

2003 No. 1962

EDUCATION, ENGLAND

**The School Governance (Collaboration) (England) Regulations
2003**

<i>Made</i> - - - -	<i>5th August 2003</i>
<i>Laid before Parliament</i>	<i>11th August 2003</i>
<i>Coming into force</i> - -	<i>1st September 2003</i>

In exercise of the powers conferred upon the Secretary of State by sections 19(3), 23, 26, and 210(7) of the Education Act 2002(a) the Secretary of State for Education and Skills hereby makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the School Governance (Collaboration) (England) Regulations 2003 and come into force on 1st September 2003.

(2) These Regulations apply only in relation to England.

Interpretation

2. In these Regulations—

“the 2002 Act” means the Education Act 2002; and

“the Procedures Regulations” means the School Governance (Procedures) (England) Regulations 2003(b).

Collaboration between schools

3.—(1) Two or more governing bodies (“collaborating governing bodies”) may arrange for any of their functions to be discharged jointly, subject to regulations 16 to 18 of the Procedures Regulations.

(2) Where collaborating governing bodies make arrangements in accordance with paragraph (1) in respect of any of their functions relating to individual members of the school staff, the School Staffing (England) Regulations 2003(c) apply to the discharge of such functions.

(3) Where collaborating governing bodies make arrangements in accordance with paragraph (1), they may also delegate the discharge of any of their functions that may be delegated to a

(a) 2002 c.32; by virtue of the definition of “regulations” in section 212(1), these Regulations made by the Secretary of State apply only in relation to England.

(b) SI 2003/1377; amended by the School Governance (Constitution and Procedures) (England) (Amendment) Regulations 2003 SI 2003/1916, and the School Staffing (England) Regulations 2003/1963 .

(c) SI 2003/1963.

committee under regulation 16 of the Procedure Regulations, to a joint committee established by them.

(4) For the purposes of these Regulations, in regulations 16 to 18 of the Procedures Regulations—

“committee” means a joint committee established in accordance with paragraph (3);

“governor” means a member of any of the collaborating governing bodies;

“governing body”(a) means a collaborating governing body; and

“head teacher” means the head teacher of any of the schools.

Establishment of joint committees

4.—(1) The collaborating governing bodies must determine, and review annually, the constitution, terms of reference and (subject to regulation 6) membership of any joint committee they decide to establish.

(2) A joint committee must determine the quorum for any of its meetings which must not be fewer than three persons, each of whom is a member of any of the collaborating governing bodies.

(3) A joint committee must appoint a chair annually and may remove its chair from office at any time.

Clerks to joint committees

5.—(1) A joint committee must appoint a clerk (who must not be one of the head teachers) and may remove the clerk from office at any time.

(2) A joint committee may, if the clerk fails to attend one of its meetings, appoint any one of its members (who is not a head teacher) to act as clerk for the purposes of that meeting.

(3) The clerk must—

(a) convene meetings of the joint committee;

(b) attend meetings of the joint committee and ensure that minutes of the proceedings are drawn up; and

(c) perform any other functions determined by the joint committee.

Associate members

6.—(1) In these Regulations “associate member” means a person who is appointed by a joint committee as a member of it but who is not a member of a collaborating governing body.

(2) Subject to paragraph (8), the term of office of an associate member is four years or a shorter period (not being less than one year), as determined by the joint committee at the date of his appointment.

(3) Nothing in this regulation prevents an associate member from being reappointed at the expiration of his term of office.

(4) Any person who is disqualified from holding office as a governor under regulation 20 of, and paragraphs 2 to 11 of Schedule 6 to, the School Governance (Constitution) (England) Regulations 2003(b) is likewise disqualified from holding, or continuing to hold, office as an associate member of a joint committee.

(5) Subject to paragraphs (6) and (7), the collaborating governing bodies must determine the voting rights of associate members.

(a) In accordance with section 24(6) of the 2002 Act, any reference to the governing body of a school is to be construed in relation to a federated school as a reference to the governing body of the federation.

(b) SI 2003/348; amended by the School Governance (Constitution and Procedures) (England) (Amendment) Regulations 2003 SI 2003/1916.

- (6) An associate member must not vote on any resolution concerning—
- (a) admissions;
 - (b) pupil discipline;
 - (c) an individual pupil (not falling within sub-paragraph (a) or (b)) or member of staff if the associate member was excluded under regulation 7(2) from that part of the meeting during which it was considered; or
 - (d) the budget and financial commitments of a collaborating governing body.
- (7) An associate member must not vote on any other business transacted by a joint committee unless he was aged 18 or over at the date of his appointment.
- (8) A joint committee may remove an associate member from office at any time.

