

SCHEDULE 1

Regulation 2

INITIAL INSTRUMENT OF GOVERNMENT

ARRANGEMENT OF PARAGRAPHS

Part I

1. Interpretation

Part II

2. Application of Part II
3. First governors
4. Power of Secretary of State to replace first governors and to make provision with respect to the filling of vacancies
5. Disqualification for holding office as first governor

Part III

6. Application of Part III
7. Foundation governors

Part IV

8. Parent governors
9. Teacher governors
10. Procedure for the election of parent and teacher governors
11. Appointment of parent governors by the Governing Body
12. Head Teacher
13. Sponsor governors
14. Appointment of additional governors
15. Tenure of office first and foundation governors
16. Tenure of office parent and teacher governors
17. Tenure of office sponsor governors
18. Tenure of office general
19. Resignation and removal from office
20. Disqualification for holding office: persons under 18 years of age
21. Disqualification for holding office: bankruptcy etc.
22. Disqualification for holding office: criminal conviction
23. Disqualification for holding office: absence from meetings
24. Notification of appointments and vacancies
25. Chairman and Vice-Chairman of the Governing Body
26. Removal from office of the Chairman of the Governing Body
27. Clerk of the Governing Body
28. Convening of meeting of the Governing Body
29. Termination and adjournment of meetings
30. Quorum
31. Minutes of meetings etc.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

32. Public access to meetings
33. Publication of minutes and papers
34. Proceedings of the Governing Body
35. Restrictions of persons taking part in proceedings
36. Establishment and constitution of committees of the Governing Body
37. Proceedings and meetings of committees
38. Restrictions on persons taking part in proceedings of the Admissions, Discipline and Staff Committees
39. Delegation of functions
40. Delegation of functions to the Chairman and Vice-Chairman in cases of urgency
41. Reporting to the Governing Body following exercise of delegated functions
42. Constitution of appeal committee dealing with admissions and exclusion of pupils
43. Constitution of appeal committee dealing with staff discipline matters
 - APPENDICES:
 - Appendix 1 — Restrictions on persons taking part in proceedings
 - Appendix 2 — Proceedings and meetings of committees
 - Appendix 3 — Constitution of appeal committees

Explanatory Note

PART I

INTRODUCTORY

Interpretation

1.—(1) In this Instrument—

“the 1986 Act” means the Education (No. 2) Act 1986⁽¹⁾;

“the 1988 Act” means the Education Reform Act 1988⁽²⁾;

“the 1993 Act” means the Education act 1993;

“first governor” has the meaning assigned to it by paragraph 12 of Schedule 7 to the 1993 Act⁽³⁾;

“foundation governor” has the meaning assigned to it by paragraph 13 of Schedule 7 to the 1993 Act⁽⁴⁾;

“funding authority” has the meaning assigned to it by section 5(1) of the 1993 Act;

“the Governing Body” means the governing body of any grant-maintained school for which this Instrument is the instrument of government by virtue of section 56(1) and (2) of the 1993 Act;

“implementation date” means the date specified in the Proposals as the proposed date for this implementation;

(1) 1986 c. 61.

(2) 1988 c. 40.

(3) Paragraph 12 of Schedule 7 to the Education Act 1993 (c. 35) is subject to the modifications contained in paragraph 10(2)(c) of Schedule 2 to the Education Act 1993 (Commencement No. 2 and Transitional Provisions) Order 1993 (S.I. 1993/3106) as it applies to governing bodies incorporated under Chapter IV of Part I of the Education Reform Act 1988 (c. 40).

(4) Paragraph 13 of Schedule 7 to the Education Act 1993 (c. 35) is subject to the transitional provisions contained in paragraph 11 of Schedule 2 to the Education Act 1993 (Commencement No. 2 and Transitional Provisions) Order 1993 (S.I. 1993/3106) as it applies to governing bodies incorporated under Chapter IV of Part I of the Education Reform Act 1988 (c. 40).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

“incorporation date” means the date on which the Governing Body were incorporated;

“initial first governor” has the meaning assigned to it by paragraphs 2 and 7 of Schedule 7 to the 1993 Act;

“initial foundation governor” has the meaning assigned to it by paragraphs 2 and 8 of Schedule to the 1993 Act;

“initial parent governor” has the meaning assigned to it by paragraphs 2 and 5 of Schedule 7 to the 1993 Act;

“initial sponsor governor” has the meaning assigned to it by paragraphs 2 and 9 of Schedule 7 to the 1993 Act;

“initial teacher governor” has the meaning assigned to it by paragraphs 2 and 6 of Schedule 7 to the 1993 Act;

“parent governor” has the meaning assigned to it by paragraph 10 of Schedule 7 to the 1993 Act⁽⁵⁾;

“the Promoters” means, where the School was established in pursuance of proposals published under section 49 of the 1993 Act, the persons who proposed the establishment of the School in accordance with that section;

“proposals for the acquisition of grant-maintained status” means, as the case may be, proposals published under section 62 of the 1988 Act or under section 32 of the 1993 Act;

“proposals for the establishment of a new grant-maintained school” means, as the case may be, proposals published under section 48 or 49 of the 1993 Act;

“registered”, in relation to parents or pupils, means shown in the register kept under section 80 of the Education Act 1944⁽⁶⁾;

“the School” means the school conducted by the Governing Body or, where the Governing Body were incorporated in pursuance of proposals for the establishment of a new grant-maintained school, during the period before the implementation date the school proposed to be so conducted;

“sponsor governor” has the meaning assigned to it by paragraph 14 of Schedule 7 to the 1993 Act; and

“teacher governor” has the meaning assigned to it by paragraph 11 of Schedule 7 to the 1993 Act⁽⁷⁾.

(2) In this Instrument, reference to “the Proposals” are to the proposals for acquisition of grant-maintained status, or (as the case may be) the proposals for the establishment of a new grant-maintained school, in pursuance of which the Governing Body were incorporated; and, where the Secretary of State modified the proposals (in accordance with, as the case may be, section 62(11) of the 1988 Act or section 33(2)(b) or 51(3) of the 1993 Act), they are references to the proposals as so modified.

(3) In this Instrument, unless the context otherwise requires, “parent”, in relation to a pupil at the School, includes any person—

- (a) who is not a parent of his but who has parental responsibility for him, or
- (b) who has care of him,

(5) Paragraph 10 of Schedule 7 to the Education Act 1993 (c. 35) is subject to the modifications contained in paragraph 10(2)(a) of Schedule 2 to the Education Act 1993 (Commencement No. 2 and Transitional Provisions) Order 1993 (S.I. 1993/3106) as it applies to governing bodies incorporated under Chapter IV of Part I of the Education Reform Act 1988 (c. 40).

(6) 1944 c. 31; section 80 was amended by paragraph 5 of Schedule 12 to the Education Reform Act 1988 (c. 40).

(7) Paragraph 11 of Schedule 7 to the Education Act 1993 (c. 35) is subject to the modifications contained in paragraph 10(2)(b) of Schedule 2 to the Education Act 1993 (Commencement No. 2 and Transitional Provisions) Order 1993 (S.I. 1993/3106) as it applies to governing bodies incorporated under Chapter IV of Part I of the Education Reform Act 1988 (c. 40).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

except for the purposes of paragraphs 3, 7, 10 and 11 below, where it only includes such a person if he is an individual.

