

*Status: Point in time view as at 01/04/2013.*

*Changes to legislation: Education Act 1996, SCHEDULE 13 is up to date with all changes known to be in force on or before 18 September 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

### SCHEDULE 13

Section 133.

#### STAFFING OF COUNTY, CONTROLLED, SPECIAL AGREEMENT AND MAINTAINED SPECIAL SCHOOLS

##### *The selection panel*

- 1 (1) The articles of government for a county, controlled, special agreement or maintained special school shall provide—
  - (a) for the constitution of a selection panel whenever such a panel is required by virtue of this Schedule in relation to the appointment of a head teacher or deputy head teacher, and
  - (b) for a selection panel to consist of a specified number of persons appointed to it by the <sup>[F1]</sup>local authority] and a specified number of governors appointed to it by the governing body.
- (2) Neither of the numbers specified by virtue of sub-paragraph (1)(b) shall be less than three; and the number specified in relation to appointments made by the governing body shall not be less than the number specified in relation to appointments made by the authority.
- (3) The articles shall provide for the governing body and the authority to have power to replace, at any time, any member of a selection panel whom they have appointed.

##### **Textual Amendments**

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), [Sch. 2 para. 7\(2\)](#) (with [Sch. 2 para. 7\(4\)\(5\)](#))

- 2 Regulations may make provision as to the meetings and proceedings of selection panels.

##### *Appointment of head teacher*

- 3 (1) The articles of government for a county, controlled, special agreement or maintained special school shall, in relation to the appointment of a head teacher for the school, make provision for the matters set out in sub-paragraphs (2) to (11).
- (2) If the post of head teacher is vacant, the <sup>[F1]</sup>local authority] shall appoint an acting head teacher after consulting the governing body.
- (3) Before appointing a head teacher, the <sup>[F1]</sup>local authority] shall advertise the vacancy in such publications circulating throughout England and Wales as they consider appropriate.

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- (4) The [F1local authority] shall not appoint a person to be head teacher unless his appointment has been recommended by a selection panel constituted in accordance with the articles.
- (5) The selection panel shall interview such applicants for the post as they think fit.
- (6) If the panel fail to agree on the applicants whom they wish to interview—
  - (a) the members of the panel appointed by the governing body are to have the right to nominate not more than two applicants to be interviewed by the panel, and
  - (b) the other members of the panel are to have the right to nominate not more than two other applicants to be interviewed.
- (7) Where the panel consider it appropriate to do so, they shall recommend to the authority for appointment as head teacher one of the applicants interviewed by them.
- (8) If the panel are unable to agree on a person to recommend to the authority, they shall—
  - (a) repeat (with a view to reaching agreement) such of the steps mentioned in sub-paragraphs (5) to (7) as they think fit,
  - (b) where—
    - (i) they have repeated any of those steps in pursuance of paragraph (a) and remain unable to agree, or
    - (ii) they have decided that it is not appropriate to repeat any of those steps,
 require the authority to re-advertise the vacancy, and
  - (c) where the vacancy is re-advertised, repeat all of the steps mentioned in sub-paragraphs (5) to (7).
- (9) If the authority decline to appoint a person recommended by the panel, the panel shall—
  - (a) where there are applicants for the post whom they have not interviewed, interview such of those applicants (if any) as they think fit,
  - (b) recommend another of the applicants interviewed by them, if they think fit,
  - (c) ask the authority to re-advertise the vacancy, if they consider that it should be re-advertised, and
  - (d) where the vacancy is re-advertised, repeat the steps mentioned in sub-paragraphs (5) to (7).
- (10) The authority shall re-advertise the vacancy where they are required to do so by the panel, and may do so where—
  - (a) it has been duly advertised,
  - (b) the panel have failed either to make a recommendation which is acceptable to the authority or to request that the vacancy be re-advertised, and
  - (c) the authority are of the opinion that the panel have had sufficient time in which to carry out their functions.
- (11) The chief education officer of the authority, or a member of his department nominated by him, shall have the right to attend all proceedings of the panel (including interviews) for the purpose of giving advice to members of the panel.
- (12) In this paragraph “head teacher” does not include an acting head teacher.

