

SCHEDULE 1

Regulation 13(2)

Appointment of Temporary Community Governors at Community Special Schools or Foundation Special Schools

1. Subject to paragraphs 2 and 3, the local education authority shall appoint temporary community governors to the temporary governing body of a new school which is or will be a community special school or foundation special school, in accordance with regulation 13(1).

2.—(1) In relation to a new school which is or will be a community special school or a foundation special school established in a hospital, the local education authority shall:

(a) designate either:

(i) one or more primary care trusts; or

(ii) the national health service trust;

with which the new school is most closely connected, as the appropriate body; and

(b) invite the appropriate body so designated to nominate (and if more than one, jointly) a person to be appointed as one of the temporary community governors.

(2) For the purposes of this paragraph:

“national health service trust” means a body established by the Secretary of State under section 5 of the National Health Service or Community Care Act 1990(1);

“primary care trust” means a body established under section 16A of the National Health Service Act 1977(2).

3. In relation to a new school which is or will be a community special school or foundation special school not established in a hospital, the local education authority shall appoint as one of the temporary community governors:

(a) if a voluntary organisation is designated by the local education authority as the appropriate voluntary organisation concerned with matters in respect of which the school is specially organised, a person (if any) nominated by that organisation; or

(b) if two or more voluntary organisations are so designated as appropriate voluntary organisations concerned with such matters, a person (if any) nominated by those organisations acting jointly.

SCHEDULE 2

Regulation 26

Qualifications and Disqualifications

General

1.—(1) No person shall be qualified to be a temporary governor unless he is aged 18 or over at the date of his election or appointment.

(2) This provision shall not apply to a temporary associate member appointed under regulation 17.

2. No person shall at any time hold more than one temporary governorship of the same new school.

(1) 1990 c. 19 as amended by the Health Act 1999 (1999 c. 8).

(2) 1977 c. 49 as amended by the Health Act 1999.

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3. Save as otherwise provided in these Regulations, the fact that a person is qualified to be elected or appointed as a temporary governor of a particular category at a new school does not disqualify him from election or appointment or from continuing as a temporary governor of any other category at that school.

Mental disorder

4. A person shall be disqualified from holding or continuing to hold office as a temporary governor of a new school at any time when he is liable to be detained under the Mental Health Act 1983(3).

Bankruptcy

5. A person shall be disqualified from holding or continuing to hold office as a temporary governor of a new school if–

- (a) he has been adjudged bankrupt or sequestration of his estate has been awarded and (in either case) he has not been discharged and the bankruptcy order has not been annulled or rescinded; or
- (b) he has made a composition or arrangement with, or granted a trust deed for, his creditors and has not been discharged in respect of it.

Disqualification of company directors

6. A person shall be disqualified from holding or continuing to hold office as a temporary governor of a new school at any time when he is subject to a disqualification order under the Company Directors Disqualification Act 1986(4) or to an order made under section 429(2)(b) of the Insolvency Act 1986(5) (*failure to pay under county court administration order*).

Disqualification of charity trustee

7. A person shall be disqualified from holding or continuing to hold office as a temporary governor of a new school if–

- (a) he has been removed from the office of trustee for a charity by an order made by the Charity Commissioners 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 which he by his conduct contributed to or facilitated; or
- (b) he has been removed, under section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990(6) (*powers of Court of Session to deal with management of charities*), 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 continuing to hold office as a temporary governor of a new school at any time when he is

(3) 1983 c. 20.

(4) 1986 c. 46 as amended by the Insolvency Act 2000 (2000 c. 39).

(5) 1986 c. 45.

(6) 1990 c. 40. The functions of the Lord Advocate under this section transferred to the Secretary of State by the Transfer of Functions (Lord Advocate and Secretary of State) Order 1999 (SI 1999/678).

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- (a) included in the list of teachers and workers with children or young persons whose employment is prohibited or restricted under section 1 of the Protection of Children Act 1999(7);
- (b) subject to a direction of the Secretary of State under section 142 of the 2002 Act;
- (c) disqualified from working with children under sections 28 and 29 of the Criminal Justice and Court Services Act 2000(8); or
- (d) by virtue of an order made under section 470 or section 471 of the 1996 Act(9) disqualified from being the proprietor of any independent school or from being a teacher or other employee in any school.

Criminal convictions

9.—(1) Subject to sub-paragraph (5), a person shall be disqualified from holding, or continuing to hold, office as a temporary governor of a new school 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 the date immediately preceding the date on which his appointment or election as a temporary governor would otherwise have taken effect or, as the case may be, on which he would otherwise have become a temporary governor by virtue of his office; or
- (b) since his appointment or election as temporary governor or, as the case may be, since he became a temporary governor by virtue of his office,

he has been convicted, whether in the United Kingdom or elsewhere, 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 temporary governor would otherwise have taken effect or, as the case may be, on which he would otherwise have become a temporary governor by virtue of his office, he has been convicted of any offence, whether in the United Kingdom or elsewhere, 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, whether in the United Kingdom or elsewhere, 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, there shall be disregarded 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.

