
WELSH STATUTORY INSTRUMENTS

2006 No. 873

The Staffing of Maintained Schools (Wales) Regulations 2006

PART 2

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

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, 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 or her such notice terminating his or her 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 or her 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 or her to cease to work at the school with immediate effect.

(4) Where paragraph (3) applies, no part of the costs incurred by the local education authority in respect of the emoluments of the person concerned, so far as they relate to any period falling after the expiration of his or her contractual notice period, is to be met from the school's budget share.

(5) The reference in paragraph (4) to the person's contractual notice period is to the period of notice that would have been required under his or her contract of employment with the authority for termination of that contract if such notice had been given on the date on which the notification under paragraph (1) was given.

(6) The governing body must—

- (a) make arrangements for giving any person in respect of whom it proposes to make a determination under paragraph (1) an opportunity of making representations as to the action it proposes to take (including, if he or she so wishes, oral representations to such person or persons as the governing body may appoint for the purpose), and
- (b) have regard to any representations made by him or her.

(7) The governing body must also make arrangements for giving any person in respect of whom it has made a determination under paragraph (1) an opportunity of appealing against it before it notifies the local education authority of the determination.

(8) Nothing in paragraphs (6) and (7) is to apply to a person who—

- (a) is due to cease to work at the school by reason of the termination of his or her contract of employment by effluxion of time; and

(b) has not been continuously employed at the school, within the meaning of the Employment Rights Act 1996, for a period at least as long as the period for the time being specified in section 108(1) of that Act⁽¹⁾.

(9) The chief education officer of the local education authority, or his or her representative, and the head teacher (except where he or she is the person concerned) are entitled to attend, for the purpose of giving advice, all hearings of the staff disciplinary committee and the disciplinary appeal committee⁽²⁾.

(10) The staff disciplinary committee and the disciplinary appeal committee must consider any advice given by a person who is entitled to attend such hearings under paragraph (9) before making a determination under paragraph (1).

(11) The local education authority must not dismiss a person employed by it to work solely at the school except as provided by paragraphs (1) and (2).

(12) Paragraph (11) does not apply in a case where—

(a) the dismissal of the person in question is required by virtue of a direction made under section 142 of the 2002 Act or regulations made under section 19 of the Teaching and Higher Education Act 1998⁽³⁾, or

(b) the person in question is a teacher who is subject to a conditional registration, suspension or prohibition order made under Schedule 2 to the Teaching and Higher Education Act 1998⁽⁴⁾.

(1) As amended by article 3 of the Unfair Dismissal and Statement of Reasons for Dismissal (Variation of Qualifying Period) Order 1999 (S.I.1999/1436).

(2) The requirements to establish a staff disciplinary committee and disciplinary appeal committee are contained in regulation 55 of The Government of Maintained Schools (Wales) Regulations 2005.

(3) 1998 c. 30. The Education (Induction Arrangements for School Teachers) (Wales) Regulations 2003, S.I. 2003/543 (W.77), as amended by S.I. 2004/872 (W.87).

(4) As amended by section 148 of, and paragraphs 1 and 12 of Part 1 of Schedule 12 to, the 2002 Act.