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#### Textual Amendments

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#### *Appointment of deputy head teacher*

- 4 (1) The articles of government for a county, controlled, special agreement or maintained special school shall, in relation to the appointment of a deputy head teacher for the school, make either—
- (a) the same provision, modified as mentioned in sub-paragraphs (2) and (3), as that made (in accordance with paragraph 3) in relation to the appointment of a head teacher for the school, or
  - (b) the same provision as that made (in accordance with paragraph 5) in relation to the appointment of other teachers at the school.
- (2) If the articles (in accordance with sub-paragraph (1)(a)) provide for the appointment of a deputy head teacher to be on the recommendation of a selection panel, they shall provide that where the head teacher is not a member of the panel—
- (a) he may be present, for the purpose of giving advice, at any proceedings of the panel (including interviews), and
  - (b) whether or not he attends any such proceedings, he shall be consulted by the panel before they make any recommendation to the [F1local authority].
- (3) No provision similar to that set out in paragraph 3(2) is required in the articles in relation to the appointment of a deputy head teacher.

#### Textual Amendments

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 7(2)** (with Sch. 2 para. 7(4)(5))

#### *Appointment of other staff: general*

- 5 (1) The articles of government for a county, controlled, special agreement or maintained special school shall make provision for the matters set out in sub-paragraphs (2) and (3).
- (2) Where there is a vacancy in a post (other than that of head teacher or deputy head teacher) which is part of the complement of the school, the [F1local authority] shall decide whether, if the post is not a new one, it should be retained.
- (3) If the authority decide that the post should be retained or it is a new post, they shall—
- (a) advertise the vacancy and fill it in accordance with the procedure laid down by virtue of paragraph 6, unless they have the intention mentioned in paragraph (b) below;
  - (b) fill the vacancy in accordance with the procedure laid down by virtue of paragraph 7, if they intend to appoint a person who, at the time when they

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form that intention, is an employee of theirs or has been appointed to take up employment with them at a future date.

- (4) Nothing in this paragraph (or in any of paragraphs 6 to 9) applies in relation to any temporary appointment pending—
- (a) the return to work of the holder of the post in question, or
  - (b) the taking of any steps required by the articles in relation to the vacancy in question.

#### Textual Amendments

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 7(2)** (with [Sch. 2 para. 7\(4\)\(5\)](#))

#### *Appointment of other staff: vacancy advertised*

- 6 (1) The articles of government for any school to which paragraph 5(1) applies shall make provision for the matters set out in sub-paragraphs (2) to (7).
- (2) Where the [F1]local authority] decide to 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 theirs) who are qualified to fill the post.
- (3) Where the vacancy is advertised, the governing body shall—
- (a) interview such applicants for the post as they think fit, and
  - (b) where they consider it appropriate to do so, recommend to the authority for appointment to the post one of the applicants interviewed by them.
- (4) If the governing body are unable to agree on a person to recommend to the authority, they shall—
- (a) repeat the steps mentioned in sub-paragraph (3), if they consider that to do so might lead to their reaching agreement,
  - (b) where they have repeated those steps and remain unable to agree, or decide that it is not appropriate to repeat them, ask the authority to re-advertise the vacancy, and
  - (c) where the vacancy is re-advertised, repeat those steps.
- (5) If the authority decline to appoint a person recommended by the governing body, the governing body shall—
- (a) where there are applicants for the post whom they have not interviewed, interview such of those applicants (if any) as they think fit,
  - (b) recommend another of the applicants interviewed by them, if they think fit,
  - (c) ask the authority to re-advertise the vacancy, if they consider that it should be re-advertised, and
  - (d) where the vacancy is re-advertised, repeat the steps mentioned in sub-paragraph (3).
- (6) Where the authority are asked to re-advertise the vacancy by the governing body, they shall do so unless—
- (a) they decide that the post is to be removed from the complement of the school, or

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- (b) they decide to appoint a person who, at the time when that decision is made, is an employee of theirs or has been appointed to take up employment with them at a future date.
- (7) Whenever governors meet to discuss the appointment or an applicant is interviewed—
- (a) the head teacher (if he would not otherwise be entitled to be present), and
  - (b) such person (if any) as the authority appoint to represent them,
- shall be entitled to be present for the purpose of giving advice.

