

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 their 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 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” 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 it is not reasonably practicable to appoint a person referred to in the sub-paragraph which immediately precedes it.

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

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- (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 ballot.

Appointment of sponsor members

12. In this Schedule, “sponsor” 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.—(1) A person is disqualified from holding or from continuing to hold office as a member at any time when he is a registered pupil at a unit.

(2) No person is qualified to be a member unless he is aged 18 or over at the date of his election or appointment.

2. Except 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 him from election or appointment or from continuing as a member of any other category.

Mental disorder

3. A person is disqualified from holding or from continuing to hold office as a member at any time when he is detained under the Mental Health Act 1983(1).

Failure to attend meetings

4.—(1) This paragraph applies to any member who is not a member of the committee by virtue of his office.

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

(1) 1983 c. 20.

Bankruptcy

5. A person is disqualified from holding or continuing to hold office as a member, if—
- (a) his estate has been sequestrated and the sequestration has not been discharged, annulled or reduced; or
 - (b) he is the subject of a bankruptcy restrictions order⁽²⁾ or an interim bankruptcy restrictions order.

Disqualification of company directors

6. A person is disqualified from holding, or from continuing to hold, office as a member at any time when he is subject to—
- (a) a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986⁽³⁾,
 - (b) a disqualification order under Part 2 of the Companies (Northern Ireland) Order 1989⁽⁴⁾,
 - (c) a disqualification undertaking accepted under the Company Directors Disqualification (Northern Ireland) Order 2002⁽⁵⁾, or
 - (d) an order made under section 429(2)(b) of the Insolvency Act 1986 (failure to pay under county court administration order).

Disqualification of charity trustees

7. A person is disqualified from holding or from continuing to hold office as a member if—
- (a) he has been removed from the office of trustee for a charity by an order made by the Charity Commissioners, the Charity Commission for England and Wales, or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity for which he was responsible or to which he was privy, or to which he contributed or which he facilitated by his conduct; or
 - (b) he has been removed, under section 34 of the Charities and Trustee Investment (Scotland) Act 2005⁽⁶⁾ (Powers of Court of Session), from being concerned in the management or control of any body.

Persons whose employment is prohibited or restricted

8. A person is disqualified from holding or from continuing to hold office as a member at any time when he is—
- (a) included in the list kept under section 1 of the Protection of Children Act 1999⁽⁷⁾ (list of those considered by the Secretary of State as unsuitable to work with children);
 - (b) subject to a direction of the Secretary of State under section 142 of the Education Act 2002⁽⁸⁾ (or any other disqualification, prohibition or restriction which takes effect as if contained in such a direction);

(2) By virtue of paragraph 8 of Schedule 4A to the Insolvency Act 1986 (c.45), reference to a person who is the subject of a bankruptcy restrictions order includes reference to a person in respect of whom a bankruptcy restrictions undertaking has effect.

(3) 1986 c. 46; as amended by the Insolvency Act 2000 (c. 39).

(4) S.I. 1989/2404 (N.I. 18). This has been prospectively repealed by the Companies Act 2006.

(5) S.I. 2002/3150 (N.I. 4).

(6) 2005 asp 10.

(7) 1999 c. 14; as amended by the Care Standards Act 2000 (c. 14).

(8) 2002 c. 32.

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- (c) disqualified from working with children under sections 28, 29 or 29A of the Criminal Justice and Court Services Act 2000⁽⁹⁾;
- (d) disqualified from registration under Part 10A of the Children Act 1989⁽¹⁰⁾ for child minding or providing day care; or
- (e) disqualified from registration under Part 3 of the Childcare Act 2006⁽¹¹⁾.

Criminal convictions

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

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

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

he has been convicted, of any offence and has had passed on him 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 his appointment or election as member would otherwise have taken effect or, as the case may be, on which he would otherwise have become a member by virtue of his office, he has been convicted of any offence and has had passed on him 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 he has at any time been convicted of any offence and he has had passed on him a sentence of imprisonment for a period of not less than five years.

(5) For the purposes of sub-paragraphs (2) to (4) above, references to a conviction are references to a conviction whether in the United Kingdom or elsewhere but 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 under the law in force in that part of the United Kingdom 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 his appointment or election as member would otherwise have taken effect or, as the case may be, on which he would otherwise have become a member by virtue of his office, or
- (b) since his appointment or election as member, as the case may be, since he became a member by virtue of his office,

he has been convicted under section 547 of the Education Act 1996⁽¹²⁾ or under section 85A of the Further and Higher Education Act 1992⁽¹³⁾ (nuisance and disturbance on educational premises) of an offence and has been sentenced to a fine.

