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WELSH STATUTORY INSTRUMENTS

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**2014 No. 2709 (W. 270)**

**EDUCATION, WALES**

**The Education (Pupil Referral Units) (Management Committees etc.) (Wales) Regulations 2014**

*Made - - - - 7 October 2014*  
*Laid before the National*  
*Assembly for Wales - - 9 October 2014*  
*Coming into force on 31 October 2014, except for*  
*regulations 22 and 23 which come into force on 23*  
*February 2015*

The Welsh Ministers make the following Regulations in exercise of the powers conferred on them by section 569(4) and (5) of, and paragraphs 3, 6(2) and 15 of Schedule 1 to, the Education Act 1996<sup>(1)</sup>:

**PART 1**

**GENERAL**

**Title, commencement and application**

1.—(1) The title of these Regulations is the Education (Pupil Referral Units) (Management Committees etc.) (Wales) Regulations 2014.

(2) These Regulations, except regulations 22 and 23, come into force on 31 October 2014.

(3) Regulations 22 and 23 come into force on 23 February 2015.

(4) These Regulations apply in relation to Wales.

**Interpretation**

2. In these Regulations—

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(1) 1996 c. 56; paragraph 15 of Schedule 1 is inserted by section 48 of the Education Act 1997 (c. 44), and amended by paragraph 184(c) of Schedule 30 of the School Standards and Framework Act 1998 (c. 31) and by S.I. 2001/2237. See section 579(1) of the Education Act 1996 for the definitions of “prescribed” and “regulations”. The functions of the Secretary of State in Schedule 1 to the Education Act 1996 were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and then to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

“authority” (“*awdurdod*”), in relation to a unit, means the local authority by which the unit is maintained;

“clerk to the committee” (“*clerc y pwyllgor*”) means a clerk appointed to a committee in accordance with the Government of Maintained Schools (Wales) Regulations 2005(2);

“committee” (“*pwylgor*”) means a management committee of a unit, or a group of units, established under these Regulations;

“group of units” (“*grŵp o unedau*”) means two or more units managed by the same committee in accordance with regulation 4;

“instrument of government” (“*offeryn llywodraethu*”) means an instrument of government of a unit, or a group of units, made in accordance with these Regulations;

“member” (“*aelod*”) means a member of a committee appointed or elected in accordance with these Regulations;

“school representative” (“*cynrychiolydd ysgol*”) means a person who is a governor or member of staff of a maintained school in the community served by the unit (or as the case may be, the group of units); and

“unit” (“*uned*”) means a pupil referral unit.

## PART 2

### ESTABLISHMENT OF MANAGEMENT COMMITTEES

#### Establishment of committees

3. Subject to regulation 4, an authority must establish a committee to act as the management committee of each unit maintained by it—

- (a) in relation to a unit opened before 31 October 2014, by 23 February 2015; and
- (b) in relation to a unit opened on or after 31 October 2014, as soon as practicable, and in any event no later than the first day on which the unit is open to pupils.

#### Joint committees

4. An authority may—

- (a) establish a committee to act as the management committee of two or more units maintained by it; or
- (b) make arrangements for a committee established by it under regulation 3 or paragraph (a) to act as the management committee of an additional unit, or units, maintained by it.

#### Duty to make instrument of government and appoint first members

5. An authority must—

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

- (a) make an instrument of government, to determine the composition and other matters relating to the committee, in respect of every unit (or, as the case may be, every group of units) maintained by it; and
- (b) appoint the first members of each committee established by it under regulation 3 or 4, (other than parent members, and staff members required to be elected under regulation 10(1)(b)).

#### **Content of instrument of government**

6. The instrument of government must set out—
- (a) the name of the unit (or group of units);
  - (b) the name of the committee;
  - (c) the manner in which the committee is to be constituted in accordance with regulation 14, specifying—
    - (i) the number of members in each category of member, and
    - (ii) the total membership of the committee, including any sponsor members;
  - (d) where the term of office for a category of member is to be less than four years, the length of that term of office;
  - (e) the name of any sponsor who is entitled to nominate persons for appointment as such members under Schedule 1; and
  - (f) the date when the instrument of government takes effect.

#### **Review of instrument of government**

7.—(1) The committee or the authority may review the instrument of government at any time after it is made.

