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WELSH STATUTORY INSTRUMENTS

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**2008 No. 3082 (W.271)**

**EDUCATION, WALES**

**The Collaboration Arrangements (Maintained Schools and Further Education Bodies) (Wales) Regulations 2008**

<i>Made</i>	- - - -	<i>28 November 2008</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>2 December 2008</i>
<i>Coming into force</i>	- -	<i>31 December 2008</i>

The Welsh Ministers, in exercise of the powers conferred on the National Assembly for Wales by section 166 of the Education and Inspection Act 2006<sup>(1)</sup>, make the following Regulations:

**Title, commencement and application**

1.—(1) The title of these Regulations is the Collaboration Arrangements (Maintained Schools and Further Education Bodies) (Wales) Regulations 2008 and they come into force on 31 December 2008.

(2) These Regulations apply in relation to Wales.

**Interpretation**

2.—(1) In these Regulations—

“the 1992 Act” (“*Deddf 1992*”) means the Further and Higher Education Act 1992<sup>(2)</sup>;

“the 2006 Act” (“*Deddf 2006*”) means the Education and Inspections Act 2006;

“non governor member” (“*aelod nad yw'n llywodraethwr*”) means a person who is appointed by a joint committee as a member of it but who is not a member of a collaborating governing body;

“instrument and articles” (“*offeryn ac erthyglau*”) in relation to a further education body, means the instrument and articles of government in force under section 22 or 29 of the 1992 Act, as the case may be;

“institution” (“*sefydliad*”) means an institution which the further education body is established to conduct in exercise of its powers under the 1992 Act;

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(1) 2006 c. 40. The functions of the National Assembly for Wales under this section were transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

(2) 1992 c. 13.

“the principal” (“*y penadur*”) means the principal of an institution or any person acting as principal;

“the Government of Maintained Schools Regulations” (“*y Rheoliadau Llywodraethu Ysgolion a Gynhelir*”) means the Government of Maintained Schools (Wales) Regulations 2005(3); and

“the Staffing of Maintained Schools Regulations” (“*y Rheoliadau Staffio Ysgolion a Gynhelir*”) means the Staffing of Maintained Schools (Wales) Regulations 2006(4).

(2) Any reference in these Regulations to a governing body is a reference to the governing body of a maintained school.

### **Collaboration between schools and further education bodies**

3.—(1) A governing body, whether alone or together with other governing bodies, may make collaboration arrangements with one or more further education bodies, subject to regulations 50 to 52 of the Government of Maintained Schools Regulations.

(2) A further education body, whether alone or together with other further education bodies, may make collaboration arrangements with one or more governing bodies, subject to the provisions of their instrument and articles.

(3) A further education body may make collaboration arrangements with one or more further education bodies, subject to the provisions of their instrument and articles.

(4) Where a governing body makes collaboration arrangements in accordance with paragraph (1) in respect of any of their functions relating to individual members of the school staff, the Staffing of Maintained Schools Regulations apply to the discharge of such functions.

(5) Where a further education body makes collaboration arrangements in accordance with paragraphs (2) or (3) in respect of any of their functions relating to individual members of the institution’s staff, the relevant provisions of the instrument and articles apply to the discharge of such functions.

(6) Subject to paragraph (7), where collaborating bodies make arrangements in accordance with paragraphs (1), (2) or (3), they may also delegate the discharge of any of their functions to a joint committee established by them.

(7) Where the collaborating body is—

(a) a governing body, that body may only delegate such functions to a joint committee as may be delegated to a committee under regulation 50 of the Government of Maintained Schools Regulations;

(b) a further education body, that body may only delegate such functions to a joint committee as may be delegated to a committee under the relevant provisions of its instrument and articles.

(8) For the purposes of these Regulations, in regulations 50 to 52 of the Government of Maintained Schools Regulations—

(a) “committee” (“*pwyllgor*”) means a joint committee established in accordance with paragraph (6);

(b) “governor” (“*llywodraethwr*”) means a member of any of the collaborating governing bodies; and

(c) “head teacher” (“*pennaeth*”) means the head teacher of any of the schools.