(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 temporary governor would otherwise have taken effect or, as the case may be, on which he would otherwise have become a temporary governor by virtue of his office; or
- (b) since his appointment or election as temporary governor or, as the case may be, since he became a temporary governor by virtue of his office,

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

(8) 2000 c. 43.

(9) As amended by the Care Standards Act 2000.

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he has been convicted under section 547 of the 1996 Act⁽¹⁰⁾ (*nuisance and disturbance on education premises*) of an offence which took place on the premises of a maintained school, and has been sentenced to a fine.

Refusal to make an application for a criminal records certificate

10. A person shall be disqualified from holding or continuing to hold office as a temporary governor at any time if he refuses a request by the clerk to the temporary governing body to make an application under section 113 of the Police Act 1997⁽¹¹⁾ for a criminal records certificate.

Notification to clerk

11. Where, by virtue of any paragraphs 5 to 10—

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

he shall upon becoming so disqualified give notice of that fact to the clerk to the temporary governing body.

SCHEDULE 3

Regulation 46

Restrictions on Persons Taking Part in Proceedings of the Temporary Governing Body or their Committees

Pecuniary interests

1.—(1) Subject to sub-paragraphs (5) and (6), if a relevant person has any pecuniary interest direct or indirect in a contract, proposed contract or other matter and is present at a meeting of the new school at which the contract or other matter is the subject of consideration, he shall at the meeting, and as soon as practicable after its commencement, disclose that fact and withdraw from the meeting during the consideration or discussion of the contract or matter and he shall not vote on any question with respect to the contract or matter.

(2) Subject to this paragraph a relevant person may enter into a contract with the temporary governing body of the school from which he is entitled to profit.

(3) A person shall be treated as having an indirect pecuniary interest in a contract, proposed contract or other matter if—

- (a) he was nominated or appointed to office by a person with whom the contract was made or is proposed to be made or who has a direct pecuniary interest in the matter under consideration; or
- (b) he is a partner of a person with whom the contract was made or is proposed to be made or who has a direct pecuniary interest in the matter under consideration

provided that a person shall not by virtue of this sub-paragraph be treated as having such an interest by reason only of his nomination or appointment by, his membership of, or his employment by, any public body; or by reason of his membership of a corporation or other body if he has no financial interest in any securities of that corporation or other body.

⁽¹⁰⁾ 1996 c. 56 as amended by section 206 of the 2002 Act.

⁽¹¹⁾ 1997 c. 50 as amended by the Protection of Children Act 1999, the Care Standards Act 2000 and the Education Act 2002.

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(4) For the purposes of this paragraph, a person shall be treated as having an indirect pecuniary interest in a contract, proposed contract or other matter if a relative (including his spouse or someone living with that person as if he or she were that person's spouse) living with him, to his knowledge has, or would be treated as having, a direct or indirect pecuniary interest.

(5) For the purposes of this paragraph, a relevant person who is paid to work at the new school shall not be treated as having a direct or indirect pecuniary interest in a contract, proposed contract or other matter by reason only of having an interest in the contract or other matter that is no greater than the interest of the generality of those paid to work at the new school.

(6) Members of the temporary governing body shall not, by reason of their pecuniary interest in the matter, be prevented from considering and voting upon proposals for the temporary governing body to take out insurance protecting members against liabilities incurred by them arising out of their office and the temporary governing body shall not, by reason of the pecuniary interest of their members, be prevented from obtaining such insurance and paying the premiums.

Office of temporary governor, chair or clerk

2.—(1) This sub-paragraph applies where a relevant person is present at a meeting of the temporary governing body at which a subject of consideration is—

- (a) his own appointment, reappointment, suspension or removal as a member of the temporary governing body;
- (b) his own appointment or removal from office as clerk to or chair or vice- chair of the temporary governing body;
- (c) if he is a temporary sponsor governor, any determination under paragraph 2 of Schedule 5 to the Constitution Regulations as to the provision in the instrument of government for sponsor governors.

(2) In any case where sub-paragraph (1) applies, the relevant person shall withdraw from the meeting during the consideration or discussion of the matter in question and shall not vote on any question with respect to that matter.

Pay or appraisal of persons working at the new school

3.—(1) This sub-paragraph applies where a relevant person who is paid to work at a new school other than as head teacher is present at a meeting of the school at which a subject of consideration is the pay or performance appraisal of any particular person employed to work at the new school.

(2) This sub-paragraph applies where a head teacher or head teacher designate of a new school is present at a meeting of the school at which a subject of consideration is his own pay or performance appraisal.

(3) In any case where sub-paragraph (1) or (2) applies, the person first-mentioned in that sub-paragraph shall withdraw during the consideration or discussion of the matter in question and shall not vote on any question with respect to that matter.