- (4) For the purposes of sub-paragraph (3) above—
- (a) “parental responsibility” has the same meaning as in the Children Act 1989⁽⁸⁾; and
 - (b) in determining whether an individual has care of a pupil, any absence of the pupil at a hospital or boarding school and any other temporary absences shall be disregarded.

PART II

PROVISIONS APPLYING ONLY TO SCHOOLS WHICH WERE FORMERLY COUNTY SCHOOLS OR WHICH WERE ESTABLISHED BY THE FUNDING AUTHORITY

Application of Part II

2. This Part shall apply to the Governing Body if the School was—
- (a) a county school immediately before it became grant-maintained; or
 - (b) established in pursuance of proposals published under section 48 of the 1993 Act⁽⁹⁾

First governors

3.—(1) The Governing Body shall include such number of first governors as is specified in the Proposals.

- (2) Subject to sub-paragraph (4) below—
- (a) at least two of the first governors shall (on the date or dates on which they respectively take office) be parents of registered pupils at the school; and
 - (b) at least two of the first governors shall (on the date or dates on which they respectively take office) be members of the local community,

but one person may satisfy both requirements.

(3) Subject to sub-paragraph (4) below, the Governing Body, in appointing first governors, shall secure that those governors include persons appearing to them to be members of the local business community although such persons may also satisfy one or both of the requirements of sub-paragraph (2) above.

(4) The provisions of sub-paragraphs (2) and (3) above are subject to subsections (5) and (6) of section 63 of the 1993 Act (which concern respectively the determination of initial first governors in the case of former county schools and the appointment of first governors in the case of schools established by the funding authority).

Power of Secretary of State to replace first governors and to make provision with respect to the filling of vacancies

4.—(1) The Secretary of State shall have power, where any of sub-paragraphs (2), (3) and (5) below apply, to replace all or any of the first governors.

⁽⁸⁾ 1989 c. 41, section 3.

⁽⁹⁾ 1993 c. 35.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(2) This sub-paragraph applies where the Governing Body have been guilty of substantial or persistent failure to comply, or secure compliance, with any requirement imposed by or under any enactment.

(3) This sub-paragraph applies where—

- (a) there is a report of an inspection of the School in which the person who made it expressed the opinion that special measures were required to be taken in relation to the School;
- (b) either that person was a member of the Inspectorate or the report stated that the Chief Inspector agreed with his opinion;
- (c) if any registered inspector or member of the Inspectorate has made a later report of an inspection of the School under Chapter I of Part V of the 1993 Act, he did not express the opinion in the report that special measures were not required to be taken in relation to the School; and
- (d) the Secretary of State has received a statement prepared under section 210 of the 1993 Act (statement of special measures to be taken by the Governing Body), or the period allowed under subsection of that section for the preparation of such a statement has expired.

(4) Expressions used in sub-paragraph (3) above which are also used in Part V of the 1993 Act shall have the same meaning as in that Part.

(5) This sub-paragraph applies where in the opinion of the Secretary of State any action taken or proposed by the Governing Body, or any failure of the Governing Body to act, is prejudicial to the provision of education by the School.

(6) The Secretary of State shall have power to make such provision as he thinks fit for filling vacancies for first governors if it appears to him that the Governing Body are unable or are unwilling to fill the vacancies.

(7) Paragraph 3(2) and (3) above shall not apply for the purposes of the appointment by virtue of this paragraph of any first governor.

Disqualification for holding office as first governor

5. A person who is a member of the teaching or other staff at the School shall be disqualified for holding office as a first governor on the Governing Body.

PART III

PROVISIONS APPLYING ONLY TO SCHOOLS WHICH WERE FORMERLY VOLUNTARY SCHOOLS OR WHICH WERE ESTABLISHED BY PROMOTERS

Application of Part III

6. This part shall apply to the Governing Body if the School was—

- (a) a voluntary school immediately before it became grant-maintained; or
- (b) established in pursuance of proposals published under section 49 of the 1993 Act.

Foundation governors

7.—(1) The Governing Body shall include such number of foundation governors as is specified in the Proposals.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(2) Where the School was a voluntary school immediately before it became grant-maintained, the person or persons who, immediately before the incorporation date, were named in the School's instrument of government as being entitled to appoint the foundation governors to the governing body of the voluntary school shall be entitled to appoint the foundation governors for the Governing Body.

(3) Where the School was established in pursuance of proposals under section 49 of the 1993 Act, the Promoters shall be entitled to appoint the foundation governors for the Governing Body.

(4) Where the Proposals include a statement that any foundation governorship is to be held ex officio, the governorship shall be held by the holder of the office specified in the Proposals.

(5) Subject to sub-paragraphs (6) and (7) below, at least two of the foundation governors shall (on the date or dates on which they respectively take office) be parents of registered pupils at the School.

(6) Sub-paragraph (5) above is subject to section 65(8) of the 1993 Act (which relates to the determination of initial foundation governors in the case of a grant-maintained school which is a voluntary school immediately before it becomes grant-maintained).

(7) Sub-paragraph (5) above shall not apply, where the School was established in pursuance of proposals published under section 49 of the 1993 Act, in relation to the appointment of any foundation governor before the implementation date.

PART IV

PROVISIONS APPLYING TO ALL GRANT-MAINTAINED SCHOOLS

Parent governors

8.—(1) Subject to sub-paragraph (2) below, where the School is a primary school, the Governing Body shall include such number of parent governors as is specified in the Proposals.

(2) Where the School is a primary school in respect of which proposals for the acquisition of grant-maintained status were published under section 62 of the 1988 Act, the Governing Body shall include five parent governors.

(3) Where the School is a secondary school, the Governing Body shall include five parent governors.

Teacher governors

9. The Governing Body shall include such number of teacher governors as is specified in the Proposals.

Procedure for the election of parent and teacher governors

10.—(1) It shall be for the Governing Body to determine, for the purposes of an election of parent or teacher governors, any question whether a person is —

- (a) a registered parent of a registered pupil at the School; or
- (b) a teacher at the School.

(2) Subject to the following provisions of this paragraph, it shall be for the Governing Body to make all necessary arrangements for, and to determine all other matters relating to, any such election.

(3) The power conferred by sub-paragraph (2) above includes power to make provision as to qualifying dates but 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.

(4) An election of parent or teacher governors which is contested must be held by secret ballot.

(5) The arrangements made under sub-paragraph (2) above shall, in the case of any election of a parent governor, provide for every person who is entitled to vote in the election to have an opportunity to do so by post or, if he so prefers, by having his ballot paper returned to the school by a registered pupil at the School.

(6) Where a vacancy for a parent governor is required to be filled by election, the Governing Body shall take such steps as are reasonably practicable to secure that every person who is known to them to be a registered 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 he is entitled to stand as a candidate, and vote, at the election; and
- (c) given an opportunity to do so.

Appointment of parent governors by the Governing Body

11.—(1) If—

- (a) one or more vacancies for parent governors are required to be filled by election; and
- (b) the number of parents standing for election as parent governors is less than the number of vacancies,

the required number of parent governors shall be made up by persons appointed by the other members of the Governing Body.

