



# Education and Inspections Act 2006

## 2006 CHAPTER 40

### PART 4

#### SCHOOLS CAUSING CONCERN: ENGLAND

##### *Intervention by local education authority*

#### **63 Power of LEA to require governing body to enter into arrangements**

- (1) If at any time a maintained school is eligible for intervention [<sup>F1</sup>other than by virtue of section 60A], then (subject to subsection (3)) the local education authority may, with a view to improving the performance of the school, give the governing body of the school a notice requiring the governing body—
- (a) to enter into a contract or other arrangement with a specified person (who may be the governing body of another school) for the provision to the governing body of specified services of an advisory nature,
  - (b) to make specified arrangements authorised by section 26 of EA 2002 (collaboration between schools) with the governing body of such other school as may be specified,
  - (c) to make specified arrangements authorised by regulations under section 166 of this Act (collaboration arrangements: maintained schools and further education bodies) with a further education body within the meaning of that section, or
  - (d) to take specified steps for the purpose of creating or joining a federation, as defined by section 24(2) of EA 2002.
- (2) Before exercising the power conferred by subsection (1), the local education authority must consult—
- (a) the governing body of the school,
  - (b) in the case of a foundation or voluntary school which is a Church of England school or a Roman Catholic Church school, the appropriate diocesan authority, and

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- (c) in the case of any other foundation or voluntary school, the person or persons by whom the foundation governors are appointed.
- (3) Where the school is eligible for intervention by virtue of section 60 (school subject to <sup>[F2]</sup>performance standards and safety warning), the power conferred by subsection (1) is only exercisable within the period of two months following the end of the compliance period (as defined by section 60(10)).
- (4) A notice under subsection (1)(a) may require the contract or other arrangement to contain specified terms and conditions.

#### Textual Amendments

- F1** Words in s. 63(1) inserted (12.1.2010) by [Apprenticeships, Skills, Children and Learning Act 2009](#) (c. 22), s. 269(4), [Sch. 13 para. 5\(2\)](#); S.I. 2009/3317, art. 2, Sch.
- F2** Words in s. 63(3) substituted (12.1.2010) by [Apprenticeships, Skills, Children and Learning Act 2009](#) (c. 22), s. 269(4), [Sch. 13 para. 5\(3\)](#); S.I. 2009/3317, art. 2, Sch.

#### Commencement Information

- I1** S. 63 in force at 1.4.2007 by [S.I. 2007/935](#), [art. 5\(j\)](#)

## 64 Power of LEA etc. to appoint additional governors

- (1) If at any time a maintained school is eligible for intervention, then (subject to <sup>[F3]</sup>subsections (1A) and (2) ) the local education authority may appoint such number of additional governors as they think fit.

<sup>[F4]</sup>(1A) Subsection (1) does not apply if the Secretary of State has exercised the power under section 67 (power to appoint additional governors) in connection with—

- (a) the same warning notice, where the school is eligible for intervention by virtue of section 60 (school subject to performance standards and safety warning) or 60A (school subject to teachers' pay and conditions warning), or
- (b) the same inspection falling within section 61(a) or 62(a), where the school is eligible for intervention by virtue of section 61 (school requiring significant improvement) or 62 (school requiring special measures).]
- (2) Where the school is eligible for intervention by virtue of section 60 (school subject to <sup>[F5]</sup>performance standards and safety warning) or 60A (school subject to teachers' pay and conditions warning), the power conferred by subsection (1) is only exercisable within the period of two months following the end of the compliance period (as defined by section 60(10) <sup>[F6]</sup>or as the case may be section 60A(10) ).
- (3) In relation to any appointment made by the local education authority by virtue of subsection (1) to the governing body of a school, the instrument of government for the school has effect as if (despite anything in regulations under section 19 of EA 2002) it provided for the local education authority to appoint such number of additional governors as they think fit.
- (4) If at any time—
- (a) a voluntary aided school other than one falling within section 61 or 62 is eligible for intervention by virtue of section 60 (school subject to <sup>[F7]</sup>performance standards and safety warning) or 60A (school subject to teachers' pay and conditions warning)], and