⁽⁹⁾ 2000 c. 43. Section 29A is inserted by the Criminal Justice Act 2003 (c.44).

⁽¹⁰⁾ 1989 c. 41. Part 10A is inserted by the Care Standards Act 2000 and amended by the Childcare Act 2006 (c.21).

⁽¹¹⁾ 2006 c. 21.

⁽¹²⁾ As amended by the School Standards and Framework Act and by section 206 and Schedule 20 of the Education Act 2002.

⁽¹³⁾ 1992 c. 13; inserted by section 206 and Schedule 20 of the Education Act 2002.

Refusal to make an application for a criminal records certificate

10. A person is disqualified from holding or continuing to hold office as a member at any time when he refuses a request by the clerk to the committee to make an application under section 113A of the Police Act 1997(14) for a criminal records certificate.

Notification to clerk

11. Where, by virtue of any paragraphs 5 to 9—

- (a) a person is disqualified from holding, or for continuing to hold, office as a member; and
- (b) he is, or is proposed to become, a member,

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

SCHEDULE 3

Regulation 21

Application, with modifications, of the School Governance (Procedures) (England) Regulations 2003

1. Wherever they appear—

- (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”.
- (e) omit references to associate members.

Introduction

2. In regulation 3(2)—

- (a) in sub-paragraph (a) omit “statutory”,
- (b) after a sub-paragraph (b) insert—

“(bb) the functions of the committee is a reference to the functions conferred on, or applied to, the committee by any enactment and functions delegated to the committee by the local education authority;”.

Meetings, proceedings and sub-committees

3. In regulation 5(1) and (6), omit “and to section 67 of the 2006 Act”.

4. In regulation 5(5)(c), omit “or replaced by a chair nominated by the Secretary of State pursuant to section 67 of the 2006 Act”.

In regulation 7(1), omit “unless he has been nominated by the Secretary of State pursuant to section 67 of the 2006 Act”.

5. In regulation 8—

(14) 1997 c. 50; as amended by the Protection of Children Act 1999, the Care Standards Act 2000 and the Education Act 2002. Section 113A was inserted by section 163(2) of the Serious Organised Crime Act 2005 (c. 15) and amended by paragraph 14 of Part 2 of Schedule 9 to the Safeguarding Vulnerable Groups Act 2006 (c. 47).

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- (a) in paragraph (1) omit “with the governing body or”;
 - (b) in paragraph (2) for “The governing body shall” substitute “The authority shall”;
 - (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 9 for sub-paragraph (e)(i) substitute—
“(i) regulations 15 (Notification of appointments) and 18 (Resignation) of, and paragraph 11 of Schedule 2 (Notification of Disqualification to clerk or expected or is any teacher he sure) to the Education (Pupil Referral Units) (Management Committees etc.) (England) Regulations 2007; and”.
7. In regulation 10 for sub-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 he is a member;”.
8. In regulation 11—
(a) in paragraph (4) for sub-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 he is a member;” and
(b) in paragraph (5) omit sub-paragraph (c).
9. In regulation 12 omit paragraph (4).
10. In regulation 15—
(a) in sub-paragraph (1)(b) for “Schedule 6 to the Constitution Regulations” substitute “Schedule 2 to the Education (Pupil Referral Units) (Management Committees etc.) (England) Regulations 2007”;
(b) in sub-paragraph (1)(c) omit “or with the religious character”; and
(c) in sub-paragraph (5) for “paragraph 5 of Schedule 6 to the Constitution Regulations” substitute “paragraph 4 of Schedule 2 to the Education (Pupil Referral Units) (Management Committees etc) (England) Regulations 2007”.
11. In regulation 16(1)—
(a) omit the words from “regulation 3(2)” to “2003”; 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 he is a member.”.
12. Omit regulation 17(1), (3) and (4).
13. In regulation 18, for sub-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 he is a member;”.
14. In regulation 21—
(a) for paragraph (1) substitute—
“(1) The authority shall 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.”; and

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(b) in paragraph (3) for “governing body” substitute “authority” and omit “of their”.

15. Omit regulation 22.

16. In regulation 23 for sub-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 he is a member of the sub-committee;”.