(2) Those members shall, in appointing a person under sub-paragraph (1) above —

- (a) appoint a person who is the registered parent of a registered pupil at the School, where it is reasonably practicable to do so; and
- (b) where it is not, appoint a person who is the parent of one or more children of compulsory school age.

Head teacher

12.—(1) The Governing Body shall include the head teacher of the School as a governor ex officio.

(2) Where the Governing Body were incorporated in pursuance of proposals for the acquisition of grant-maintained status, the reference in sub-paragraph (1) above to the head teacher of the School, in relation to any time before the implementation date, is to the existing head teacher of the School.

(3) Sub-paragraph (4) below applies where the Governing Body were incorporated in pursuance of proposals for the establishment of a new grant-maintained school.

(4) Where at any time before the implementation date a person is appointed to be the head teacher of the School, the Governing Body shall include that person as a governor ex officio from the date of his appointment.

Sponsor governors

13.—(1) This paragraph applies where the Proposals name a person as a sponsor of the School.

(2) Any person so named shall be a sponsor of the School.

(3) The governing body shall include such number of sponsor governors as is specified in the Proposals.

(4) Where the Proposals name two or more persons as sponsors of the School, each sponsor shall appoint such number of governors as is specified in relation to him in the Proposals.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(5) This paragraph is subject to section 66(4) of the 1993 Act (which provides, in the case of a governing body incorporated in pursuance of proposals for the establishment of a new grant-maintained school which name a person as a sponsor of the school, for the instrument of government to have effect as if it required the first appointments of sponsor governors to be made before the date of implementation of the proposals).

Appointment of additional governors

14.—(1) The Secretary of State may appoint not more than two additional governors if it appears to him that the Governing Body are not adequately carrying out their responsibilities in respect of the conduct or management of the School.

(2) During any period when any additional governors appointed by the Secretary of State by virtue of sub-paragraph (1) above are in office, the appointing authority may appoint a number of additional first or, as the case may be, foundation governors not greater than the number of additional governors appointed by the Secretary of State who are then in office.

(3) In sub-paragraph (2) above, “the appointing authority” means the person entitled to appoint the first or, as the case may be, foundation governors on the Governing Body or, if more than one person is so entitled, those persons acting jointly.

Tenure of office: first and foundation governors

15.—(1) Subject to the following provisions of this paragraph, each first or foundation governor (other than a foundation governor who is a governor ex officio) shall hold office for such term as was specified in the Proposals as the term of office for initial governors of that category.

(2) An initial first or foundation governor (other than a foundation governor who is a governor ex officio) shall hold office for such term beginning with the incorporation date as may be specified as his proposed term of office in the Proposals.

(3) Any additional first or foundation governor appointed in pursuance of paragraph 14(2) above shall hold office for such term (not being more than five years) as may be specified in the terms of his appointment.

(4) Any first governor appointed in pursuance of paragraph 4 above shall hold office for such term (not being less than five nor more than seven years) as may be specified in the terms of his appointment.

Tenure of office: parent and teacher governors

16.—(1) Subject to the following provisions of this paragraph, each parent or teacher governor shall hold office for a term of four years.

(2) Where the Governing Body were incorporated under Chapter IV of Part I of the 1988 Act —

(a) any person who

(i) became a parent or teacher governor on the incorporation date, and

(ii) immediately before that date was a governor of that category on the former governing body of the School, shall hold office for the remainder of his term of office on the former governing body; and

(b) a parent or teacher governor who was elected under section 66, or elected or nominated under section 68, of the 1988 Act to hold office as such shall hold office for a term of four years beginning with the incorporation date.

(3) Where the Governing body were incorporated under Chapter II of Part II of the 1993 Act —

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (a) an initial parent or teacher governor who was a governor of that category on the former governing body of the school immediately before the incorporation date shall hold office for the remainder of his term of office on the former governing body; and
- (b) an initial parent or teacher governor who was elected or appointed under section 71, or elected, appointed or nominated under section 74, of the 1993 Act to hold office as such shall hold office for a term of four years beginning with the incorporation date.

(4) Where the Governing Body were incorporated in pursuance of proposals for the establishment of a new grant-maintained school, each parent or teacher governor appointed before the date of implementation of the Proposals shall hold office for such term as is prescribed by regulations made under paragraph 10(4) of Schedule 5 to that Act(10).

Tenure of office: sponsor governors

17.—(1) Subject to sub-paragraph (2) below, each sponsor governor shall hold office —

- (a) where the Governing Body were incorporated in pursuance of proposals for the acquisition of grant-maintained status, for such term as was specified in the Proposals as the proposed term of office for initial governors of that category; or
- (b) where the Governing Body were incorporated in pursuance of proposals for the establishment of a new grant-maintained school, for such term as was specified in the Proposals as the proposed term of office for such governors.

(2) Where the Governing Body were incorporated in pursuance of proposals for the acquisition of grant-maintained status, an initial sponsor governor shall hold office for such term beginning with the incorporation date as may be specified as his proposed term of office in the Proposals.

Tenure of office: general

18. Nothing in paragraphs 15 to 17 above shall be taken to prevent a governor—

- (a) from being elected or appointed for a further term of office; or
- (b) from being disqualified, by virtue of paragraph 5 above or paragraphs 20 to 23 below, for continuing to hold office.

Resignation and removal from office

19.—(1) Any governor (other than one holding office ex officio) may at any time resign his office.

(2) Any foundation governor (other than one holding office ex officio) and any sponsor governor may be removed from office by the person or persons who appointed him.

(3) For the purposes of sub-paragraph (2) above, where the School was a voluntary school immediately before it became grant-maintained an initial foundation governor shall be treated as having been appointed by the person or persons entitled to appoint foundation governors under paragraph 7(2) above.

(4) Where in accordance with this paragraph a governor resigns his office or is removed from office, the governor or, as the case may be, those removing him from office shall give written notice thereof to the Clerk to the Governing Body.

Disqualification for holding office: persons under 18 years of age

20. Any person who is under the age of 18 years shall be disqualified for holding office as a governor of the School.

(10) No regulations have been made under this provision at the date of the making of those Regulations.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Disqualification for holding office: bankruptcy etc.

21.—(1) Subject to the following provisions of this paragraph, a person shall be disqualified for holding, or for continuing to hold, office as a governor of the School if he has been adjudged bankrupt or has made a composition or arrangement with his creditors; and a governor, on becoming so disqualified, shall give written notice of that fact to the Clerk to the Governing Body.

(2) Where a person is disqualified by reason of his having been adjudged bankrupt, that disqualification shall cease —

- (a) on his discharge from bankruptcy; or
- (b) if the bankruptcy order is previously annulled, on the date of the annulment.

(3) Where a person is disqualified by reason of his having made a composition or arrangement with his creditors and he pays his debts in full, the disqualification shall cease on the date on which the last such payment is made and in any other case it shall cease on the expiration of three years from the date on which the terms of the deed of composition or arrangement are fulfilled.

Disqualification for holding office: criminal convictions

22.—(1) Subject to sub-paragraph (5) below, a person shall be disqualified for holding, or for continuing to hold, office as a governor of the School where any of sub-paragraphs (2) to (4) or (6) below apply to him.