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(3) S.I.2005/2914 (W.211) as amended by the Staffing of Maintained Schools (Wales) Regulations 2006/873 (W.81), the School Councils (Wales) Regulations 2005/3200 (W.236) and by the Staffing of Maintained Schools (Miscellaneous Amendments) (Wales) Regulations 2007/944 (W.80).

(4) S.I. 2006/873 (W.81) as amended by the Staffing of Maintained Schools (Miscellaneous Amendments) (Wales) Regulations 2007/944 (W.80).

### **Establishment of joint committees**

4.—(1) The collaborating bodies must determine, and review annually, the constitution, terms of reference and (subject to regulation 6) membership of any joint committee they decide to establish.

(2) The quorum for a meeting of the joint 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 joint committee excluding any vacancies and any members suspended from that meeting in accordance with regulation 7.

(3) A joint committee must appoint a chair annually and may remove its chair from office at any time.

(4) A joint committee must elect a member of that joint 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 school or the further education body, nor a registered pupil of the school or the further education body, may act as chair of a joint committee.

(6) The membership of a joint committee may include non governor members and the extent to which such members are entitled to vote is to be determined by the joint committee.

(7) The majority of members on any joint committee must be governors.

### **Clerks to joint committees**

5.—(1) A joint committee must appoint a clerk (who must not be a head teacher or a principal) and may remove the clerk from office at any time.

(2) A joint committee may, if the clerk fails to attend one of its meetings, appoint any one of its members (who is not a head teacher or a principal) to act as clerk for the purposes of that meeting.

(3) The clerk must—

- (a) convene meetings of the joint committee;
- (b) attend meetings of the joint committee and ensure that minutes of the proceedings are drawn up; and
- (c) perform any other functions determined by the joint committee.

### **Non governor members**

6.—(1) A non governor member will continue in office until removed in accordance with regulation 4(1) or 6(7).

(2) Any person who is disqualified from holding office as a governor under regulation 24 of, and paragraphs 2 to 12 of Schedule 5 to, the Government of Maintained Schools Regulations is likewise disqualified from holding, or continuing to hold, office as a non governor member of a joint committee.

(3) Subject to paragraphs (4), (5) and (6), the collaborating governing bodies must determine the voting rights of non governor members.

(4) A non governor member must not vote on any resolution concerning—

- (a) an individual pupil (not falling within sub-paragraphs (5)(a) or (5)(b)) or member of staff if the non governor member was excluded under regulation 7(2) from that part of the meeting during which it was considered;
- (b) the budget and financial commitments of a collaborating governing body;
- (c) staff discipline;
- (d) staff dismissal; or

- (e) appeals resulting from any issue of staff discipline or staff dismissal.
- (5) A non governor member may not be a member of any joint committee which is to consider any resolution concerning—
  - (a) admissions; or
  - (b) pupil discipline.
- (6) A non governor member must not vote on any other business transacted by a joint committee unless he or she was aged 18 or over at the date of his or her appointment.
- (7) A joint committee may remove a non governor member from office at any time.

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

- 7.—(1) Subject to regulation 9 and to the Schedule the following persons are entitled to attend any meeting of a joint committee—
- (a) any member who is a governor of the joint committee, provided he or she is not a member of a governing body who has been suspended in accordance with regulation 49 of the Government of Maintained Schools Regulations;
  - (b) a head teacher of a collaborating body, whether or not he or she is a member of the joint committee;
  - (c) a principal of a collaborating body, whether or not he or she is a member of the joint committee;
  - (d) the clerk to the joint committee; and
  - (e) such other persons as the joint committee may determine.
- (2) A joint committee may exclude a non governor member from any part of its meeting when the business under consideration concerns an individual member of staff, or an individual pupil or student.
- (3) Paragraphs 1(b) and 1(c) do not apply in relation to the committees referred to in regulations 55 and 56 of Government of Maintained Schools Regulations or in relation to any joint committee or selection panel exercising any function under regulations 9 to 34 of the Staffing of Maintained Schools Regulations.

