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STATUTORY INSTRUMENTS

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**2007 No. 2978**

**The Education (Pupil Referral Units) (Management Committees etc.) (England) Regulations 2007**

**PART 1**

**GENERAL**

**Citation, commencement, and application**

**1.**—(1) These Regulations may be cited as the Education (Pupil Referral Units) (Management Committees etc.) (England) Regulations 2007.

(2) These Regulations, except regulations 22 and 23, come into force on 13th November 2007.

(3) Regulations 22 and 23 come into force on 1st February 2008.

(4) These Regulations apply only in relation to England.

**Interpretation**

**2.** In these Regulations—

“authority”, in relation to a unit, means the local education authority by which the unit is maintained;

“clerk to the committee” means a clerk appointed to a committee in accordance with the School Governance (Procedures) (England) Regulations 2003<sup>(1)</sup>;

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

“group of units” means two or more units managed by the same committee in accordance with regulation 4;

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

“member” means a member of a committee appointed or elected in accordance with these Regulations; and

“unit” means a pupil referral unit.

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<sup>(1)</sup> [S.I. 2003/1377](#), as amended by [S.I. 2003/1916](#), [2004/450](#) and [2007/959](#), which apply in relation to units by virtue of regulation 21 of, and Schedule 3 to, these Regulations.

## 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 them—

- (a) in relation to a unit opened before 13th November 2007, by 1st February 2008; and
- (b) in relation to a unit opened on or after 13th November 2007, 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 them; or
- (b) make arrangements for a committee established by them under regulation 3 or paragraph (a) to act as the management committee of an additional unit, or units, maintained by them.

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

5. An authority must—

- (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 them; and
- (b) appoint the first members of each committee established by them 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 decide that the instrument of government should be varied, the committee or (as the case may be) the authority must notify the other of their proposed variation together with their reasons for proposing such a variation.

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

(4) If—

- (a) whichever of the committee and 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 they are not content with the committee’s proposed variation, or as the case may be,
  - (ii) why they wish to proceed with their own variation; and
- (b) give the committee a reasonable opportunity to reach agreement with them with regard to the variation, and

the instrument of government must be varied by them either in the manner agreed between them and the committee or (in the absence of such agreement) in such manner as they think 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 he is 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” 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 himself 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 he 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 he 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 he 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 he is otherwise disqualified under these Regulations.

### **Staff members**

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

- (a) the teacher in charge of a unit (or, in the case of a group of units, the teacher in charge of one 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 himself a person so working at the time when he 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” 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 he is eligible to be a staff member.

### **Community members**

**12.**—(1) In these Regulations “community member” 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 person who lives or works in the community served by the unit (or, as the case may be, the group of units); or
- (b) 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 he 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” 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 must be included whether or not he has resigned his 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 sub-paragraphs (a) to (d).

#### **Notification of appointments**

15. Where any person makes an appointment or nominates a person to be appointed to the committee he 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 he 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 his 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 his office by giving written notice to the clerk to the committee.

(2) The teacher in charge of a unit may withdraw his 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 his 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” 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 resolve to remove the member from office, the member or members proposing his 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 School Governance (Procedures) (England) Regulations 2003**

**21.** The School Governance (Procedures) (England) Regulations 2003 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>(2)</sup> (responsibility for discipline).
- (3) Paragraph (1) does not apply to the following—
  - (a) the authority's functions under—
    - (i) section 62 of the School Standards and Framework Act 1998<sup>(3)</sup> (authority's reserve power to prevent a breakdown of discipline),
    - (ii) Schedule 13 to that Act (control of school premises), and

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<sup>(2)</sup> 2006 c. 40.

<sup>(3)</sup> 1998 c. 31.

- (iii) section 29(5) of the Education Act 2002<sup>(4)</sup> (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.

16th October 2007

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(4) 2002 c. 32.