(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 his appointment or election as governor would otherwise have taken effect or, as the case may be, on which he would otherwise have become a governor ex officio; or
- (b) since his appointment or election as governor or, as the case may be, since he became a governor ex officio,

he has been convicted, whether in the United Kingdom or elsewhere, of any offence and has had passed on him 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 his appointment or election as governor would otherwise have taken effect or, as the case may be, on which he would otherwise have become a governor ex officio, he has been convicted as aforesaid of any offence and has had passed on him 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 he has at any time been convicted as aforesaid of any offence and has had passed on him a sentence of imprisonment for a period of not less than five years.

(5) For the purposes of sub-paragraphs (2) to (4) above, there shall be disregarded 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 under the law in force in that part of the United Kingdom.

(6) 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 his appointment or election as governor would otherwise have taken effect or, as the case may be, on which he would otherwise have become a governor ex officio; or
- (b) since his appointment or election as governor or, as the case may be, since he became a governor ex officio,

he has been convicted under section 40 of the Local Government (Miscellaneous Provisions) Act 1982⁽¹¹⁾ (nuisance and disturbance on education premises) of an offence which took place on the premises of a school maintained by a local education authority or a grant-maintained school, and has been sentenced to a fine.

(7) Where, by virtue of this paragraph—

(a) a person becomes disqualified for holding, or for continuing to hold, office as a governor of the School; and

(b) he is, or is proposed, to become such a governor,

he shall upon becoming so disqualified give written notice of that fact to the Clerk to the Governing Body.

Disqualification for holding office: absence from meetings

23.—(1) This paragraph applies to any governor of the School other than a governor ex officio.

(2) Subject to sub-paragraph (6) below, where a governor to which this paragraph applies has without the consent of the Governing Body failed to attend any meetings thereof for the relevant period, beginning with the date on which he last attended such a meeting, he shall on the expiry of that period be disqualified for continuing to hold office as such a governor.

(3) In sub-paragraph (2) above, the reference to the relevant period is to such period (not being less than six nor more than twelve months) as may from time to time be determined by the Governing Body; and where no such determination has been made is a reference to the period of six months.

(4) Where the Governing Body determine or redetermine the relevant period for the purposes of sub-paragraph (2) above, the Clerk to the Governing Body shall give written notice of that decision to every member of the Governing Body within the period of fifteen days beginning with the date of the decision; and the determination or, as the case may be, the redetermination shall not have effect until the expiry of the period referred to in sub-paragraph (5) below.

(5) The period is that which applies for the purposes of sub-paragraph (2) above at the date of the decision to which the notice under sub-paragraph (4) above relates beginning with the date of the decision.

(6) The Governing Body may determine that sub-paragraph (2) above shall not apply, but that sub-paragraph (7) below shall apply instead.

(7) Subject to sub-paragraph (8) below, where a governor to which this paragraph applies has without the consent of the Governing Body failed to attend the relevant number of consecutive meetings of the Governing Body, he shall be disqualified for continuing to hold office as such a governor from the date immediately following the date on which the last such meeting was held.

(8) A person who would otherwise be disqualified by virtue of sub-paragraph (7) above shall not be so disqualified if the period beginning with the date on which he last attended a meeting of the Governing Body to the date of the last of the meetings referred to in sub-paragraph (7) above is less than six months; however, if he has still failed to attend any meeting of the Governing Body on the expiry of the period of six months beginning with the date on which he last attended such a meeting, he shall be so disqualified from the date of the expiry of that period.

(9) For the purposes of sub-paragraph (7) above, the relevant number is the number determined by the Governing Body on resolving, in accordance with sub-paragraph (6) above, that sub-paragraph (7) above shall apply; or such other number as the Governing Body may from time to time determine.

(10) Where the Governing Body make a determination in accordance with sub-paragraph (6) or (9) above, the Clerk to the Governing Body shall give written notice of that determination to

(11) 1982 c. 30; section 40 was amended by paragraph 29 of Schedule 12 to the Education Reform Act 1988 (c. 40).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

every member of the Governing Body within the period of fifteen days beginning with the date of the determination; and the determination shall not have effect until the expiry of the period of six months beginning with the date on which it was made.

(11) For the purposes of sub-paragraphs (4) and (10) above, notice may be given to a person by leaving it at, or by sending it by first class post to, his usual place of residence.

(12) Nothing in this paragraph shall prevent a person, who has been disqualified in accordance with this paragraph for continuing to hold office, from being elected or appointed for a further term of office as a governor of the School.

Notification of appointments and vacancies

24.—(1) Subject to sub-paragraph (3) below, where a vacancy in the office of an appointed member occurs by reason of his death, or his ceasing to hold office in accordance with the provisions of this Instrument (other than by reason of the expiry of his term of office), the Clerk to the Governing Body shall as soon as is reasonably practicable give notice in writing of that fact to the person or persons entitled to appoint a person to that office.

(2) Subject to sub-paragraph (3) below, the Clerk to the Governing Body shall, 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 or persons entitled to appoint a person to that office.

(3) Sub-paragraphs (1) and (2) above shall not apply where the person or persons entitled to appoint a person to the office in question have already notified the Clerk to the Governing Body in writing of the person appointed by them.

(4) Where any person or persons make an appointment to the Governing Body, they shall give written notice of the appointment to the Clerk to the Governing Body, specifying the name and usual place of residence of the person so appointed.

(5) For the purposes of this paragraph, “appointed member” means—

- (a) a first or, as the case may be, foundation governor; or
- (b) a sponsor governor.

Chairman and Vice-chairman of the Governing Body

25.—(1) The Governing Body shall each school year, at their first meeting in that year, elect a Chairman and a Vice-chairman from among their number (subject however to sub-paragraph (2) below).

(2) A governor who is a member of the staff of the School, or is a registered pupil thereat, shall not be eligible for election as Chairman or Vice-chairman.

(3) Subject to sub-paragraphs (4) and (5) below, the Chairman or Vice-chairman shall hold office as such until his successor has been elected in accordance with sub-paragraph (1) above.

(4) The Chairman or Vice-chairman may at any time resign his office by giving notice in writing to the Clerk to the Governing Body.

(5) The Chairman or Vice-chairman shall cease to hold office if—

- (a) he ceases to be a member of the Governing Body;
- (b) in the case of the Chairman, he is removed from office in accordance with paragraph 26 below; or
- (c) in the case of the Vice-chairman, he is elected in accordance with sub-paragraph (6) below to fill a vacancy in the office of Chairman.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(6) Where by reason of any of the matters referred to in sub-paragraph (5) above a vacancy arises in the office of Chairman or Vice-chairman, the Governing Body shall at their next meeting elect one of their number to fill that vacancy (subject however to sub-paragraph (2) above).

(7) Subject to sub-paragraph (8) below, where the Chairman is absent from any meeting or there is at the time a vacancy in the office of the Chairman, the Vice-chairman shall act as the chairman for the purposes of the meeting.

(8) Where in the circumstances referred to in sub-paragraph (7) above the Vice-chairman is absent from the meeting or there is at the time a vacancy in the office of Vice-chairman, the Governing Body shall elect one of their number to act as chairman for the purposes of that meeting, provided that the governor elected shall not be a member of the staff of the School, or a registered pupil thereat.