### **Proceedings of joint committees**

- 8.—(1) The clerk must convene meetings of the joint committee and, when exercising this function, he or she must comply with any direction given by—
- (a) the joint committee;
  - (b) the chair of the joint 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 joint committee meetings must be convened by the chair who, when exercising this function, must comply with any direction given by the joint committee.
- (3) Subject to any direction given in accordance with paragraph (1), at least five clear days in advance the clerk must give to each member of the joint committee, the local education authority and to the head teachers and principals of the collaborating bodies (whether or not they are members of the joint 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 joint committee so determines on the ground that there are matters demanding urgent consideration, it will be 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 he or she directs (as the case may be).

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

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

(5) No vote on any matter may be taken at a meeting of a joint committee unless the majority of members of the joint committee present are members of a collaborating body.

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

(7) 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 person is a member of a collaborating body.

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

**9.—(1)** In this regulation and in the Schedule “relevant person” means a member of the joint committee, a head teacher or a principal of a collaborating body (in each case, whether or not he or she is a member of the joint committee) or the clerk to the joint committee.

(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 a collaborating 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 joint committee at which the matter is the subject of consideration, must disclose his or her interest, withdraw from the meeting and not vote on the matter in question.

(3) Nothing in this regulation or in the Schedule shall be construed as precluding—

- (a) the joint committee from—
  - (i) allowing a person who appears to them to be able to give evidence to attend any hearing conducted by them into any matter and to present his or her evidence; or
  - (ii) hearing representations from a relevant person acting in a capacity other than that of a relevant person;
- (b) a relevant person from entering into a contract with a collaborating body from which he or she is entitled to profit.

(4) A person who is acting as the clerk to a meeting of the joint committee is not required to withdraw from a meeting by this regulation or the Schedule unless his or her appointment to office, his or her remuneration, or disciplinary action against him or her is the subject of consideration, but if this regulation or the Schedule would have otherwise required him or her to withdraw, he or she must not act in any capacity other than that of clerk.

(5) Where there is any dispute as to whether a relevant person is required by this regulation to withdraw from a meeting of the joint committee and not vote that question must be determined by the other members of the joint committee present at the meeting.

(6) The Schedule makes provision for pecuniary interests and other specified conflicts of interest.

## Minutes

10.—(1) Minutes of the proceedings of a meeting of a joint committee must be drawn up by the clerk or by the person acting as the clerk for the purposes of the meeting; and must be signed (subject to the approval of the joint committee) by the chair of the next meeting of the joint committee.

(2) The joint committee must supply its local education authority with a copy of the draft or signed minutes of any of its meetings on request by that local education authority.

(3) The minutes of proceedings must be entered into a book kept for the purpose by the clerk and may be entered on loose-leaf pages consecutively numbered but in that case the person signing the minutes must initial each page.

(4) The person acting as clerk to the joint committee 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 joint committee and of any other person present at the meeting concerned.

(5) Subject to paragraph (6) the joint committee must, as soon as reasonably practicable make available for inspection at each of the collaborating schools and further education bodies by any interested person, and give to the collaborating governing bodies—

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

(6) The joint committee may exclude from any item required to be made available in pursuance of paragraph (5) any material relating to—

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

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

28 November 2008

*Jane Hutt*  
Minister for Children, Education, Lifelong  
Learning and Skills, one of the Welsh Ministers

## SCHEDULE

(Regulation 9)

### Pecuniary interests and other specified conflicts of interest

#### **Pecuniary interests**

1.—(1) For the purposes of regulation 9, a pecuniary interest in a contract, proposed contract or other matter includes a case where—

- (a) a relevant person was nominated or appointed to an office as a member of a collaborating body by a person with whom the contract was made or is proposed to be made;
- (b) a relevant person is a partner of a person, or is in the employment of a person, with whom the contract was made or is proposed to be made; or
- (c) a relative of a relevant person (including his or her spouse or civil partner within the meaning of the Civil Partnership Act 2004<sup>(5)</sup> or someone living with that person as if he or she were that person's spouse or civil partner), to the knowledge of that relevant person has, or would be treated as having, such an interest.

