

Status: Point in time view as at 01/11/2005.

Changes to legislation: School Standards and Framework Act 1998, SCHEDULE 16 is up to date with all changes known to be in force on or before 05 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

[^{F1}SCHEDULE 16 E+W

Section 54.

STAFFING OF COMMUNITY, VOLUNTARY CONTROLLED AND COMMUNITY SPECIAL SCHOOLS

Textual Amendments

- F1** Sch. 16 repealed (1.9.2003 for E.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 4

Modifications etc. (not altering text)

- C1** Sch. 16 applied (1.9.1999) by S.I. 1999/2243, **reg. 49(2)**.
Sch. 16 modified (1.9.1999) by S.I. 1999/2243, **reg. 49(4)**.
Sch. 16 applied (with modifications) (1.9.1999) by S.I. 1999/2262, **regs. 48, 49(2)**.
Sch. 16 applied (with modifications) (1.9.1999) by S.I. 1999/2262, **regs. 48, 49(4)**.

Introductory

- 1 (1) In this Schedule “the school” means a community, voluntary controlled or community special school.
- (2) References in this Schedule to a vacancy in any post include a prospective vacancy in the post, and references to a person’s absence are to his absence, or prospective absence, from the school.
- (3) References in this Schedule to staff qualification requirements are to any requirements with respect to—
- qualifications,
 - registration,
 - health and physical capacity, or
 - fitness on educational grounds or in any other respect,
- of teachers or other persons employed, or otherwise engaged to provide their services, in work that brings them regularly into contact with persons who have not attained the age of 19 which for the time being apply under regulations under section 218 of the ^{M1}Education Reform Act 1988 (regulations relating to employment of teachers etc.) or section 19 of the ^{M2}Teaching and Higher Education Act 1998 (induction training).
- (4) References in this Schedule to the chief education officer of the local education authority include any officer of the authority nominated by the chief education officer.

Marginal Citations

- M1** 1988 c. 40.

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M2 1998 c. 30.

Appointment of head teacher and deputy head teacher

- 2 Paragraphs 3 to 7 apply in relation to the filling of a vacancy in the post of head teacher or deputy head teacher of the school.
- 3 The governing body shall notify the local education authority of the vacancy in writing before taking any of the steps mentioned in paragraphs 4 to 7.
- 4 (1) Where the vacancy is in the post of head teacher and either the post has not been filled, or it appears to the governing body that the post will not be filled, by an appointment made in accordance with paragraphs 5 to 7 before the date on which it falls vacant, the governing body shall either—
- (a) recommend a person for appointment as acting head teacher, or
 - (b) exercise their power under sub-paragraph (5).
- (2) Where the vacancy is in the post of deputy head teacher and either the post has not been filled, or it appears to the governing body that the post will not be filled, by an appointment made in accordance with paragraphs 5 to 7 before the date on which it falls vacant, the governing body may—
- (a) recommend a person for appointment as acting deputy head teacher, or
 - (b) exercise their power under sub-paragraph (5).
- (3) If the governing body recommend a person for appointment as acting head teacher or acting deputy head teacher, the local education authority shall appoint the person recommended unless he does not meet any staff qualification requirements which are applicable in relation to his appointment.
- (4) If the authority decline to appoint a person recommended by the governing body for appointment as acting head teacher, the governing body shall recommend another person for appointment.
- (5) Instead of making a recommendation under sub-paragraph (1) or (2) the governing body may for the purpose of filling the vacancy—
- (a) engage, or
 - (b) make arrangements for the engagement of,
- a person to provide his services as acting head teacher, or (as the case may be) acting deputy head teacher, otherwise than under a contract of employment with the local education authority.
- (6) No person shall be engaged under sub-paragraph (5) unless he meets all the staff qualification requirements applicable in relation to the head teacher or (as the case may be) deputy head teacher at the school.
- 5 The governing body shall advertise the vacancy in such publications circulating throughout England and Wales as they consider appropriate.
- 6 (1) The governing body shall appoint a selection panel consisting of at least three of their members to perform the functions conferred on them by this paragraph.
- (2) The selection panel shall—
- (a) select for interview such applicants for the post as they think fit and, where the post is that of head teacher, notify the local education authority in writing of the names of the applicants so selected,