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

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

- (4) If—
- (a) whichever of the committee or the authority is the recipient of a notification under paragraph (2) agrees with the proposed variation; or
  - (b) there is agreement between the authority and the committee that some other variation should be made instead, the instrument of government must be varied accordingly by the authority.
- (5) If paragraph (4) does not apply, the authority must—
- (a) inform the committee of the reasons—
    - (i) why it is not content with the committee's proposed variation, or as the case may be,
    - (ii) why it wishes to proceed with its own variation; and
  - (b) give the committee a reasonable opportunity to reach agreement with it with regard to the variation, and the instrument of government must be varied by it either in the manner agreed between it and the committee or (in the absence of such agreement) in such manner as it thinks fit.

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

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

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

- (a) a copy of the instrument of government; and
  - (b) where any variation is made to the instrument of government, a consolidated version of the instrument of government incorporating all variations made by the authority (other than variations which have ceased to have effect).
- (2) The persons who are to be provided with the information referred to in paragraph (1) are—
- (a) every member of the committee; and
  - (b) if not a member of the committee, the teacher in charge (or, in the case of a group of units, any teacher in charge who is not a member of the committee).

## **PART 3**

### **CATEGORIES OF MEMBERS**

#### **Parent members**

**9.—**(1) In these Regulations “parent member” (“*rhiant-aelod*”) means—

- (a) a person who is elected in accordance with paragraphs 2 to 6 of Schedule 1 as a member by parents of registered pupils at the unit (or, as the case may be, at all the units in the group of units), and is a parent of a registered pupil at the unit (or, as the case may be, any unit in the group of units) at the time when that person is elected; or
  - (b) a person appointed as a parent member in accordance with paragraphs 7 and 8 of Schedule 1.
- (2) A person is disqualified from election or appointment as a parent member if that person is—
- (a) an elected member of the authority; or
  - (b) disqualified under regulation 10(2).

(3) A person is not disqualified from continuing to hold office as a parent member when that person ceases to be a parent of a registered pupil at the unit (or, as the case may be, any unit in the group of units) or to fulfil any of the requirements set out in paragraph 8 of Schedule 1 unless that person is otherwise disqualified under these Regulations.

#### **Staff members**

**10.—**(1) In these Regulations “staff member” (“*staff-aelod*”) means—

- (a) the teacher in charge of a unit (or, in the case of a group of units, the teacher in charge of each of the units); or
  - (b) a person who is elected in accordance with paragraphs 9 to 11 of Schedule 1 as a member by persons who are paid to work wholly or mainly at the unit (or, as the case may be, any unit in the group of units) and is a person so working at the time when that person is elected.
- (2) A person who is eligible for election as a staff member and who is paid to work at that unit for more than 500 hours in each academic year is not eligible for election or appointment as a member under regulation 9, 11, 12 or 13.

(3) Upon ceasing to work at that unit, a staff member is to be disqualified from continuing to hold office as such a member.

### **Authority appointed members**

**11.**—(1) In these Regulations “authority appointed member” (“*aelod a benodir gan yr awdurdod*”) means a person who is appointed as a member by the authority (other than a staff member, a community member, or a sponsor member appointed by the authority under regulation 5(b)).

(2) A person is disqualified from appointment as an authority appointed member if that person is eligible to be a staff member.

### **Community members**

**12.**—(1) In these Regulations “community member” (“*aelod cymunedol*”) means a person who is appointed as a member by the committee (or by the authority under regulation 5(b)) and who is—

- (a) a school representative;
- (b) a person who lives or works in the community served by the unit (or, as the case may be, the group of units); or
- (c) a person who, in the opinion of the committee (or in the case of a community member appointed under regulation 5(b), the authority), is committed to the good government and success of the unit (or, as the case may be, the group of units).

(2) A person is disqualified from appointment as a community member if that person is—

- (a) eligible to be a staff member of the committee; or
- (b) an elected member of the authority.

### **Sponsor members**

**13.** In these Regulations “sponsor member” (“*noddwr-aelod*”) means a person who is nominated as a sponsor member and is appointed as such by the committee in accordance with paragraphs 12 to 14 of Schedule 1 (or is appointed as a sponsor member by the authority under regulation 5(b)).

## **PART 4**

### **COMPOSITION OF COMMITTEES**

#### **General principles**

**14.**—(1) The instrument of government is to specify the size and membership of the committee, which is to be no fewer than 7 and no more than 20 members (disregarding any sponsor members).