(2) For the purposes of regulation 9, a relevant person shall not be treated as having a pecuniary interest in any matter—

- (a) provided his or her interest in the matter is no greater than the interest of the generality of those paid to work for the collaborating body;
- (b) by reason only of the fact that he or she 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 he or she is a member of a corporation or other body, if he or she has no significant financial interest in any securities of that corporation or other body.

(3) Members of the joint committee are not, by reason of their pecuniary interest in the matter, prevented from considering and voting upon proposals for one or more of the collaborating bodies to take out insurance protecting its members against liabilities incurred by them arising out of their office and a collaborating body is not, by reason of the pecuniary interest of its members, prevented from obtaining such insurance and paying the premiums.

#### **Appointment as member of the joint committee, chair or clerk**

2.—(1) This sub-paragraph applies where a relevant person is present at a meeting of the joint committee at which a subject of consideration is—

- (a) his or her own appointment, reappointment or removal as a member of the joint committee; or
- (b) his or her own appointment or removal from office as clerk to, or chair of, the joint committee; or
- (c) if he or she is a sponsor governor, any determination under paragraph 2 of Schedule 4 to the Government of Maintained Schools Regulations 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 shall be treated for the purpose of regulation 9(2) as being in conflict with the collaborating bodies' interests.

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(5) 2004 c. 33.

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

### **Pay or appraisal of persons working at one of the collaborating bodies**

3.—(1) This sub-paragraph applies where a relevant person who is paid to work for a collaborating body other than as head teacher or principal is present at a meeting of the joint committee at which a subject of consideration is the pay or performance appraisal of any particular person employed to work for a collaborating body.

(2) This sub-paragraph applies where a head teacher or principal of a collaborating body is present at a meeting of the joint committee at which a subject of consideration is his or her own pay or performance appraisal.

(3) In any case where sub-paragraph (1) or (2) applies, the relevant person's interests shall be treated for the purpose of regulation 9(2) as being in conflict with the collaborating bodies' interests.

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

4. The fact that a person is a member of a joint committee of a collaborating governing body at more than one school or further education body 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 enable governing bodies of maintained schools and further education bodies to develop joint working arrangements and, if they wish, to delegate the exercise of their functions to one or more joint committees.

Regulation 1 provides that the Regulations will come into force on 31 December 2008. Regulation 2 contains the interpretation provisions.

Regulation 3 enables one or more school governing bodies to arrange with one or more further education bodies for their functions to be discharged jointly and vice versa, and for two or more further education bodies to arrange for any of their functions to be discharged jointly; it also enables such "collaborating bodies" to delegate the exercise of those functions to a joint committee, insofar as such delegation would be permitted under the Government of Maintained Schools (Wales) Regulations 2005 and the relevant provisions of the instrument and articles of the further education institution.

Regulations 4 to 10 deal with the establishment, membership and proceedings of joint committees. Regulation 4 provides for the collaborating bodies to establish a joint committee, including determining its constitution, membership and terms of reference which must be reviewed annually. The quorum appoints its own chair (who may be removed from office at any time) and may appoint non-governor members whose voting rights are determined by the collaborating bodies.

The joint committee must appoint a clerk to convene its meetings and ensure minutes of its proceedings are drawn up (regulation 5). Regulation 6 provides that a joint committee may appoint "non governor members", who are not members of the collaborating bodies and who may be accorded voting rights by the collaborating bodies (subject to certain restrictions). Non governor members must not be disqualified from being governors under the Government of Maintained Schools (Wales) Regulations 2005 or from the membership of further education bodies under the



relevant instrument and articles. Under regulation 7, joint committees have power to decide who may attend their meetings. Regulation 8 provides for convening meetings and voting.

Regulation 9 and the Schedule deal with conflicts of interest and the circumstances in which members of a joint committee and others who are otherwise entitled to attend meetings of the joint committee must withdraw from the meeting 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 collaborating bodies, or whether the principles of natural justice require a fair hearing and there is any reasonable doubt about a person's ability to act impartially, he or she should withdraw from the meeting and not vote.

Regulation 10 deals with the drawing up of minutes of joint committee meetings and the publication of the minutes.