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- (b) interview such of those applicants as attend for the purpose,
 - (c) where they consider it appropriate to do so, recommend to the governing body for appointment one of the applicants interviewed by them, and
 - (d) if their recommendation is approved by the governing body, recommend the applicant in question to the local education authority for appointment.
- (3) Any decision of the selection panel shall be taken by a vote representing an absolute majority of all the members of the panel (whether or not taking part in the vote).
- (4) If, within the period of 14 days beginning with the date when they receive a notification under sub-paragraph (2)(a), the authority make written representations to the selection panel that any of the applicants selected by the panel is not a suitable person for the appointment, the panel shall not recommend that person to the governing body for appointment unless the panel have—
 - (a) considered those representations, and
 - (b) notified the authority in writing of their response to the representations;
 and when making such a recommendation the panel shall supply the governing body with a copy of those representations and of the panel’s response to them.
- (5) If the panel do not recommend a person to the governing body, or the governing body do not approve their recommendation, the governing body—
 - (a) may, if they think fit, re-advertise the vacancy in the manner required by paragraph 5, and
 - (b) whether or not they re-advertise the vacancy, may require the panel to repeat the steps mentioned in sub-paragraph (2).
- (6) In determining whether a person is suitable for appointment as head teacher the authority shall have regard to any guidance given from time to time by the Secretary of State.
- 7
 - (1) Where the governing body approve a recommendation of the selection panel, the local education authority shall appoint the person recommended by the panel unless he does not meet any staff qualification requirements which are applicable in relation to his appointment.
 - (2) If the authority decline to appoint the person recommended by the panel, the governing body—
 - (a) may, if they think fit, re-advertise the vacancy in the manner required by paragraph 5, and
 - (b) whether or not they re-advertise the vacancy, may require the panel to repeat the steps mentioned in paragraph 6(2).
- 8
 - (1) The governing body may, in connection with any absence of the person for the time being holding the post of head teacher or deputy head teacher of the school, take either of the steps mentioned in paragraphs (a) and (b) of sub-paragraph (1) or (as the case may be) (2) of paragraph 4.
 - (2) For the purposes of this paragraph—
 - (a) paragraph 4(3) shall apply in relation to any recommendation made by virtue of sub-paragraph (1) above as it applies in relation to any recommendation made by virtue of paragraph 4(1) or (2); and
 - (b) paragraph 4(5) and (6) shall apply in connection with any such absence as is mentioned in sub-paragraph (1) above as they apply for the purpose of filling any such vacancy as is mentioned in paragraph 4(1) or (2).

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Appointment of other teachers

- 9 Subject to paragraph 10, paragraphs 11 to 15 apply in relation to the filling of a vacancy in any teaching post (whether full-time or part-time) at the school, other than the post of head teacher or deputy head teacher.
- 10 (1) Paragraphs 11 to 15 do not apply in relation to any temporary appointment or engagement to fill a vacancy in any such post as is mentioned in paragraph 9—
- (a) for a period not exceeding four months, or
 - (b) where it appears to the governing body that the period for which the person appointed or engaged will act in the post in question will not exceed four months.
- (2) Where it appears to the governing body in the case of any post that it would be appropriate for such an appointment as is mentioned in sub-paragraph (1) to be made—
- (a) they may recommend a person for appointment to the post on such terms as to the duration of the appointment as they may specify, and
 - (b) the local education authority shall appoint the person recommended on the terms specified unless he does not meet any staff qualification requirements which are applicable in relation to his appointment.
- (3) Where it appears to the governing body in the case of any post that it would be appropriate for such an engagement as is mentioned in sub-paragraph (1) to be made, the governing body may—
- (a) engage, or
 - (b) make arrangements for the engagement of,
- a person to provide his services as a teacher at the school otherwise than under a contract of employment with the local education authority.
- (4) Any engagement under sub-paragraph (3) shall be on such terms as to the duration of the engagement as the governing body may specify; but no person shall be engaged under that sub-paragraph unless he meets all the staff qualification requirements applicable in relation to a teacher in the post in which he would be acting as a temporary teacher.
- 11 Before taking any of the steps mentioned below, the governing body shall—
- (a) determine a specification for the post in consultation with the head teacher, and
 - (b) send a copy of the specification to the local education authority.
- 12 (1) The local education authority may nominate for consideration for appointment to the post any person who appears to them to be qualified to fill it and who at the time of his nomination either—
- (a) is an employee of theirs or has been appointed to take up employment with them at a future date, or
 - (b) is employed by the governing body of a foundation, voluntary aided or foundation special school maintained by them.
- (2) No person who is employed at any school maintained by the authority shall be nominated by the authority under sub-paragraph (1) without the consent of the governing body of the school.