(2) The instrument of government is to specify the numbers of members from each of the following categories of member to be elected or appointed—

- (a) parent member;
- (b) staff member;
- (c) authority appointed member;
- (d) community member;
- (e) sponsor member.

(3) In calculating the number of members required in each category in accordance with paragraph (5), the number must be rounded up or down to the nearest whole number.

(4) In calculating the number of staff members required, the teacher in charge (or, in the case of a group of units, the teacher in charge of each of the units) must be included whether or not that person has resigned their membership.

(5) Of the total number of members—

- (a) at least one but no more than one fifth must be parent members;
- (b) at least one but no more than one third must be staff members;
- (c) at least one but no more than one third must be authority appointed members;
- (d) at least one but no more than two may be sponsor members; and
- (e) the number of community members must out number all the other members listed in subparagraphs (a) to (d).

### **Notification of appointments**

15. Where any person makes an appointment or nominates a person to be appointed to the committee that person must give written notice of the appointment or the nomination to the clerk to the committee, specifying the name and usual place of residence of the person appointed or nominated.

## **PART 5**

### **QUALIFICATIONS AND TENURE OF OFFICE OF MEMBERS**

#### **Qualifications and disqualifications**

16. Schedule 2 sets out the circumstances in which a person is qualified for, or disqualified from, holding or continuing in office as a member.

#### **Term of office**

17.—(1) Subject to paragraphs (2) to (4), a member is to hold office for a fixed period of four years from the date of his election or appointment.

(2) Paragraph (1) does not apply to any staff member who is the teacher in charge of a unit, who may hold office for as long as that person is the teacher in charge.

(3) The instrument of government may specify a shorter term of office for a particular category of member, being not less than one year.

(4) This regulation does not prevent a member from—

- (a) being elected or appointed for a further term, except as otherwise provided in these Regulations;
- (b) resigning their office in accordance with regulation 18(1);
- (c) being removed from office in accordance with regulation 19; or
- (d) being disqualified, by virtue of any provision of these Regulations, from holding or continuing to hold office.

## **Resignation**

**18.**—(1) A member may at any time resign their office by giving written notice to the clerk to the committee.

(2) The teacher in charge of a unit may withdraw their resignation at any time by giving written notice to the clerk to the committee.

## **Removal of members**

**19.**—(1) Any authority appointed member may be removed from office by the authority, who must give written notice thereof to the clerk to the committee, and to the member so removed.

(2) Any community or sponsor member may be removed from office by the committee in accordance with the procedure set out in regulation 20.

(3) A nominating body proposing the removal of a community or a sponsor member must inform the clerk to the committee, and the member in question, in writing of the reasons why it is proposing that member's removal.

(4) The committee may, in accordance with the procedure set out in regulation 20, remove any community member, or any sponsor member, at the request of the nominating body.

(5) In this regulation, "nominating body" ("*corff enwebu*") means any person from whom nominations were sought for the purpose of appointing, and who nominated, the member in question.

(6) Any parent member appointed by the committee under paragraphs 7 and 8 of Schedule 1 may be removed by the committee in accordance with the procedure set out in regulation 20.

## **Procedure for removal of members by the committee**

**20.**—(1) This regulation applies in relation to the removal of a member from office in accordance with regulation 19.

(2) A resolution to remove a member from office which is passed at a meeting of the committee will not have effect unless—

- (a) in relation to the removal of a member who has been nominated by a nominating body, before the committee resolve to remove the member from office, the clerk to the committee gives the reasons for removal provided by the nominating body (as appropriate), and the member whom it is proposed to remove is given an opportunity to make a statement in response;
- (b) in relation to the removal of a community, sponsor or parent member, before the committee resolves to remove the member from office, the member or members proposing the removal state, at that meeting, their reasons for doing so, and the member who it is proposed to remove is given an opportunity to make a statement in response;
- (c) it is confirmed by a resolution passed at a second meeting of the committee held not less than fourteen days after the first meeting; and
- (d) the matter of the member's removal from office is specified as an item of business on the agenda for each of those meetings.

## PART 6

### PROCEDURES OF COMMITTEES

#### **Application of the Government of Maintained Schools (Wales) Regulations 2005**

**21.** The Government of Maintained Schools (Wales) Regulations 2005 apply in relation to units as they apply in relation to maintained schools to the extent and with the modifications prescribed in Schedule 3 (and in those Regulations as so applied any expression defined in regulation 2 has the same meaning as in that regulation).

