
STATUTORY INSTRUMENTS

2018 No. 1135

The Education Administration Rules 2018

PART 3

PROCESS OF EDUCATION ADMINISTRATION

CHAPTER 5

Further education body: meetings of members

Application of this Chapter

3.17. This Chapter applies where the education administrator calls a meeting of members of the further education body under paragraph 62 of Schedule B1(1).

Meetings of the further education body

3.18.—(1) Unless the Act or these Rules provide otherwise, where the education administrator calls a meeting of the further education body, that meeting must be called and conducted, and records of the meeting must be kept, in accordance with the law of England and Wales.

(2) But, where a further education body is a company incorporated in an EEA state other than the United Kingdom, a meeting must be called and conducted, and records of the meeting must be kept, in accordance with the law of the state applicable to meetings of that further education body.

(3) In calling a meeting of the further education body, the education administrator must have regard to the convenience of the members when fixing the venue.

Nature of meetings

3.19.—(1) Meetings called by the education administrator may be physical meetings or virtual meetings.

(2) Where the meeting is to be a virtual meeting, notification of that meeting must contain—

- (a) any necessary information as to how to access the virtual meeting including any telephone number, access code or password required; and
- (b) a statement that the meeting may be suspended or adjourned by the chair of the meeting (and must be adjourned if it is so resolved at the meeting).

Remote attendance: notification requirements

3.20. When a meeting is to be summoned and held in accordance with section 246A(3) of the Act, the education administrator must notify all those to whom notice of the meeting is being given of—

- (a) the ability of a person claiming to be an excluded person to request an indication in accordance with rule 3.24;

(1) Paragraph 62 was amended by paragraph 10 of Schedule 9 to the Small Business, Enterprise and Employment Act 2015.

- (b) the ability of a person within rule 3.25(1) to make a complaint in accordance with that rule; and
- (c) the period within which such a request or complaint must be made.

Location of meetings

3.21.—(1) This rule applies to a request made under section 246A(9) to specify a place for the meeting.

(2) The request must be accompanied by—

- (a) a list of the members making or concurring with the request and their voting rights; and
- (b) from each person concurring, confirmation of that person’s concurrence.

(3) The request must be delivered to the education administrator within seven business days of the date on which the education administrator delivered the notice of the meeting in question.

(4) Where the education administrator considers that the request has been properly made in accordance with the Act and this rule, the education administrator must—

- (a) deliver notice to all those previously given notice of the meeting—
 - (i) that it is to be held at a specified place, and
 - (ii) as to whether the date and time are to remain the same or not;
- (b) set a venue (including specification of a place) for the meeting, the date of which must not be later than 28 days after the original date for the meeting; and
- (c) deliver at least 14 days’ notice of that venue to all those previously given notice of the meeting;

and the notices required by sub-paragraphs (a) and (c) may be delivered at the same or different times.

(5) Where the education administrator has specified a place for the meeting in response to a request to which this rule applies, the education administrator, or a person appointed by the education administrator to act as chair of the meeting, must attend the meeting by being present in person at that place.

Chair of the meeting

3.22. The chair of a meeting of the members of the further education body must be either the education administrator or a person nominated by the education administrator to act as chair.

Action where person is excluded

3.23.—(1) In this rule and rules 3.24 and 3.25, “excluded person” means a person who has taken all steps necessary to attend a meeting of the members of the further education body under arrangements which—

- (a) have been put in place by the education administrator under section 246A(6); but
- (b) do not enable that person to attend the whole or part of that meeting.

(2) Where the chair becomes aware during the course of the meeting that there is an excluded person, the chair may—

- (a) continue the meeting;
- (b) declare the meeting void and convene the meeting again; or
- (c) declare the meeting valid up to the point where the person was excluded and adjourn the meeting.

(3) Where the chair continues the meeting, the meeting is valid unless—

- (a) the chair decides in consequence of a complaint under rule 3.25 to declare the meeting void and convene the meeting again; or
- (b) the court directs otherwise.

(4) Without prejudice to paragraph (2), where the chair becomes aware during the course of the meeting that there is an excluded person, the chair may, in the chair's discretion and without an adjournment, declare the meeting suspended for any period of up to 1 hour.

Indication to excluded person

3.24.—(1) A person who claims to be an excluded person may request an indication of what occurred during the period of that person's claimed exclusion.

(2) A request under paragraph (1) must be made in accordance with paragraph (3) as soon as reasonably practicable, and in any event not later than 4pm on the business day following the day on which the exclusion is claimed to have occurred.

(3) A request under paragraph (1) must be made to—

- (a) the chair, where it is made during the course of the business of the meeting; or
- (b) the education administrator, where it is made after the conclusion of the business of the meeting.

(4) Where satisfied that the person making the request is an excluded person, the person to whom the request is made in accordance with paragraph (3) must deliver the requested indication to the excluded person as soon as reasonably practicable, and in any event not later than 4pm on the business day following the day on which the request was made under paragraph (1).

Complaint

3.25.—(1) A person may make a complaint who—

- (a) is, or claims to be, an excluded person; or
- (b) attends the meeting and claims to have been adversely affected by the actual, apparent or claimed exclusion of another person.

(2) The complaint must be made to the appropriate person who is—

- (a) the chair, where the complaint is made during the course of the meeting; or
- (b) the education administrator where it is made after the meeting.

(3) The complaint must be made as soon as reasonably practicable and, in any event, no later than 4pm on the business day following—

- (a) the day on which the person was, appeared or claimed to be excluded; or
- (b) where an indication is requested under rule 3.24, the day on which the complainant received the indication.

(4) The appropriate person must, as soon as reasonably practicable following receipt of the complaint—

- (a) consider whether there is an excluded person;
- (b) where satisfied that there is an excluded person, consider the complaint; and
- (c) where satisfied that there has been prejudice, take such action as the appropriate person considers fit to remedy the prejudice.

(5) Paragraph (6) applies where the appropriate person is satisfied that the complainant is an excluded person and—

- (a) a resolution was voted on at the meeting during the period of the person's exclusion; and

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- (b) the excluded person asserts how the excluded person intended to vote on the resolution.
- (6) Where the appropriate person is satisfied that, if the excluded person had voted as that person intended, it would have changed the result of the resolution then the appropriate person must, as soon as reasonably practicable—
 - (a) count the intended vote as having been cast in that way;
 - (b) amend the record of the result of the resolution; and
 - (c) where notice of the result of the resolution has been delivered to those entitled to attend the meeting, deliver notice to them of the change and the reason for it; or
 - (d) where notice of the result of the resolution has yet to be delivered to those entitled to attend the meeting, the notice must include details of the change and the reason for it.
- (7) Where satisfied that more than one complainant is an excluded person, the appropriate person must have regard to the combined effect of the intended votes.
- (8) The appropriate person must deliver notice to the complainant of any decision as soon as reasonably practicable.
- (9) A complainant who is not satisfied by the action of the appropriate person may apply to the court for directions and any application must be made no more than two business days from the date of receiving the decision of the appropriate person.