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- 13 (1) The governing body may advertise the vacancy at any time after they have sent a copy of the specification for the post to the local education authority in accordance with paragraph 11, and shall do so unless either—
- (a) they accept for appointment to the post a person nominated by the local education authority under paragraph 12, or
 - (b) they decide to recommend to the authority for appointment to the post a person who is already employed to work at the school.
- (2) Where the governing body advertise the vacancy, they shall do so in a manner likely in their opinion to bring it to the notice of persons (including employees of the authority) who are qualified to fill it.
- 14 (1) Where the governing body advertise the vacancy, they shall—
- (a) interview such applicants for the post and such of the persons (if any) nominated by the local education authority under paragraph 12 as they think fit, and
 - (b) where they consider it appropriate to do so, either recommend to the authority for appointment one of the applicants interviewed by them or notify the authority that they accept for appointment any person nominated by the authority under paragraph 12.
- (2) If the governing body are unable to agree on a person to recommend or accept for appointment, they may repeat the steps mentioned in sub-paragraph (1)(a) and (b), with or without first re-advertising the vacancy in accordance with paragraph 13(2).
- 15 (1) The local education authority shall appoint the person recommended or accepted for appointment by the governing body unless he does not meet any staff qualification requirements which are applicable in relation to his appointment.
- (2) If the authority decline to appoint a person recommended by the governing body, the governing body shall repeat such of the steps mentioned in paragraph 14(1)(a) and (b) as they think fit, with or without first re-advertising the vacancy in accordance with paragraph 13(2).
- 16 (1) The governing body may, in connection with any absence of the person for the time being holding any such post as is mentioned in paragraph 9—
- (a) engage, or
 - (b) make arrangements for the engagement of,
- a person to provide his services as a teacher at the school otherwise than under a contract of employment with the local education authority.
- (2) No person shall be engaged under sub-paragraph (1) unless he meets all the staff qualification requirements applicable in relation to a teacher in the post in which he would be acting as a temporary teacher.
- 17 The governing body may, in relation to a particular vacancy or absence or a vacancy or absence of a kind specified by them, delegate any of their functions under paragraphs 10 to 16—
- (a) to one or more governors,
 - (b) to the head teacher, or
 - (c) to one or more governors and the head teacher acting together.

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Advice of chief education officer on appointments of teachers

- 18 (1) The chief education officer of the local education authority shall be entitled to attend, for the purpose of giving advice—
- (a) all proceedings (including interviews) of the governing body, and of any selection panel appointed under paragraph 6, relating to appointments or engagements to which any of the provisions of paragraphs 3 to 8 apply, and
 - (b) all proceedings (including interviews) of the governing body, and of any persons to whom any functions of the governing body under paragraphs 10 to 16 are delegated, relating to appointments or engagements to which any of the provisions of paragraphs 10 to 16 apply.
- (2) The chief education officer shall offer such advice as he considers appropriate with respect to—
- (a) the appointment of a head teacher or deputy head teacher or the appointment or engagement of an acting head teacher or acting deputy head teacher, or
 - (b) any matter arising in connection with any such appointment or engagement.
- (3) If requested to do so by the governing body, the chief education officer shall give such advice as he considers appropriate in relation to any appointment or engagement to which any of the provisions of paragraphs 10 to 16 apply.
- (4) Any advice given by the chief education officer to—
- (a) the governing body,
 - (b) any selection panel appointed under paragraph 6, or
 - (c) any persons to whom any functions of the governing body under paragraphs 10 to 16 are delegated,