## PART 7

### DELEGATION OF FUNCTIONS TO COMMITTEES AND CURRICULUM

#### **Delegation of functions**

**22.**—(1) Subject to paragraph (3), an authority must delegate the functions mentioned in paragraph (2) relating to a unit to the committee, together with such of the authority's powers as are requisite for discharging those functions.

(2) The functions are—

- (a) conducting the unit;
- (b) the authority's functions under paragraph 6(3) of Schedule 1 to the Education Act 1996 (complaints relating to the curriculum);
- (c) the authority's functions under section 88 of the Education and Inspections Act 2006<sup>(3)</sup> (responsibility for discipline); and
- (d) with respect to teachers employed by the authority to work at the unit, the authority's functions under the School Teacher Appraisal (Wales) Regulations 2011<sup>(4)</sup>.

(3) Paragraph (1) does not apply to the following—

- (a) the authority's functions under—
  - (i) section 4 of the School Standards and Organisation (Wales) Act 2013<sup>(5)</sup> (power to intervene),
  - (ii) regulations made under section 31 of the Education Act 2002<sup>(6)</sup> (control of school premises), and
  - (iii) section 29(5) of the Education Act 2002 (direction by authority concerning health and safety);
- (b) any power to appoint, dismiss or suspend teachers and non-teaching staff at the unit;
- (c) any power to spend any sum of money appropriated by the authority for the purposes of the unit.

#### **Curriculum**

**23.** The authority, committee and teacher in charge of a unit (acting jointly) must make, and from time to time review, a written statement of the policy in relation to the curriculum for the unit.

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<sup>(3)</sup> 2006 c. 40.

<sup>(4)</sup> S.I. 2011/2940 (W. 316).

<sup>(5)</sup> 2013 anaw 1.

<sup>(6)</sup> 2002 c. 32.



7 October 2014

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

## SCHEDULE 1

Regulations 9, 10, and 13

### Election and appointment of members

1. The authority may delegate to the teacher in charge of a unit any of its functions under this Schedule.

#### **Election and appointment of parent members**

2. Subject to paragraphs 1 and 3 to 6, the authority must make all the necessary arrangements for the election of parent members.

3. The duty imposed by paragraph 2 does not include power to impose any requirements as to the minimum number of votes required to be cast for a member to be elected.

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

5.—(1) The arrangements made under paragraph 2 must provide for every person who is entitled to vote to have an opportunity to do so by post.

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

(3) The arrangements made under paragraph 2 may provide for every person who is entitled to vote to have an opportunity to do so by electronic means.

6. Where a vacancy for a parent member arises, the authority must take such steps as are reasonably practicable to secure that every person who is known to them to be a parent of a registered pupil at the unit or one of the units 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 in the election; and
- (c) given the opportunity to do so.

7. The number of parent members required must be made up by parent members appointed by the committee if one or more vacancies for parent members arises and the number of parents standing for election is less than the number of vacancies.

8.—(1) The committee may only appoint as a parent member—

- (a) a parent of a registered pupil at the unit;
- (b) a parent of a former registered pupil at the unit;
- (c) a parent of a pupil registered at another unit, or at a maintained school in the area of the authority;
- (d) a parent of a child of compulsory school age; or
- (e) any parent.

(2) The committee may only appoint a person referred to in sub-paragraph (1)(b), (c), (d) or (e) if there is no other person to be appointed from sub-paragraph (1)(a).

#### **Election of staff members**

9. Subject to paragraphs 1, 10 and 11, the authority must make all the necessary arrangements for the election of staff members.

10. The duty imposed by paragraph 9—

- (a) includes the power to make provision as to qualifying dates; but

- (b) does not include the power to impose any requirements as to the minimum number of votes required to be cast for a candidate to be elected.

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

### **Appointment of sponsor members**

12. In this Schedule, “sponsor” (“*noddwr*”) in relation to a unit means—

- (a) a person who gives or has given substantial financial assistance (which for these purposes includes benefits in kind) to the unit other than pursuant to statutory obligation; or
- (b) any other person (not being otherwise represented on the committee) who provides or has provided substantial services to the unit.

13. Where the unit has one or more sponsors, the instrument of government may provide for the appointment of such number of sponsor members, not exceeding two, nominated in accordance with paragraph 14.