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- (b) the local education authority have exercised their power to appoint additional governors under subsection (1),<sup>[F8]</sup>and]
- [<sup>F8</sup>(c) the Secretary of State has not exercised the power under section 67 in connection with the same warning notice,]
- the appropriate appointing authority may appoint such number of additional foundation governors as is equal to the number of additional governors appointed by the authority.
- (5) Any additional foundation governors appointed under subsection (4)—
- (a) shall cease to hold office at the time when the additional governors appointed by the authority cease to do so; and
- (b) shall not be eligible for re-appointment except where, and to the extent that, those governors are re-appointed.
- (6) If at any time—
- (a) a voluntary aided school is eligible for intervention by virtue of section 61 (school requiring significant improvement) or section 62 (school requiring special measures),
- (b) the Secretary of State has not exercised his power under section 67 (power to appoint additional governors) in connection with the same inspection falling within section 61(a) or 62(a),
- (c) the Secretary of State has not exercised his power under section 68 (power to direct closure of school), and
- (d) the appropriate appointing authority have received a notice in writing from the Secretary of State informing them that he has received a notice under section 13(3)(a) of EA 2005 from the Chief Inspector,
- the appropriate appointing authority may appoint such number of additional foundation governors as they think fit.
- (7) In the case of any appointment made by virtue of subsection (4) or (6) to the governing body of a school, the instrument of government for the school has effect as if (despite anything in regulations under section 19 of EA 2002) the instrument provided for the appropriate appointing authority to appoint such number of additional foundation governors as they are authorised to appoint under subsection (4) or (6) (as the case may be).
- (8) Subject to subsection (9), references in this section to the appropriate appointing authority in relation to any voluntary aided school are references—
- (a) to the appropriate diocesan authority, if it is a Church of England school or a Roman Catholic Church school; or
- (b) in any other case, to the person or persons by whom the foundation governors are appointed.
- (9) Where, in the case of any voluntary aided school not falling within subsection (8)(a), there are different powers to appoint foundation governors, references in this section to the appropriate appointing authority are references—
- (a) to all those persons who have any such power acting jointly, or
- (b) if they are unable to agree, to such of them acting jointly, or such one of them, as the Secretary of State may, after consulting all those persons, determine.

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#### Textual Amendments

- F3** Words in s. 64(1) substituted (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 13 para. 6(2)**; S.I. 2009/3317, art. 2, Sch.
- F4** S. 64(1A) inserted (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 13 para. 6(3)**; S.I. 2009/3317, art. 2, Sch.
- F5** Words in s. 64(2) substituted (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 13 para. 6(4)(a)**; S.I. 2009/3317, art. 2, Sch.
- F6** Words in s. 64(2) inserted (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 13 para. 6(4)(b)**; S.I. 2009/3317, art. 2, Sch.
- F7** Words in s. 64(4)(a) substituted (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 13 para. 6(5)(a)**; S.I. 2009/3317, art. 2, Sch.
- F8** S. 64(4)(c) and word inserted (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 13 para. 6(5)(b)**; S.I. 2009/3317, art. 2, Sch.

#### Commencement Information

- I2** S. 64 in force at 1.4.2007 by S.I. 2007/935, **art. 5(j)**

### 65 Power of LEA to provide for governing body to consist of interim executive members

- (1) If at any time a maintained school is eligible for intervention, the local education authority may, with the consent of the Secretary of State, give the governing body a notice in writing stating that, as from a date specified in the notice, the governing body are to be constituted in accordance with Schedule 6 (governing bodies consisting of interim executive members).
- (2) Before exercising the power conferred by subsection (1), the local education authority must consult—
- (a) the governing body of the school,
  - (b) in the case of a foundation or voluntary school which is a Church of England school or a Roman Catholic Church school, the appropriate diocesan authority, and
  - (c) in the case of any other foundation or voluntary school, the person or persons by whom the foundation governors are appointed.

#### Commencement Information

- I3** S. 65 in force at 1.4.2007 by S.I. 2007/935, **art. 5(j)**

### 66 Power of LEA to suspend right to delegated budget

- (1) If at any time—
- (a) a maintained school is eligible for intervention, and
  - (b) the school has a delegated budget within the meaning of Part 2 of SSFA 1998,
- then (subject to subsection (2)) the local education authority may, by giving the governing body of the school notice in writing of the suspension, suspend the governing body's right to a delegated budget with effect from the receipt of the notice by the governing body.

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- (2) Where the school is eligible for intervention by virtue of section 60 (school subject to [<sup>F9</sup>performance standards and safety warning] or 60A (school subject to teachers' pay and conditions warning)], the power conferred by subsection (1) is only exercisable within the period of two months following the end of the compliance period (as defined by section 60(10) [<sup>F10</sup>or as the case may be section 60A(10)]).
- (3) A copy of a notice given under subsection (1) must be given to the head teacher of the school at the same time as the notice is given to the governing body.
- (4) A suspension imposed under this section shall have effect for the purposes of Chapter 4 of Part 2 of SSFA 1998 as if made under paragraph 1 of Schedule 15 to that Act.

#### Textual Amendments

- F9** Words in s. 66(2) substituted (12.1.2010) by [Apprenticeships, Skills, Children and Learning Act 2009](#) (c. 22), s. 269(4), [Sch. 13 para. 7\(a\)](#); S.I. 2009/3317, art. 2, Sch.
- F10** Words in s. 66(2) inserted (12.1.2010) by [Apprenticeships, Skills, Children and Learning Act 2009](#) (c. 22), s. 269(4), [Sch. 13 para. 7\(b\)](#); S.I. 2009/3317, art. 2, Sch.

#### Commencement Information

- I4** S. 66 in force at 1.4.2007 by [S.I. 2007/935](#), [art. 5\(j\)](#)

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**Changes to legislation:**

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