with respect to any matter which relates to an appointment or engagement and falls to be determined by them shall be considered by them before determining that matter, whether or not the advice was given at their request.

Advice of head teacher on appointments etc. of teachers

- 19 Except in relation to the appointment of a head teacher—
- (a) paragraph 18(1) applies in relation to the head teacher (if not otherwise entitled to be present at the proceedings there mentioned) as it applies in relation to the chief education officer, and
 - (b) paragraph 18(4) applies in relation to advice given by the head teacher as it applies in relation to advice given by the chief education officer.

Appointment of non-teaching staff

- 20 (1) Where the governing body desire the appointment of a person to work in a non-teaching post at the school, they may recommend a person to the local education authority for appointment to the post.
- (2) A recommendation under this paragraph shall be in writing and shall specify—
- (a) the duties to be performed by the person appointed (including, where the post is part-time, his hours of work) and such terms (if any) as to the duration of his appointment as are proposed by the governing body;
 - (b) the grade (on the scale of grades currently applicable in relation to employment with the authority) which the governing body consider appropriate for the post; and

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- (c) where the authority have a discretion with respect to the remuneration to be paid to a person appointed to the post, the determination of any matter to which that discretion applies and which the governing body consider appropriate in the case of the person recommended for appointment.
- (3) Before selecting a person to recommend under this paragraph and determining in relation to such a recommendation any matters mentioned in sub-paragraph (2), the governing body shall consult—
 - (a) the head teacher (where he would not otherwise be involved in the decision), and
 - (b) the chief education officer of the authority.
- (4) For the purposes of sub-paragraph (2)(c), the authority are to be regarded as having a discretion with respect to the remuneration to be paid to a person appointed to a post if any provisions regulating the rates of remuneration or allowances payable to persons in the authority's employment either—
 - (a) do not apply in relation to that appointment, or
 - (b) leave to the authority any degree of discretion as to rate of remuneration or allowances in the case of that appointment.

Modifications etc. (not altering text)

- C2 Sch. 16 para. 20 applied (1.9.1999) by S.I. 1999/2258, reg. 4.
Sch. 16 para. 20 applied (1.9.1999) by S.I. 1999/2802, reg. 4(1).

- 21 (1) The local education authority shall appoint a person recommended to them under paragraph 20 unless he does not meet any staff qualification requirements which are applicable in relation to his appointment.
- (2) Any such appointment shall be on such terms as to give effect, so far as they relate to any matter mentioned in paragraph 20(2), to the governing body's recommendation in respect of that matter.

Modifications etc. (not altering text)

- C3 Sch. 16 para. 21 applied (1.9.1999) by S.I. 1999/2258, reg. 4.
Sch. 16 para. 21 applied (1.9.1999) by S.I. 1999/2802, reg. 4(1).

Discipline

- 22 (1) The regulation of conduct and discipline in relation to the staff of the school, and any procedures for giving members of the staff opportunities for seeking redress of any grievances relating to their employment, shall be under the control of the governing body.
- (2) The governing body shall establish—
 - (a) disciplinary rules and procedures (including such rules and procedures for dealing with lack of capability on the part of members of the staff), and
 - (b) procedures such as are mentioned in sub-paragraph (1);and shall take such steps as appear to the governing body to be appropriate for making them known to members of the staff.

