
STATUTORY INSTRUMENTS

2003 No. 1963

School Staffing (England) Regulations 2003

PART 2

Provisions relating to community, voluntary controlled,
community special and maintained nursery schools

Interpretation of Part 2

10. This Part applies to community, voluntary controlled, community special and maintained nursery schools⁽¹⁾.

Manner of appointment

11.—(1) Where a governing body approves, identifies, selects or recommends a person for appointment under regulations 13(5), 13(7), 14(3) or 15(1), it is for the governing body to determine whether that person is appointed—

- (a) under a contract of employment with the authority,
- (b) by the authority otherwise than under a contract of employment, or
- (c) by the governing body otherwise than under a contract of employment.

(2) Any person so appointed must meet all relevant staff qualification requirements.

Authority's entitlement to offer advice

12.—(1) A representative of the authority may attend and offer advice at all proceedings relating to the selection or dismissal of any teacher.

(2) Such advice must be considered by the governing body or any person or persons to whom such functions have been delegated when reaching any such decision.

Appointment of head teacher and deputy head teacher

13.—(1) The governing body must notify the authority of—

- (a) any vacancy for the head teacher, and
- (b) where it identifies the post of deputy head teacher as one to be filled, that post.

(2) The governing body must advertise any such vacancy or post in such manner as it considers appropriate.

(3) The governing body must appoint a selection panel consisting of at least three of its members, to—

(1) But only to such schools with delegated budgets as defined by section 39(2) of the 2002 Act, in accordance with section 35(7) of the 2002 Act.

- (a) select for interview such applicants for the post as it thinks fit and, where the post is that of head teacher, notify the authority in writing of the names of the applicants so selected,
 - (b) interview such of those applicants as attend for the purpose, and
 - (c) where they consider it appropriate, recommend to the governing body for approval one of the applicants interviewed by them.
- (4) If within a period of seven days beginning with the date when it receives notification under paragraph (3)(a), the authority makes written representations to the selection panel that any applicant is not a suitable person for the appointment, the selection panel must—
- (a) consider those representations, and
 - (b) where it decides to recommend for appointment any person about whom representations have been made, notify the governing body and authority in writing of its reasons.
- (5) Subject to regulation 11(2), where the person recommended by the selection panel is approved by the governing body for appointment, the authority must appoint the person, unless regulation 11(1)(c) applies.
- (6) If—
- (a) the selection panel do not recommend a person to the governing body, or
 - (b) the governing body declines to approve the person recommended by the selection panel, or
 - (c) the authority declines to appoint the person that the governing body approves,
- the selection panel may select another person in accordance with this regulation (but this does not prevent the selection of an existing applicant).
- (7) Subject to regulation 11(2), if the governing body has good reason not to advertise and conduct a selection process to fill the vacancy or post in accordance with paragraphs (2) to (4), the authority must appoint the person identified by the governing body to fill the vacancy or post, unless regulation 11(1)(c) applies.

Appointment of other teachers

- 14.**—(1) This regulation applies to any post of teacher, other than a post of head teacher or deputy head teacher, which is to be filled for a period of more than four months.
- (2) Where the governing body identifies any such post to be filled, it must send a specification for the post to the authority.
- (3) Subject to regulation 11(2), where a person is selected by the governing body for appointment, the authority must appoint the person, unless regulation 11(1)(c) applies.
- (4) If the authority declines to appoint a person that the governing body selects, the governing body may select another person for appointment in accordance with this regulation (but this does not prevent the selection of an existing applicant).

Appointment of support staff

- 15.**—(1) Subject to regulation 18, where the governing body identifies a support staff post to be filled, it may recommend a person to the authority for appointment.
- (2) Any such recommendation must be sent to the authority with a job specification for the post. The job specification must include the governing body's recommendations as to—
- (a) the duties to be performed,
 - (b) the hours of work (where the post is part-time),
 - (c) the duration of appointment,

- (d) the grade, and
- (e) the remuneration.

(3) The grade must be on the scale of grades applicable in relation to employment with the authority, and such as the governing body considers appropriate.

(4) Where the authority has discretion with respect to remuneration, it must exercise that discretion in accordance with the governing body's recommendation. The authority may be regarded as having discretion if any provisions regulating the rates of remuneration or allowances payable to persons in the authority's employment either—

- (a) do not apply in relation to that appointment, or
- (b) leave to the authority any degree of discretion as to the rate of remuneration.

(5) If within a period of seven days after receiving the job specification the authority makes written representations to the governing body relating to the grade or remuneration to be paid, the governing body must—

- (a) consider those representations, and
- (b) where it decides not to change the grade or remuneration to be paid, notify the authority in writing of its reasons.

(6) Subject to regulation 11(2), the authority must appoint a person recommended to the post by the governing body, unless regulation 11(1)(c) applies.

Suspension of staff

16.—(1) Subject to regulation 18, both the governing body and the head teacher have power to suspend any person employed or engaged otherwise than under a contract of employment to work at the school where, in the opinion of the governing body or (as the case may be) the head teacher, his suspension is required.

(2) The governing body or head teacher must, when exercising that power, immediately inform the authority and the head teacher or (as the case may be) governing body.

(3) A suspension under this regulation may only be ended by the governing body.

(4) The governing body must, on ending such a suspension, immediately inform the authority and the head teacher.

(5) In this regulation “suspend” means suspend without loss of emoluments.

Dismissal of staff

17.—(1) Subject to regulation 18, where the governing body determines that any person employed or engaged by the authority to work at the school should cease to work there⁽²⁾, it must notify the authority in writing of its determination and the reasons for it.

(2) If the person concerned is employed or engaged to work solely at the school (and does not resign), the authority must, before the end of the period of fourteen days beginning with the date on which the notification under paragraph (1) is given, either—

- (a) give him such notice terminating his contract with the authority as is required under that contract, or
- (b) terminate that contract without notice if the circumstances are such that it is entitled to do so by reason of his conduct.

(3) If the person concerned is not employed or engaged by the authority to work solely at the school, the authority must require him to cease to work at the school.

(2) The Schedule makes relevant provision.

School meals staff

18.—(1) Subject to paragraphs (2) to (4), the authority is responsible for the appointment, discipline, suspension and dismissal of school meals staff who work or are to work at a school. Before exercising any such function the authority must consult the school’s governing body to such extent as the authority thinks fit.

(2) Where an order is in force under section 512A(1) of the Education Act 1996 imposing on the governing body of a school a duty corresponding to a duty of the authority mentioned in section 512(3) and (4) of that Act (duty to provide school lunches) or section 512ZB(1) of that Act (duty to provide school lunches free of charge), paragraph (3) or (4) applies as appropriate.

(3) Where the governing body has entered into an agreement with the authority that the authority should provide lunches at the school, then where the governing body determines that any school meals staff member should cease to work at the school it must notify the authority in writing of its determination and the reason for it, and the authority must then require the person to cease to work at the school.

(4) Where no such agreement has been entered into, then regulations 6 and 15 to 17 apply to such staff members.