Removal from office of the Chairman of the Governing Body

26.—(1) Subject to the following provisions of this paragraph, the Governing Body may remove the Chairman from office.

(2) Subject to sub-paragraphs (3) and (4) below, a resolution to remove the Chairman from office which is passed at a meeting of the Governing Body shall not have effect unless —

- (a) it is confirmed by a resolution passed at a second meeting of the Governing Body held not less than fourteen days after the first meeting (“the second meeting”); and
- (b) the matter of the Chairman’s removal from office is specified as an item of business on the agenda for each of those meetings.

(3) Where the Governing Body include first governors appointed by the Secretary of State in accordance with paragraph 4(1) and (3) above, sub-paragraph (4) below shall apply instead of sub-paragraph (2) above.

(4) A resolution to remove the Chairman from office which is passed at a meeting of the Governing Body shall not have effect unless the matter of the Chairman’s removal from office is specified as an item of business on the agenda for that meeting.

(5) Before the Governing Body resolve at the relevant meeting on whether to confirm the resolution to remove the Chairman from office, the governor or governors proposing his removal shall at that meeting state their reasons for doing so and the Chairman shall be given an opportunity to make a statement in response.

(6) In sub-paragraph (5) above, the reference to the relevant meeting is —

- (a) in any case to which sub-paragraph (2) above applies, to the second meeting held to consider the Chairman’s removal; and
- (b) in any case to which sub-paragraph (4) above applies, to any meeting held to consider the Chairman’s removal from office.

Clerk to the Governing Body

27.—(1) The Governing Body shall appoint a person (who is not a member of the Governing Body) to serve as the Clerk to the Governing Body.

(2) The Governing Body shall have power, where the Clerk to the Governing Body fails to attend any of their meetings, to appoint one of their number to act as clerk for the purposes of that meeting, but without prejudice to his position as governor.

Convening of meetings of the Governing Body

28.—(1) The Governing Body shall hold at least one meeting in every school term.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(2) Meetings of the Governing Body shall be convened by the Clerk to the Governing Body; and, without prejudice to sub-paragraph (4) below, in exercising his functions under this sub-paragraph the Clerk to the Governing Body shall comply with any direction —

- (a) given by the Governing Body; or
- (b) given by the Chairman or, in his absence or where there is a vacancy in the office of Chairman, the Vice-chairman of the Governing Body, so far as such direction is not inconsistent with any direction given as mentioned in paragraph (a) above.

(3) Any three members of the Governing Body may, by notice in writing given to the Clerk to the Governing Body, requisition a meeting thereof; and it shall be the duty of the Clerk to the Governing Body, subject to sub-paragraph (4) below, to convene such a meeting as soon as is reasonably practicable.

(4) Each member of the Governing Body shall be given, at least seven clear days before the date of a meeting —

- (a) notice in writing thereof, signed by the Clerk to the Governing Body; and
- (b) a copy of the agenda for the meeting:

Provided that where the Chairman or, in his absence or where there is a vacancy in the office of Chairman, the Vice-chairman so determines on the ground that there are matters demanding urgent consideration, it shall be sufficient if the written notice of a meeting, and the copy of the agenda therefor, are given within such shorter period as he directs.

(5) The power of the Chairman or Vice-chairman under sub-paragraph (4) above to direct that a meeting be held within a shorter period shall not apply in relation to any meeting at which the Chairman's removal from office is to be considered in accordance with paragraph 26 above.

(6) For the purposes of sub-paragraph (4) above, notice of a meeting, and a copy of the agenda therefor, may be given to a person by leaving it at, or sending it by post to, his usual place of residence.

(7) The convening of a meeting and the proceedings conducted thereat shall not be invalidated by reason of any individual not having received written notice of the meeting or a copy of the agenda therefor.

Termination and adjournment of meetings

29.—(1) If the number of members of the Governing Body who are present at the time and place appointed for a meeting thereof does not constitute a quorum for the purposes of paragraph 30 below, the meeting shall not be held.

(2) A meeting of the Governing Body shall be terminated forthwith if —

- (a) the Governing Body so resolve, or
- (b) the number of members present ceases to constitute a quorum for a meeting of the Governing Body in accordance with paragraph 30 below.

(3) Where in accordance with sub-paragraph (1) or (2) above a meeting is not held or is terminated before all the matters specified as items of business on the agenda for the meeting have been disposed of, a further meeting shall be convened by the Clerk to the Governing Body as soon as is reasonably practicable.

(4) Where the Governing Body resolve in accordance with sub-paragraph (2)(a) above to adjourn a meeting before all the items of business on the agenda have been disposed of, the Governing Body shall before doing so determine the time and date at which a further meeting is to be held for the purposes of completing the consideration of those items, and they shall direct the Clerk to the Governing Body to convene a meeting accordingly.

(5) In any case falling within sub-paragraph (4) above, the Governing Body may determine that the further meeting referred to in that sub-paragraph shall be held at a date and time which, because

of its proximity in time to the adjourned meeting, would not allow the Clerk to the Governing Body a sufficient period for the purpose of giving the notice required by paragraph 28(4) above: Provided that in such a case the Clerk to the Governing Body shall use his best endeavours to secure that any member of the Governing Body not present at the first meeting is informed of the time and date of the further meeting.

Quorum

30.—(1) The quorum for a meeting of the Governing Body and any vote on any matter thereat shall, subject to sub-paragraph (2) below, be one-third (rounded up to a whole number) of the membership when complete.

(2) Subject to sub-paragraph (3) below, the quorum for the purposes of—

- (a) appointing a first or parent governor in pursuance of (as the case may be) paragraph 3 or 11 above; or
- (b) any vote on the removal of the Chairman of the Governing Body in accordance with paragraph 26 above,

shall be two-thirds (rounded up to a whole number) of the persons who are at the time members of the Governing Body.

(3) In any case to which paragraph 26(3) above applies, sub-paragraph (2)(b) above shall have effect as if the reference to two-thirds were a reference to one-half.

Minutes of meetings etc.

31.—(1) The minutes of the proceedings of a meeting of the Governing Body shall, subject to sub-paragraph (2) below, be drawn up and entered into a book kept for the purpose by the person acting as the clerk to the Governing Body for the purposes of the meeting; and shall be signed (subject to the approval of the Governing Body) at the same or next subsequent meeting by the person acting as the chairman thereof.

(2) The minutes of proceedings of meetings may be entered on loose-leaf pages consecutively numbered; but in that case the person signing the minutes shall initial each page.

(3) The person acting as the clerk to the Governing Body for the purposes of any meeting shall 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 present at the meeting concerned.

Public access to meetings

32. Any question whether any person who is not a member of the Governing Body or the Clerk to the Governing Body should be allowed to attend meetings thereof shall be determined by the Governing Body.

Publication of minutes and papers

33.—(1) Subject to sub-paragraph (2) below, the Governing Body shall ensure that a copy of—

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

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

are, as soon as is reasonably practicable, made available at the School to persons wishing to inspect them.

(2) There may be excluded from any item required to be made available in pursuance of sub-paragraph (1) above, any material relating to —

- (a) a named teacher or other person employed, or proposed to be employed, at the School;
- (b) a named pupil at, or candidate for admission to, the School; and
- (c) any matter which, by reason of its nature, the Governing Body are satisfied should remain confidential.