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- (3) In determining the capability of members of the staff the governing body shall have regard to any guidance given from time to time by the Secretary of State.
- (4) If the Secretary of State determines that any prescribed rules and procedures are to apply to the school or to any class or description of school to which the school belongs—
 - (a) the governing body shall act in accordance with those rules and procedures in determining the capability of members of the staff; and
 - (b) in the event of any inconsistency, those rules and procedures shall prevail over any rules and procedures established by the governing body under subparagraph (2)(a).
- (5) Where the implementation of any determination made by the governing body in the exercise of their control over the conduct and discipline of the staff requires any action which—
 - (a) is not within the functions exercisable by the governing body by virtue of this Act, but
 - (b) is within the power of the local education authority,
the authority shall take that action at the request of the governing body.

Modifications etc. (not altering text)

- C4** Sch. 16 para. 22 applied (1.9.1999) by [S.I. 1999/2258, reg. 4.](#)
 Sch. 16 para. 22 applied (1.9.1999) by [S.I. 1999/2802, reg. 4\(1\)](#)

LEA report on performance of head teacher

- 23 (1) Where the authority have any serious concerns about the performance of the head teacher of the school—
 - (a) they shall make a written report of their concerns to the chairman of the governing body at the same time sending a copy to the head teacher; and
 - (b) the chairman of the governing body shall notify the authority in writing of the action which he proposes to take in the light of the report.
- (2) In determining whether to make a report under this paragraph the authority shall have regard to any guidance given from time to time by the Secretary of State.

Suspension

- 24 (1) Both the governing body and the head teacher shall have power to suspend any person employed to work at the school where, in the opinion of the governing body or (as the case may be) the head teacher, his exclusion from the school is required.
- (2) The governing body or head teacher shall, when exercising that power, immediately inform the local education authority and the head teacher or (as the case may be) governing body.
- (3) A suspension under this paragraph may only be ended by the governing body.
- (4) The governing body shall, on ending such a suspension, immediately inform the authority and the head teacher.

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(5) In this paragraph “suspend” means suspend without loss of emoluments.

Modifications etc. (not altering text)

- C5 Sch. 16 para. 24 applied (1.9.1999) by S.I. 1999/2258, reg. 4.
Sch. 16 para. 24 applied (1.9.1999) by S.I. 1999/2802, reg. 4(1).

Dismissal, etc.

- 25 (1) Where the governing body determine that any person employed by the local education authority to work at the school should cease to work there, they shall notify the authority in writing of their determination and the reasons for it.
- (2) If the person concerned is employed to work solely at the school (and he does not resign), the authority shall, before the end of the period of 14 days beginning with the date on which the notification under sub-paragraph (1) is given, either—
- (a) give him such notice terminating his contract of employment with the authority as is required under that contract, or
 - (b) terminate that contract without notice if the circumstances are such that they are entitled to do so by reason of his conduct.
- (3) If the person concerned is not employed to work solely at the school, the authority shall require him to cease to work at the school.

Modifications etc. (not altering text)

- C6 Sch. 16 para. 25 applied (1.9.1999) by S.I. 1999/2258, reg. 4.
Sch. 16 para. 25 applied (1.9.1999) by S.I. 1999/2802, reg. 4(1).

- 26 (1) Where paragraph 25(3) applies, no part of the costs incurred by the local education authority in respect of the emoluments of the person concerned, so far as they relate to any period falling after the expiration of his contractual notice period, shall be met from the school’s budget share.
- (2) The reference in sub-paragraph (1) to the person’s contractual notice period is to the period of notice that would have been required under his contract of employment with the authority for termination of that contract if such notice had been given on the date on which the notification under paragraph 25(1) was given.

Modifications etc. (not altering text)

- C7 Sch. 16 para. 26 applied (1.9.1999) by S.I. 1999/2258, reg. 4.
Sch. 16 para. 26 applied (1.9.1999) by S.I. 1999/2258, reg. 4(1).

- 27 (1) The governing body shall—
- (a) make arrangements for giving any person in respect of whom they propose to make a determination under paragraph 25(1) an opportunity of making representations as to the action they propose to take (including, if he so wishes, oral representations to such person or persons as the governing body may appoint for the purpose), and
 - (b) have regard to any representations made by him.