#### Textual Amendments

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 7(2)** (with Sch. 2 para. 7(4)(5))

#### *Appointment of other staff: vacancy not advertised*

- 7 (1) The articles of government for any school to which paragraph 5(1) applies shall make provision for the matters set out in sub-paragraphs (2) and (3).
- (2) Where the vacancy is not advertised, the governing body—
- (a) shall be entitled to determine a specification for the post in consultation with the head teacher, and
  - (b) if they do so, shall send a copy of it to the <sup>F1</sup>local authority].
- (3) When considering whom to appoint to the post, the authority shall—
- (a) have regard to any such specification, and
  - (b) consult the governing body and the head teacher.

#### Textual Amendments

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 7(2)** (with Sch. 2 para. 7(4)(5))

#### *Delegation of functions under paragraph 6 or 7*

- 8 (1) The articles of government for any school to which paragraph 5(1) applies shall make provision for the matters set out in sub-paragraphs (2) and (3).
- (2) The governing body shall have power, in relation to the filling of a particular vacancy or a vacancy of a kind specified by them, to delegate any of the functions which are theirs by virtue of paragraph 6 or 7—
- (a) to one or more governors,
  - (b) to the head teacher, or
  - (c) to one or more governors and the head teacher acting together.
- (3) In such a case, the provision made by virtue of paragraph 6(6) shall apply with the substitution of references to the person or persons to whom the functions are delegated for references to the governing body.

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*Restriction on making appointment where vacancy advertised*

- 9 Where a [<sup>F1</sup>local authority] have advertised a vacancy in accordance with the provision made by the articles of government for a school by virtue of paragraph 6(2), they shall not appoint a person to the post unless—
- (a) his appointment has been recommended in accordance with the provision made by the articles by virtue of paragraph 6(3) to (5), or
  - (b) they decide to appoint a person who, at the time when that decision is made, is an employee of theirs or has been appointed to take up employment with them at a future date.

**Textual Amendments**

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 7(2)** (with [Sch. 2 para. 7\(4\)\(5\)](#))

*Consultation by [<sup>F1</sup>local authority] before appointing certain non-teaching staff*

- 10 The articles of government for a county, controlled, special agreement or maintained special school shall require the [<sup>F1</sup>local authority] to consult the governing body and the head teacher before appointing any person to work solely at the school otherwise than—
- (a) in a teaching post,
  - (b) in a non-teaching post which is part of the complement of the school, or
  - (c) solely in connection with either or both of the following—
    - (i) the provision of meals;
    - (ii) the supervision of pupils at midday.

*Dismissal etc. of staff*

- 11 (1) The articles of government for a county, controlled, special agreement or maintained special school shall make provision for the matters set out in sub-paragraphs (2) to (7).
- (2) The [<sup>F1</sup>local authority] shall consult the governing body and (except where he is the person concerned) the head teacher before—
- (a) dismissing a person to whom sub-paragraph (3) applies, or
  - (b) otherwise requiring such a person to cease to work at the school, or
  - (c) permitting such a person to retire in circumstances in which he would be entitled to compensation for premature retirement.
- (3) This sub-paragraph applies to any person who is—
- (a) employed in a post which is part of the complement of the school, or
  - (b) employed to work solely at the school in any other post, otherwise than solely in connection with either or both of the following—
    - (i) the provision of meals;
    - (ii) the supervision of pupils at midday.

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- (4) Where a teacher at the school is required to complete an initial period of probation, the [F1local authority] shall consult the governing body and the head teacher before—
  - (a) extending his period of probation, or
  - (b) deciding whether he has completed it successfully.
- (5) Where the governing body recommend to the [F1local authority] that a person should cease to work at the school, the authority shall consider their recommendation.
- (6) Both the governing body and the head teacher shall have power to suspend a 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.
- (7) The governing body or head teacher shall—
  - (a) when exercising that power, immediately inform the [F1local authority] and the head teacher or (as the case may be) governing body, and
  - (b) end the suspension if directed to do so by the authority.
- (8) In this paragraph “suspend” means suspend without loss of emoluments; and in subparagraph (2) the reference to dismissing a person does not include a dismissal under section 143(6) or 144(3) (dismissal of teachers of religious education).

#### Textual Amendments

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 7(2)** (with Sch. 2 para. 7(4)(5))

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