14. Nominations must be sought for such appointments from the sponsor or (as the case may be) from one or more of the sponsors.

## SCHEDULE 2

Regulation 16

### Qualifications and disqualifications

#### **General**

1. A person is disqualified from holding or from continuing to hold office as a member at any time when that person is a registered pupil at a unit.

2. No person is qualified to be a member unless that person is aged 18 or over at the date of that person’s election or appointment.

3. Save as otherwise provided in these Regulations, the fact that a person is qualified to be elected or appointed as a member of a particular category does not disqualify that person from election or appointment or from continuing as a member of any other category.

#### **Mental disorder**

4. A person is disqualified from holding or for continuing to hold office as a member at any time when that person is liable to be detained under the Mental Health Act 1983(7) or under any re-enactment or statutory modification of that Act in force from time to time.

#### **Failure to attend meetings**

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

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

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(7) 1983 c. 20.

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

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

### **Bankruptcy**

6. A person is disqualified from holding or continuing to hold office as a member if—
- (a) that person has been adjudged bankrupt or sequestration of that person's estate has been awarded and (in either case) that person has not been discharged and the bankruptcy order has not been annulled or rescinded or a moratorium period under a debt relief order applies in relation that person; or
  - (b) that person has made a composition or arrangement with, or granted a trust deed for, that person's creditors and has not been discharged in respect of it.

### **Disqualification of company directors**

7. A person is disqualified from holding or from continuing to hold office as a member at any time when that person is subject to—
- (a) a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986<sup>(8)</sup>;
  - (b) a disqualification order under Part 2 of the Companies (Northern Ireland) Order 1989<sup>(9)</sup>;
  - (c) a disqualification undertaking accepted under the Company Directors Disqualification (Northern Ireland) Order 2002<sup>(10)</sup>; or
  - (d) an order made under section 429(2)(b) of the Insolvency Act 1986<sup>(11)</sup> (failure to pay under county court administration order).

### **Disqualification of charity trustees**

8. A person is disqualified from holding or from continuing to hold office as a member if—
- (a) that person has been removed from the office of trustee for a charity by an order made by the Charity Commissioners or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity for which that person was responsible or to which that person was privy, or to which that person contributed or which that person facilitated by that person's conduct; or
  - (b) that person has been removed, under section 34 of the Charities and Trustee Investment (Scotland) Act 2005<sup>(12)</sup> (powers of Court of Session to deal with management of charities), from being concerned in the management or control of any body.

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<sup>(8)</sup> 1986 c. 46.

<sup>(9)</sup> No. 2404 (N.I. 18).

<sup>(10)</sup> No. 3150 (N.I. 4).

<sup>(11)</sup> 1986 c. 45.

<sup>(12)</sup> 2005 asp 10.

### Persons whose employment is prohibited or restricted

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

- (a) included in the list of teachers and workers with children or young persons whose employment is prohibited or restricted under section 1 of the Protection of Children Act 1999<sup>(13)</sup>;
- (b) subject to a direction of the Welsh Ministers or the Secretary of State under section 142 of the 2002 Education Act<sup>(14)</sup>;
- (c) disqualified from working with children under sections 28, 29 or 29A of the Criminal Justice and Court Services Act 2000<sup>(15)</sup>;
- (d) disqualified from registration under Part XA of the Children Act 1989<sup>(16)</sup> for childminding or providing day care;
- (e) disqualified from registration under Part 3 of the Childcare Act 2006<sup>(17)</sup>;
- (f) barred from regulated activity relating to children in accordance with section 3(2) of the Safeguarding Vulnerable Groups Act 2006<sup>(18)</sup>;
- (g) subject to a direction by the appropriate authority under section 167A of the 2002 Education Act<sup>(19)</sup>;
- (h) by virtue of an order made under section 470 or section 471 of the 1996 Education Act, disqualified from being the proprietor of any independent school or from being a teacher or other employee in any school; or
- (i) disqualified from registration under Part 2 of the Children and Families (Wales) Measure 2010.

### Criminal convictions

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

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

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

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

(3) This sub-paragraph applies to a person if within the period of 20 years ending with the date immediately preceding the date on which that person's appointment or election as member would otherwise have taken effect or, as the case may be, on which that person would otherwise have

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(13) 1999 c. 14; and as saved by article 5 of the Safeguarding Vulnerable Groups Act 2006 (Commencement No.6, Transitional Provisions and Savings) Order 2009 (S.I. 2009/2611).