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- (2) The governing body shall also make arrangements for giving any person in respect of whom they have made a determination under paragraph 25(1) an opportunity of appealing against it before they notify the local education authority of the determination.
- (3) Nothing in this paragraph shall, however, apply to a person who—
- (a) is due to cease to work at the school by reason of the termination of his contract of employment by effluxion of time; and
 - (b) has not been continuously employed at the school [^{F2}, within the meaning of the Employment Rights Act 1996, for a period at least as long as the period for the time being specified in section 108(1) of that Act (unfair dismissal: qualifying period)].

Textual Amendments

F2 Words in Sch. 16 para. 27(3)(b) substituted (1.9.1999) by 1999 c. 26, s. 40(1); S.I. 1999/2262, art. 2(1), Sch. 1 (with arts. 3-5, Schs. 5-7).

Modifications etc. (not altering text)

C8 Sch. 16 para. 27 applied (1.9.1999) by S.I. 1999/2258, reg. 4.
 Sch. 16 para. 27 applied (1.9.1999) by S.I. 1999/2802, reg. 4(1).

- 28 (1) The head teacher (except where he is the person concerned) and the chief education officer of the local education authority shall be entitled to attend, for the purpose of giving advice, all proceedings of the governing body relating to a determination under paragraph 25(1).
- (2) The governing body shall consider any advice given by a person who is entitled to attend such proceedings under this paragraph before making a determination under paragraph 25(1).

Modifications etc. (not altering text)

C9 Sch. 16 para. 28 applied (1.9.1999) by S.I. 1999/2258, reg. 4.
 Sch. 16 para. 28 applied (1.9.1999) by S.I. 1999/2802, reg. 4(1).

- 29 (1) The local education authority shall not dismiss a person employed by them to work solely at the school except as provided by paragraph 25.
- (2) Sub-paragraph (1) does not apply in a case where—
- (a) the dismissal of the person in question is required by virtue of regulations under section 218 of the ^{M3}Education Reform Act 1988 or section 19 of the ^{M4}Teaching and Higher Education Act 1998, or
 - (b) the person in question is a teacher who is subject to a conditional registration, suspension or prohibition order made under Schedule 2 to the 1998 Act (disciplinary powers of General Teaching Council).

Modifications etc. (not altering text)

C10 Sch. 16 para. 29 applied (1.9.1999) by S.I. 1999/2258, reg. 4.
 Sch. 16 para. 29 applied (1.9.1999) by S.I. 1999/2802, reg. 4(1).

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Marginal Citations

M3 1988 c. 40.

M4 1998 c. 30.

School meals staff

- 30 The Secretary of State may by regulations make provision as to the appointment, discipline, suspension and dismissal of persons employed or to be employed to work at a community, voluntary controlled or community special school solely in connection with the provision of meals.

Advisory rights for appropriate diocesan authorities

- 31 (1) This paragraph applies to a voluntary controlled school which is a Church of England, Church in Wales or Roman Catholic Church school.
- (2) The governing body may agree with the appropriate diocesan authority to accord to the appropriate diocesan officer—
- (a) with respect to all teachers at the school, or
 - (b) with respect to any particular description of such teachers,
- the same advisory rights in relation to their appointment, engagement or dismissal as are exercisable by the chief education officer in accordance with paragraphs 18 and 28.
- (3) The agreement of the governing body for the purposes of sub-paragraph (2) must be given in writing and may only be withdrawn by notice in writing to the appropriate diocesan authority.
- (4) In paragraphs 18 and 28, as they apply to a voluntary controlled school within sub-paragraph (1) above, references to the chief education officer accordingly include the appropriate diocesan officer, so far as necessary for giving effect to any advisory rights exercisable by him under this paragraph.
- (5) In this paragraph “the appropriate diocesan officer” means such person as the appropriate diocesan authority may nominate.]

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