Proceedings of the Governing Body

34.—(1) Subject to the provisions of this Instrument and the articles of government for the School and the provisions of Chapter V of Part II of, and Schedule 5 to, the 1993 Act, the Governing Body may regulate their own procedure in accordance with the following provisions of this paragraph.

(2) The Governing Body shall determine the rules which are to apply for the purposes of regulating their procedure, and shall make a written statement of those rules.

(3) The Governing Body may vary or revoke any of the rules determined under sub-paragraph (2) above; but where they do so they shall revise the written statement made under that sub-paragraph.

(4) The Governing Body shall comply with the rules determined by them in accordance with sub-paragraphs (2) or (3) above.

(5) The Clerk to the Governing Body shall secure that a copy of any statement prepared in accordance with sub-paragraphs (2) or (3) above is given to each member of the Governing Body.

(6) For the purposes of sub-paragraph (5) above, a copy of any statement prepared in accordance with sub-paragraphs (2) or (3) above may be given to a person by leaving it at, or sending it by post to, his usual place of residence.

(7) Subject to sub-paragraph (8) below, every question to be decided at a meeting of the Governing Body shall be determined by a majority of the votes of the members present and voting on the question.

(8) Where there is an equal division of votes the Chairman or, as the case may be, the person who in accordance with paragraphs 25(7) or (8) above is acting as chairman for the purposes of the meeting shall have a second or casting vote.

Restrictions on persons taking part in proceedings

35. Without prejudice to paragraph 32 above, Appendix 1 to this Schedule shall have effect for the purposes of describing the only circumstances and cases in which a member of the Governing Body or any other person present at a meeting of the Governing Body shall be required —

- (a) to withdraw from the meeting;
- (b) not to take part in the consideration or discussion of any matter; or
- (c) in the case of a member of the Governing Body, not to vote on any question with respect to any matter.

Establishment and constitution of committees of the Governing Body

36.—(1) Nothing in this paragraph or in paragraph 37 below shall apply to an appeal committee constituted in accordance with paragraphs 42 or 43 below.

(2) Subject to the provisions of the articles of government for the School, the Governing Body may establish such committees as they think fit for the purpose of exercising on their behalf such functions as they may delegate in accordance with paragraph 39 below.

(3) Subject to the following provisions of this paragraph, the constitution of any committee of the Governing Body shall be determined by the Governing Body.

(4) The membership of any committee of the Governing Body may include persons who are not members of the Governing Body.

(5) Subject to sub-paragraph (6) below, the members of the committee who are not members of the Governing Body shall not be entitled to vote in any proceedings of the committee.

(6) The Governing Body may determine that the members of a committee who are not members of the governing body shall be entitled to vote in any proceedings of the committee.

(7) The Discipline Committee and the Staff Committee shall each include not less than three members of the Governing Body, none of whom shall be the head teacher.

(8) The Admissions Committee shall include not less than three members of the Governing Body, one of whom shall be the head teacher.

(9) In this Instrument—

(a) references to the Admissions Committee are to the committee established by the Governing Body in accordance with the articles of government for the School for the purpose of exercising on their behalf functions with respect to the determination of applications for admission to the School,

(b) references to the Discipline Committee are to the committee established by the Governing Body in accordance with the articles of government for the School for the purpose of exercising on their behalf functions with respect to the exclusion of pupils from the School, and

(c) references to the Staff Committee are to the committee established by the Governing Body in accordance with the articles of government for the School for the purpose of exercising on their behalf functions with respect to the discipline and dismissal of persons employed to work at the School.

Proceedings and meetings of committees

37.—(1) Appendix 2 to this Instrument shall have effect with respect to the meetings and proceedings of committees of the Governing Body.

(2) Subject to the provisions of Appendix 2, the Governing Body may determine the rules which are to apply for the purposes of regulating the procedure of such committees, and different rules may be made to apply in respect of different committees.

(3) The Governing Body shall make a written statement of the rules determined by them for the purposes of sub-paragraph (2) above.

(4) The Governing Body may vary or revoke any of the rules determined under sub-paragraph (2) above; but where they do so they shall revise the written statement made under sub-paragraph (3) above.

(5) The Clerk to the Governing Body shall secure that a copy of any statement prepared in accordance with sub-paragraph (3) or (4) above is given to each member of every committee to which it applies.

(6) For the purposes of sub-paragraph (5) above, a copy of any statement prepared in accordance with sub-paragraph (3) or (4) may be given to a person by leaving it at, or sending it by post to, his usual place of residence.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(7) Subject to the provisions of Appendix 2 to the Instrument and any rules determined by the Governing Body in accordance with sub-paragraph (2) or (4) above, a committee may regulate its own procedure.

- (8) The proceedings of a committee of the Governing Body shall not be invalidated by —
- (a) any vacancy among their number; or
 - (b) any defect in the appointment of any member of the committee.

Restrictions on persons taking part in proceedings of the Admissions, Discipline and Staff Committees

38.—(1) If a person being a pupil or his parent, is present at a meeting of the Admissions Committee at which the admission of that pupil is a subject of consideration, he shall withdraw from the meeting during the discussion or consideration of the matter in question and shall not vote on any question with respect thereto.

- (2) Subject to sub-paragraph (4) below, if a person—
- (a) being a pupil or his parent, is present at a meeting of the Discipline Committee at which disciplinary action against that pupil is a subject of consideration;
 - (b) being a pupil or his parent, is present at such a meeting at which, arising out of an alleged incident involving that pupil, disciplinary action against another pupil is a subject of consideration;
 - (c) having made allegations, or having been a witness of an alleged incident, is present at such a meeting at which, arising out of those allegations or that incident, disciplinary action against a pupil is a subject of consideration; or
 - (d) having been concerned (whether as the head teacher or otherwise) with disciplinary action taken against a pupil, is present at such a meeting at which a subject of consideration is an appeal against that disciplinary action,

he shall withdraw from the meeting during the discussion or consideration of the matter in question and shall not vote on any question with respect thereto.

- (3) Subject to sub-paragraph (4) below, if a person—
- (a) having made allegations, or having been a witness of an alleged incident, is present at a meeting of the Staff Committee at which, arising out of those allegations or that incident, disciplinary action against a person employed at the School is a subject of consideration;
 - (b) having been concerned (whether as the head teacher or otherwise) with disciplinary action taken against a person employed at the School, is present at such a meeting at which a subject of consideration is an appeal against that disciplinary action; or
 - (c) being employed at the School is present at any such meeting at which a subject of consideration is disciplinary action against him,

he shall withdraw from the meeting during the discussion or consideration of the matter in question and shall not vote on any question with respect thereto.

(4) Where the Discipline or the Staff Committee are considering disciplinary action against a pupil or (as the case may be) any person employed at the School, nothing in this paragraph shall be construed as precluding that committee, at any hearing conducted by them into the matter, from allowing —

- (a) the person against whom disciplinary action is being considered and, in the case of a pupil, his parent to attend the hearing and to be heard in the matter, or
- (b) a person who appears to them to be able to give evidence relevant to their consideration of the matter to attend the hearing and present his evidence.

