definition of “special educational needs resource base” after “school” insert “which is a federated school”.
4. In regulation 3 for paragraph (1) substitute—

“(1) The governing body of a federation must establish a school council, the purpose of which is to enable pupils to discuss matters relating to their school, their education and any other matters of concern or interest and to make representations on these to the governing body and the head teacher of the federation or a federated school.”.
5. In regulation 3(2) for “head teacher of a school” substitute “head teacher of the federation or a federated school”.
6. In regulation 3(3) for “head teacher of a school” substitute “head teacher of the federation or a federated school”.
7. In regulation 3(4) for “head teacher of a school” substitute “head teacher of the federation or a federated school”.
8. In regulation 4(2) for “head teacher” substitute “head teacher of the federation or a federated school”.
9. In regulation 4(4) for “head teacher of any school” substitute “head teacher of the federation or a federated school”.
10. For regulation 7 substitute—

“(1) The head teacher of the federation or of a federated school must ensure that the school council has the opportunity to nominate up to two pupils from years 11 to 13 (inclusive) from its membership to be associate pupil governors on the governing body.

(2) The governing body of a federation must accept any pupil nominated in accordance with paragraph (1), and appoint him or her as an associate pupil governor on the

governing body of the federation, provided the pupil is not disqualified from membership in accordance with Schedule 10 to the Federation of Maintained Schools (Wales) Regulations 2014”.

## SCHEDULE 10

Regulation 75

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

### **Pecuniary interests**

1.—(1) For the purposes of regulation 75(2), a pecuniary interest in a contract, proposed contract or other matter includes a case 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; or
- (b) a relevant person is a business partner of a person with whom the contract was made or is proposed to be made; or
- (c) a relative of a relevant person (including that person’s spouse, civil partner within the meaning of the Civil Partnership Act 2004<sup>(67)</sup> or someone living with that person as if that person were that person’s spouse or civil partner) to the knowledge of that person has, or would be treated as having, such an interest.

(2) For the purposes of regulation 75(2) a relevant person is not to be treated as having a pecuniary interest in any matter—

- (a) provided that person’s interest in the matter is no greater than the interest of the generality of those paid to work at the federation or a federated school;
- (b) by reason only of the fact that that person was nominated or appointed to office by, is a member of, or is employed by, any public body; or
- (c) by reason only of the fact that that person is a member of a corporation or other body if that person has no financial interest in any securities of that corporation or other body.

(3) A governor is not, by reason of that person’s pecuniary interest in the matter, 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.

(4) A governor is not prevented from considering or voting upon any proposal regarding allowances to be paid in accordance with the Governor Allowances (Wales) Regulations 2005<sup>(68)</sup> by reason that that person has an interest in the payment of such allowances to members of the governing body generally but a member of a governing body or any committee thereof must withdraw from a meeting during a consideration or discussion of, and must not vote on, whether that person should receive a particular allowance, the amount of any payment or any question about an allowance that has been paid to that governor.

### **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 federation or federated school at which a subject of consideration is—

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<sup>(67)</sup> 2004 c.33.

<sup>(68)</sup> S.I. 2005/2915 (W.212).

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- (a) that person's own appointment, reappointment, suspension or removal as a member of the governing body or a committee;
  - (b) that person's own appointment or removal from office as clerk to, or chair or vice-chair of, the governing body or clerk to or chair of a committee;
  - (c) if that person is a sponsor governor, any determination under paragraph 2 of Schedule 5 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 are to be treated for the purposes of regulation 75(2) as being in conflict with the governing body's interests.

#### **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 federation or federated school other than as head teacher is present at a meeting of the federation or federated school at which a subject of consideration is the pay or performance appraisal of any particular person employed to work at the federation or a federated school.

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

(3) In any case where sub-paragraph (1) or (2) applies, the relevant person's interests are to be treated for the purpose of regulation 75(2) as being in conflict with the governing body's interests.

#### **Appointment of staff**

**4.** Where a relevant person who is employed to work at a federation or a federated school is present at a meeting of the federation or a federated school at which a subject of consideration is the appointment of a successor to that person, that person must withdraw from the meeting during the consideration or discussion of the matter in question and must not vote on any question with respect to that matter.

#### **Persons who are members of more than one governing body**

**5.** The fact that a person is a governor or a member of a committee of the governing body at more than one federation is not under any circumstances to be considered a conflict of interest for the purpose of these Regulations.

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### **EXPLANATORY NOTE**

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

These Regulations apply to federations consisting of all categories of schools in Wales.

**Part 1** provides for the Regulations to come into force on 22 May 2014 and contains interpretative provisions. The Federation of Maintained Schools and Miscellaneous Amendments (Wales) Regulations 2010 are revoked with savings and transitional provisions.

**Part 2** sets out the circumstances in which a federation can be established or a school can join an existing federation. At least two schools, but no more than six schools, can federate in accordance

with Chapter 1 of Part 2 of the Education (Wales) Measure 2011 (“the 2011 Measure”) and these Regulations.

Regulations 5 to 7 set out the procedure for governing bodies of maintained schools to federate including circumstances where a federation wishes to join another federation to form a new federation and where a new school wishes to join a federation. Regulation 8 and Schedule 1 enable new schools which propose to be federated schools to have a single temporary governing body. Regulations 9 and 10 set out the procedure for a local authority to federate schools. Regulations 11 and 12 set out the procedure for a local authority to federate small schools (within the meaning of an Order made under section 15 of the 2011 Measure).