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

(15) 2000 c. 43; sections 28, 29 and 29A have been repealed for certain purposes by section 63 of the Safeguarding Vulnerable Groups Act 2006.

(16) 1989 c. 41. Repealed by section 73 of the Children and Families (Wales) Measure 2010 (nawm 1) and is not yet in force.

(17) 2006 c. 21.

(18) 2006 c. 47.

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

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become a member by virtue of that person's office, that person has been convicted as aforesaid of any offence and has had passed on them a sentence of imprisonment for a period of not less than two and a half years.

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

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

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

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

that person has been convicted under section 547 of the 1996 Education Act<sup>(20)</sup> (nuisance or disturbance on school premises) or under section 85A of the Further and Higher Education Act 1992<sup>(21)</sup> (nuisance and disturbance on educational premises) of an offence and has been sentenced to a fine.

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

**11.** A person is disqualified from holding or continuing to hold office as a member at any time when that person refuses a request by the clerk to the committee to make an application under section 113B of the Police Act 1997<sup>(22)</sup> for a criminal records certificate.

### **Notification to clerk**

**12.** Where—

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

that person must give notice of that fact to the clerk to the committee.

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

<sup>(21)</sup> 1992 c. 13; inserted by section 206 of and Schedule 20 to the 2002 Education Act.

<sup>(22)</sup> 1997 (c. 50); inserted by section 163 of the Serious Organised Crime and Police Act 2005 (c. 15). Subsections (2A) and (12) were inserted, and subsection (6) was amended, by the Police Act 1997 (Criminal Records) (Electronic Communications) Order 2009 (S.I. 2009/203). Paragraph (a) of subsection (10) was substituted for paragraphs (a) and (b) as originally enacted by paragraph 149 of Schedule 16 to the Armed Forces Act 2006 (c. 52).

### SCHEDULE 3

Regulation 21

#### Application, with modifications, of Part 7, 8, 9 and 10 of the Government of Maintained Schools (Wales) Regulations 2005

1. Wherever they appear in Parts 7, 8, 9 and 10 of the Government of Maintained Schools (Wales) Regulations 2005—

- (a) for references to the “governing body” substitute references to the “committee”;
- (b) for references to a “governor” substitute references to a “member”;
- (c) for references to the “school” substitute references to the “unit or, as the case may be, the group of units”; and
- (d) for references to a “committee” substitute references to a “sub-committee of the committee”.

#### **Appointment, functions and removal of officers**

2. In regulation 39—

- (a) in paragraph (1) omit “and to section 18 of the 1998 Act (power of National Assembly for Wales to appoint additional governors)”;
- (b) in paragraph (6) omit “and to section 18 of the 1998 Act”.

3. In regulation 39(5)(c), omit “or replaced by a chair nominated by the National Assembly for Wales pursuant to section 18 of the 1998 Act”.

4. In regulation 41(1), omit “unless he or she has been nominated by the National Assembly for Wales pursuant to section 18 of the 1998 Act”.

5. In regulation 42—

- (a) in paragraph (1) omit “with the governing body or”;
- (b) in paragraph (2) for “The governing body must” substitute “The authority must”;
- (c) in paragraph (3) for sub-paragraph (c) substitute—  
“(c) the teacher in charge of the unit or, as the case may be, of any unit in the group of units.”;
- (d) in paragraph (5) for “The governing body may” substitute “The authority may”; and
- (e) omit paragraph (6).

6. In regulation 43(1) for sub-paragraph (e) substitute—

- “(e) give and receive notices in accordance with regulations 15 (notification of appointments) and 18 (resignation) of, and paragraph 12 of Schedule 2 (notification to clerk) to the Education (Pupil Referral Units) (Management Committees etc.) (Wales) Regulations 2014 and regulations 39(4) and 45(4) of these Regulations;”.

#### **Meetings and proceedings of governing bodies**

7. In regulation 44 for paragraph (b) substitute—

- “(b) the teacher in charge of the unit or, as the case may be, of each unit in the group of units, whether or not that person is a member;”.