(5) The preceding provisions of this paragraph are without prejudice to the generality of paragraph 35 above and Appendix 1 to this Instrument (as they have effect by virtue of Appendix 2 thereto).

(6) For the purposes of this paragraph, “disciplinary action” includes—

- (a) in relation to a person who is employed at the school, the suspension and dismissal of that person, and
- (b) in relation to a pupil at the school, the permanent exclusion of that pupil from the school.

Delegation of functions

39.—(1) Subject to sub-paragraph (2) and paragraph 40 below, the Governing Body may, in such circumstances as they think fit, delegate any of the functions conferred on them by or under any enactment, including any functions conferred on them by or under the articles of government for the School, to any committee established by them or to any member of the Governing Body.

(2) Sub-paragraph (1) above is subject to any provision of the articles of government for the School requiring a function of the Governing Body to be delegated to a particular committee of the Governing Body.

Delegation of functions to the Chairman and Vice-chairman in cases of urgency

40.—(1) Subject to sub-paragraph (4) below, the Chairman shall have power, where in his opinion the circumstances mentioned in sub-paragraph below apply, to exercise any function of the Governing Body (other than a function delegated by them to a member or a committee of the Governing Body in accordance with paragraph 37 above or the articles of government for the School).

(2) The circumstances are that a delay in exercising the function would be likely to be seriously detrimental to the interests of the School, or to the interests of any registered pupil at the School or his parent, or a person employed to work at the School.

(3) In sub-paragraph (2) above, “a delay” means a delay for a period extending beyond the day preceding the earliest date on which it would be reasonably practicable for a meeting of the Governing Body to be held.

(4) Where it appears to the Vice-chairman that—

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

the reference in sub-paragraph (1) above to the Chairman shall have effect as if it were a reference to the Vice-chairman.

Reporting to Governing Body following the exercise of delegated functions

41.—(1) This paragraph applies where in accordance with the preceding provisions of this Instrument or the provisions of the articles of government for the School any function has been delegated to a member of the Governing Body or a committee established by them.

(2) Any member or committee to whom a function of the Governing Body has been delegated shall report to the Governing Body in respect of any action taken or decision made with respect to the exercise of that function at the meeting of the Governing Body immediately following the taking of the action or the making of the decision.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Constitution of appeal committees dealing with admissions and exclusions of pupils

42. An appeal committee established in accordance with the provisions of the articles of government for the School made in pursuance of paragraph 5(1) of Schedule 6 to the 1993 Act shall be constituted in accordance with Appendix 3 to this Instrument.

Constitution of appeal committees dealing with staff discipline matters

43.—(1) An appeal committee established in accordance with the provisions of the articles of government for the School made in pursuance of paragraphs 2(3) and 3(2)(c) of Schedule 6 to the 1993 Act shall be constituted in accordance with sub-paragraphs (2) to (5) below.

(2) An appeal committee constituted in accordance with this paragraph shall consist of an odd number (being not less than five) of eligible governors appointed by the Governing Body.

(3) For the purposes of sub-paragraph (2) above, “eligible governor” means a member of the Governing Body other than the head teacher or a member of the Staff Committee.

(4) The members of an appeal committee constituted in accordance with this paragraph shall appoint a person from among their number to be chairman of the committee.

(5) The members of the appeal committee shall select a person, who is not from among their number, to act as the clerk to the committee; and the Governing Body shall appoint the person so selected so to act.

APPENDIX 1

RESTRICTION ON PERSONS TAKING PART IN PROCEEDINGS OF THE GOVERNING BODY

1.—(1) In this Appendix—

- (a) any reference to a person present at a meeting of the Governing Body is a reference to a member thereof or other person so present except that, so far as it concerns voting, it is a reference only to a member of the Governing Body so present; and
- (b) any reference to a person's spouse includes a person living with him as if she were his spouse.

(2) In relation to the person who is acting as the clerk to the Governing Body for the purposes of any meeting thereof, none of the provisions of this Appendix (other than paragraph 4 below) shall have effect; but, during any period for which his withdrawal would be required but for this sub-paragraph, he shall not act in any capacity other than that of clerk.

2.—(1) Subject to sub-paragraph (4) below, if a person has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter and is present at a meeting of the Governing Body at which the contract or other matter is the subject of consideration, he shall at the meeting and as soon as practicable after its commencement disclose that fact and —

- (a) take no part in the consideration or discussion of the contract or matter,
- (b) unless the Governing Body otherwise allow, withdraw from the meeting during such consideration or discussion, and
- (c) not vote on any question with respect to the contract or matter.

(2) For the purposes of this paragraph, a person shall be treated as having an indirect pecuniary interest in a contract, proposed contract or other matter if —

- (a) he or any nominee of his is a member, or he is an employee, of a corporation or other body with which the contract was made or is proposed to be made or which has a direct pecuniary interest in the matter under consideration, or
- (b) he is a partner, or is in the employment, of a person with whom the contract was made or is proposed to be made or who has a direct pecuniary interest in the matter under consideration:

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

(3) For the purposes of this paragraph, a person shall be treated as having a direct or indirect pecuniary interest in a contract, proposed contract or other matter if a relative (including his spouse) living with him, to his knowledge has, or would be treated as having, such an interest, direct or indirect.

(4) For the purposes of this paragraph, a member of the Governing Body who is a teacher at the school shall not be treated as having a direct or indirect pecuniary interest in a contract, proposed contract or other matter by reason only —

- (a) of having an interest in the contract or matter which is no greater than the interest of the generality of teachers at the school,
- (b) of the fact that the contract or matter under consideration or discussion concerns the exercise by the Governing Body of any of their functions relating to the curriculum for the school, or

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(c) of the fact that the contract or matter under consideration or discussion involves expenditure by the Governing Body of any sum for the purposes of the School.

(5) In this paragraph, “securities” shall be interpreted in accordance with section 142 of the Financial Services Act 1986⁽¹²⁾.

3.—(1) This sub-paragraph applies where a person is present at a meeting of the Governing Body at which the subject of consideration is, in relation to either himself or to a relative of his (including his spouse) living with him —

- (a) the person’s appointment to a post at the School, or
- (b) where the person concerned is already employed by the Governing Body to work at the School, his transfer from one post to another, his promotion or retirement.

(2) This sub-paragraph applies where—

- (a) a person is present at a meeting of the Governing Body at which a subject of consideration is the transfer from one post to another, dismissal, promotion, retirement or suspension of another person employed as a teacher or otherwise at the School, and
- (b) the effect of the transfer, dismissal, promotion, retirement or suspension would be to create a vacancy for which the person first mentioned in paragraph (a) above, or a relative of his (including his spouse) living with him, could be a candidate.

(3) In any case where sub-paragraph (1) or (2) above applies, the person first-mentioned in that sub-paragraph shall —

- (a) take no part in the consideration or discussion of the matter in question,
- (b) unless the Governing Body otherwise allow, withdraw from the meeting during such consideration or discussion, and
- (c) not vote on any question with respect to that matter.

4.—(1) Where the Clerk to the Governing Body is present at any meeting of the Governing Body at which a subject of consideration is disciplinary action against him, he shall withdraw from the meeting during the discussion or consideration of that matter.