Regulation 13 provides that on the federation date the governing bodies of the individual schools dissolve and the governing body of the federation is incorporated. All relevant land, property, rights and liabilities are transferred to the governing body of the federation.

**Part 3** describes the various types of governor. Regulation 14 and Schedule 2 deal with parent governors and set out the basis on which they are elected or appointed.

Regulation 15 deals with teacher governors and regulation 16 deals with staff governors who are not teachers. The head teacher is a governor by virtue of that person’s position but may resign as a governor (or withdraw the resignation) at any time. Schedule 3 sets out the election process for teacher and staff governors.

Regulation 17 deals with the appointment of local authority governors.

Regulation 18 sets out who is eligible for appointment as a community governor and regulation 19 sets out who is eligible as an additional community governor.

Regulation 20 deals with the appointment of foundation governors, including ex officio foundation governors and substitute governors. Regulation 21 and Schedule 4 make provision for the nomination and appointment of partnership governors and regulation 22 and Schedule 5 make provision for the nomination and appointment of sponsor governors. The appointment of sponsor governors is optional.

Regulation 23 and Schedule 6 makes provision for the nomination and appointment of representative governors.

Regulation 24 makes provision for the appointment of associate pupil governors.

**Part 4** sets out the general principles by which the size and composition of governing bodies of federations are to be determined. Regulations 25 to 34 set out the specific requirements for the constitution of the governing bodies of federations, dependent upon the type of schools which make up a federation.

**Part 5** deals with qualifications and term of office. Regulation 35 and Schedule 7 set out the circumstances in which a governor is disqualified from standing for election, being appointed or continuing in office as a governor.

Regulation 36 provides that (with some exceptions) a governor’s term of office is a maximum of 4 years. In the event that an ex officio foundation governor is unable or unwilling to take up office, a substitute governor may be appointed. Regulation 37 sets out the procedure for resigning as a governor. Regulations 38 to 41 provide for the removal of governors who have been appointed (rather than elected) to office.

**Part 6** deals with the procedure for making, reviewing and varying instruments of government and the content of instruments. Regulation 47 applies provisions within the Staffing of Maintained Schools (Wales) Regulations 2006, and regulation 48 applies provisions within the School Councils (Wales) Regulations 2005, to the governing bodies of federations, and to governors, where certain modifications are required as set out in Schedules 8 and 9 respectively.

**Part 7** deals with the appointment and removal of officers of the federated governing body, and their functions. Regulation 51 deals with delegation of functions to the chair or vice-chair in cases

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of urgency. Under regulation 53 the federated 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 54 sets out the functions of the clerk to the federated governing body.

**Part 8** provides for meetings and proceedings of the federated 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 61 sets out the circumstances in which a governor may be suspended from meetings for up to 6 months. Regulations 62 to 64 relate to delegation of the federated governing body functions.

**Part 9** deals with the establishment and proceedings of committees of federated governing bodies, including clerking arrangements, convening meetings, quorum, voting and publication of minutes.

**Part 10** and Schedule 10 deal with conflicts of interest and the circumstances in which governors and others who are otherwise entitled to attend meetings of the federated 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 federated 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, that person should withdraw from the meeting and not vote.

**Part 11** deals with information and funding matters. Regulation 76 provides for the governing bodies of each school which will be part of a federation to provide specified information to assist the governing body of the federation.

Regulation 77 applies Chapter 4 of Part 2 of the School Standards and Framework Act 1998 ("the 1998 Act") to federations subject to regulation 78, which modifies section 50 of the 1998 Act as it applies to federated schools and the governing bodies of federations. The modified section 50 applies until a temporary governing body is established when a school proposes to leave a federation or when a federation is dissolved.

**Part 12** sets out the procedure required for a federated school to leave a federation.

Regulation 81 provides that where a school is to leave a federation, the local authority must establish a temporary governing body and issue an instrument of government in respect of that school and review the instrument of government of the federation. Under regulation 82 the temporary governing body of the school leaving the federation may spend its budget share made available by the local authority.

Regulation 83 provides for the incorporation of the governing body of the school leaving the federation on the de-federation date and regulation 84 deals with the transfer of land, property, rights and liabilities to the governing body of the school leaving the federation.

**Part 13** sets out the procedure for the dissolution of a federation. The local authority must establish a temporary governing body for each school within the federation and issue an instrument of government in relation to each school.

Regulation 89 enables the temporary governing body of each school to spend the budget share made available to it by the local authority.

Regulation 90 provides for the incorporation (on the date of dissolution) of the governing bodies of each school previously within the dissolved federation and regulation 91 deals with the transfer of land, property, rights and liabilities to the governing body of each of those schools.

**Part 14** amends the Collaboration Between Education Bodies (Wales) Regulations 2012 (S.I. 2012/2655 (W.287)), the Government of Maintained Schools (Training Requirements for Governors) (Wales) Regulations 2013 (S.I. 2013/2124 (W.207)) and the Government of Maintained Schools (Clerk to a Governing Body) (Wales) Regulations 2013 (S.I. 2013/2127 (W.208)).