8. Omit regulation 44A.

9. In regulation 45—

- (a) in paragraph (4) for sub-paragraph (b) substitute—

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- “(b) the teacher in charge of the unit or, as the case may be, of each unit in the group of units, whether or not that person is a member;” and
- (b) in paragraph (6) omit sub-paragraph (d).
- 10.** In regulation 46—
- (a) in paragraph (1) omit “any associate pupil governors”;
- (b) in paragraph (2) omit “(excluding any associate pupil governors)”;
- (c) omit paragraphs (2A) and (4).
- 11.** In regulation 49—
- (a) in paragraph (1)(b) for “Schedule 5” substitute “Schedule 2 to the Education (Pupil Referral Units) (Management Committees etc.) (Wales) Regulations 2014”;
- (b) in paragraph (1)(c) omit “or with the religious character”;
- (c) in paragraph (6) for “paragraph 5 of Schedule 5” substitute “paragraph 5 of Schedule 2 to the Education (Pupil Referral Units) (Management Committees etc.) (Wales) Regulations 2014”.
- 12.** In regulation 50(1)—
- (a) omit the words from “regulation 3(2)” to “2000”; and
- (b) for sub-paragraph (c) substitute—
- “(c) the teacher in charge of the unit or, as the case may be, of any of the units in the group of units, whether or not that person is a member.”
- 13.** For regulation 51 substitute—
- “(1) The committee may not delegate under regulation 50(1) its functions under—
- (a) regulations 39 and 41 (election and removal of chair and vice chair);
- (b) regulation 42 (appointment and removal of clerk to the governing body);
- (c) regulation 49 (suspension of governors);
- (d) regulation 50 (delegation of functions);
- (e) regulation 54 (establishment of committees); and
- (f) regulations 7 (review of instrument of government), 9 (parent members), 12 (community members), 13 (sponsor members), 19 (removal of members) and 20 (procedure for removal of members by the committee) of the Education (Pupil Referral Units) (Management Committees etc.) (Wales) Regulations 2014.
- (2) The committee may not delegate to an individual under regulation 50(1)—
- (a) its functions in section 88 of the Education and Inspections Act 2006; or
- (b) the functions that must be delegated to the committee specified in regulation 56.”
- 14.** In regulation 52, for paragraph (1)(b) substitute—
- “(b) the teacher in charge of the unit or, as the case may be, of any of the units in the group of units, whether or not that person is a member;”.

#### **Committees of governing bodies**

- 15.** Omit regulations 55 and 57.
- 16.** In regulation 58—
- (a) for paragraph (1) substitute—



“(1) The authority must appoint a clerk to each sub-committee, who must not be the teacher in charge of the unit or, as the case may be, of any unit in the group of units.”;

(b) omit paragraph (2); and

(c) in paragraph (4) for “governing body” substitute “authority” and omit “of their”.

17. In regulation 59—

(a) for paragraph (1)(b) substitute—

“(b) the teacher in charge of the unit or, as the case may be, of each unit in the group of units, whether or not that person is a member of the sub-committee;” and

(b) omit paragraph (3).

18. In regulation 63 in paragraph (1)(a) for “the head teacher (whether or not he or she is a governor)” substitute “the teacher in charge of the unit or, as the case may be, of each unit in the group of units, whether or not that person is a member”.

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## EXPLANATORY NOTE

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

These Regulations, which come into force on 31 October 2014, require local authorities to establish management committees to run pupil referral units (PRUs) in their area, and make provision for the constitution and procedures of such committees.

Part 2 requires local authorities to establish a committee in relation to each PRU in their area, with the proviso that a committee may run more than one PRU. In relation to PRUs opened before 31 October 2014, a committee must be established by 23 February 2015. In relation to PRUs opened on or after 31 October 2014, a committee must be established (or arrangements must be made for an existing committee to take on the management of the PRU) by no later than the first day it is open to pupils (regulations 3 and 4). The local authority must make an instrument of government in respect of each unit (or group of units) and appoint the first members (other than those who are required to be elected (regulation 5)).

Part 3 prescribes the categories of members. Part 4 prescribes the composition of committees. Part 5 prescribes the qualifications and tenure of office of members.

Part 6 makes provision for the procedures of committees by applying the Government of Maintained Schools (Wales) Regulations 2005 to committees, with certain modifications (regulation 21 and Schedule 3).

Regulations 22 and 23 in Part 7, which come into force on 23 February 2015, require local authorities to delegate certain functions, principally the function of conducting the unit, to the committee and require a written statement of policy in relation to the curriculum for the unit to be made and periodically reviewed.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained at the Support for Learners Division, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

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