(2) For the purposes of this paragraph and paragraph 5 below, “disciplinary action” shall be interpreted in accordance with paragraph 38(6) above.

5. If a person who is a relative (other than a parent) of a pupil at the School is present at a meeting of the Governing Body at which a subject of discussion is —

- (a) the admission of, or disciplinary action against, that pupil, or
- (b) disciplinary action against another pupil at the School arising out of an alleged incident involving the pupil first mentioned in this paragraph,

he shall, at the meeting and as soon as practicable after its commencement, disclose the relationship.

6.—(1) This paragraph applies where a person employed at the School is present at a meeting of the Governing Body at which his conduct, his continued employment at the School or the appointment of a successor to him is a subject of consideration.

(2) Without prejudice to the preceding provisions of this Appendix, where this paragraph applies the person concerned shall —

- (a) take no part in the consideration or discussion of the matter in question, and
- (b) withdraw from the meeting during such consideration or discussion.

⁽¹²⁾ 1986 c. 60.

APPENDIX 2

PROCEEDINGS AND MEETINGS OF COMMITTEES

The provisions of this Instrument listed in the first column of the table below shall apply to committees of the Governing Body with the modifications set out in the second column of that table.

<i>Provision of the Instrument</i>	<i>Modifications</i>
Paragraph 21.	In sub-paragraph (1), for “governor of the School” and “governor” there is substituted in each case “member of a committee of the Governing Body”.
Paragraph 22.	For “governor of the School” and “governor” (in each place in which they appear) there is substituted “member of a committee of the Governing Body”. There shall be deleted (in each place in which they appear) the words “or election”, “or, as the case may be, on which he would otherwise have become a governor ex officio” and “or, as the case may be, since he became a governor ex officio”.
Paragraph 23(2) to (12).	For “governor to which this paragraph applies” and “governor of the School” (in each place in which they appear) there is substituted in each case “member of a committee of the Governing Body”. For the references to “meetings of the Governing Body” there is substituted “meetings of the committee of which he is a member”. In sub-paragraph (2), for “such a governor” there is substituted “such a member of a committee”. In sub-paragraph (12), the words “elected or” are deleted.
Paragraphs 28(4) and (6).	In sub-paragraph (4) (a) for “the Governing Body” (where it appears for the first time) there is substituted “a committee of the Governing Body”; (b) for “the Clerk to the Governing Body” there is substituted “the clerk to the committee”; (c) for “the Chairman” there is substituted “the chairman of the committee”; and

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

<i>Provision of the Instrument</i>	<i>Modifications</i>
Paragraph 31.	<p>(d) the words from “or, in his absence” to “the Vice-chairman” are deleted.</p> <p>In paragraph (1), for “the Governing Body”</p> <p>(a) where it appears for the first time, there is substituted “a committee of the Governing Body”; and</p> <p>(b) where it appears for the second time, there is substituted “the committee”.</p> <p>For “the clerk to the Governing Body” (in each place in which it appears) there is substituted “the clerk to the committee”.</p>
Paragraph 32.	<p>For “the Governing Body” there is substituted “a committee of the Governing Body”.</p> <p>For “the Clerk to the Governing Body” there is substituted “the clerk to the committee”.</p>
Paragraph 33.	<p>For “the Governing Body”</p> <p>(a) where it appears for the first, there is substituted “a committee of the Governing Body”; and</p> <p>(b) in every other place in which it appears, there is substituted “the committee”.</p>
Paragraph 34(7) and (8).	<p>In sub-paragraph (7), for “the Governing Body” there is substituted “a committee of the Governing Body”.</p> <p>In sub-paragraph (8), for the words from “the Chairman” to “above” there is substituted “the person who”.</p>
Paragraph 35.	<p>For “the Governing Body” in each place in which it appears there is substituted “a committee of the Governing Body”.</p>
Appendix 1.	<p>For “the Governing Body”</p> <p>(a) where it appears in paragraphs 2(1) (b) and 3(3) (b), there is substituted “the committee”; and</p> <p>(b) in every other place in which it appears (other than in paragraph 3(1) (b)), there is substituted “a committee of the Governing Body”.</p> <p>Paragraph 4 is deleted.</p>

APPENDIX 3

CONSTITUTION OF APPEAL COMMITTEES

1. An appeal pursuant to arrangements made by the Governing Body in accordance with the provisions of the articles of government for the School made in pursuance of paragraph 5 of Schedule 6 to the 1993 Act shall be to an appeal committee constituted in accordance with this Appendix.

2. An appeal committee shall consist of—

- (a) one person nominated by the Governing Body from among persons who are eligible to be lay members, and
- (b) two, four or six other members nominated by the Governing Body from persons appointed by them in accordance with paragraph 7(1) below.

3. The Governing Body shall not nominate under paragraph 2(a) above a person who falls within paragraph 7(1) (b) below.

4. In an appeal committee—

- (a) three members shall be nominated from among those appointed under paragraph 7(1)(b) below, in the case of a committee consisting of seven members;
- (b) two members shall be so nominated, in the case of a committee consisting of five members; and
- (c) one member shall be so nominated, in the case of a committee consisting of three members.

5. Sufficient persons may be appointed by the Governing Body to enable two or more committees to sit at the same time.

6. A person is eligible to be a lay member for the purposes of paragraph 2(a) above if —

- (a) he is a person without personal experience in the management of any school or the provision of education in any school (otherwise than as a governor or in any other voluntary capacity), and
- (b) he does not have, or has not at any time had, any connection with
 - (i) the School, or
 - (ii) any person who is a member of, or employed by, the Governing Body, of a kind which might reasonably be taken to raise doubts about his ability to act impartially in relation to the School.

7.—(1) Subject to sub-paragraphs (2) and (3) below, the persons appointed —

- (a) may include one or more members of the Governing Body, and
- (b) shall include persons who have experience in education, are acquainted with the educational conditions in the area or are parents of registered pupils at a school.

(2) A person shall not be appointed in pursuance of sub-paragraph (1) above, if he is employed as a teacher or otherwise at the School.

(3) A person shall not be appointed in pursuance of sub-paragraph (1)(b) above, if he —

- (a) has ever been a member of the Governing Body, or
- (b) is a parent of a registered pupil at the School.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

8. A person shall not be a member of an appeal committee for the consideration of any appeal against a decision if he was among those who made the decision or took part in discussions as to whether the decision should be made.

9.—(1) Subject to sub-paragraph (2) below, the members of an appeal committee shall appoint a person from among their number to be chairman of the committee.

(2) None of the members of the Governing Body may be chairman of an appeal committee.

10. The members of the appeal committee shall select a person, who is not from among their number, to act as the clerk to the committee; and the Governing Body shall appoint any person who has been so selected so to act.

11. The Governing Body shall have power to pay to the members of an appeal committee such travelling, subsistence or other allowances as they may determine.

12. An appeal pursuant to joint arrangements made by virtue of paragraph 5(2) of Schedule 6 to the 1993 Act by the Governing Body and the governing body of one or more other grant-maintained schools shall be to an appeal committee constituted as provided in the preceding paragraphs of this Appendix, save that references to the Governing Body shall have effect as if they were references to the Governing Body and the governing body of every other school, which is a party to the arrangements, acting jointly.