Right of persons to attend meetings of joint committees

7.—(1) Subject to regulation 9 and to the Schedule to these Regulations the following persons are entitled to attend any meeting of a joint committee—

- (a) any member of the joint committee, provided he is not a member of a collaborating governing body who has been suspended in accordance with regulation 15 of the Procedures Regulations;
- (b) a head teacher, whether or not he is a member of the joint committee;
- (c) the clerk to the joint committee; and
- (d) such other persons as the joint committee may determine.

(2) A joint committee may exclude an associate member from any part of its meeting when the business under consideration concerns an individual member of staff or pupil.

Proceedings of joint committees

8.—(1) The clerk must convene meetings of the joint committee and, when exercising this function, he must comply with any direction given by—

- (a) the joint committee;
- (b) the chair of the joint committee, so far as such direction is not inconsistent with any direction given under sub-paragraph (a).

(2) Subject to any direction given in accordance with paragraph (1), at least seven clear days in advance the clerk must give to each member of the joint committee and to the head teachers (whether or not they are members of the joint committee)—

- (a) written notice of the meeting,
- (b) a copy of the agenda for the meeting and
- (c) any reports or other papers to be considered at the meeting;

provided that where the chair of the joint committee so determines on the ground that there are matters demanding urgent consideration, it will be sufficient if the written notice of the meeting states that fact and the notice, agenda and reports or other papers to be considered at the meeting are given within such shorter period as he directs.

(3) The proceedings of a joint committee are not invalidated by—

- (a) any vacancy among its number; or
- (b) any defect in the appointment of any member of the joint committee.

(4) No vote on any matter may be taken at a meeting of a joint committee unless the majority of members of the joint committee present are members of a collaborating governing body.

(5) Every question to be decided at a meeting of a joint committee must be determined by a majority of the votes of the members of the joint committee present and voting on the question.

(6) Where there is an equal division of votes the person who is acting as chair for the purposes of the meeting has a second or casting vote, provided that person is a member of a collaborating governing body.

Restrictions on persons taking part in proceedings

9.—(1) In this regulation and in the Schedule “relevant person” means a member of the joint committee, a head teacher (whether or not he is a member of the joint committee) or the clerk to the joint committee.

(2) Subject to paragraph (4), where—

- (a) in relation to any matter there may be a conflict between the interests of a relevant person and the interests of a collaborating governing body;
- (b) a fair hearing is required and there is any reasonable doubt about a relevant person’s ability to act impartially in relation to any matter; or
- (c) a relevant person has a pecuniary interest in any matter,

that person, if present at a meeting of the joint committee at which the matter is the subject of consideration, must disclose his interest, withdraw from the meeting and not vote on the matter in question.

(3) Nothing in this regulation or in the Schedule shall be construed as precluding—

- (a) the joint committee from—
 - (i) allowing a person who appears to them to be able to give evidence to attend any hearing conducted by them into any matter and to present his evidence; or
 - (ii) hearing representations from a relevant person acting in a capacity other than that of a relevant person;
- (b) a relevant person from entering into a contract with a collaborating governing body from which he is entitled to profit.

(4) A person who is acting as the clerk to a meeting of the joint committee is not required to withdraw from a meeting by this regulation or the Schedule unless his appointment to office, his remuneration, or disciplinary action against him is the subject of consideration, but if this regulation or the Schedule would have otherwise required him to withdraw, he must not act in any capacity other than that of clerk.

(5) Where there is any dispute as to whether a relevant person is required by this regulation to withdraw from a meeting of the joint committee and not vote that question must be determined by the other members of the joint committee present at the meeting.

(6) The Schedule makes provision for pecuniary interests and other specified conflicts of interest.

Minutes

10.—(1) Minutes of the proceedings of a meeting of a joint committee must be drawn up by the clerk or by the person acting as the clerk for the purposes of the meeting; and must be signed (subject to the approval of the joint committee) by the chair of the next meeting of the joint committee.

(2) Subject to paragraph (3) the joint committee must as soon as reasonably practicable—

- (a) make available for inspection at the request of any interested person, and
- (b) give to the collaborating governing bodies

a copy of the agenda and signed minutes for every meeting and any report or other paper considered at the meeting.

(3) The joint committee may exclude from any item required to be made available in pursuance of paragraph (2) any material relating to—

- (a) a named person who works, or who it is proposed should work, at a school;

- (b) a named pupil at, or candidate for admission to, a school;
- (c) any other matter that, by reason of its nature, the joint committee is satisfied should remain confidential.

5th August 2003

Stephen Twigg
Parliamentary Under Secretary of State
Department for Education and Skills

Pecuniary interests and other specified conflicts of interest

Pecuniary interests

1.—(1) For the purposes of regulation 9, a pecuniary interest in a contract, proposed contract or other matter includes a case where—

- (a) a relevant person was nominated or appointed to office as a member of a collaborating governing body by a person with whom the contract was made or is proposed to be made;
- (b) a relevant person is a partner of a person, or is in the employment of a person, with whom the contract was made or is proposed to be made; or
- (c) a relative of a relevant person (including his spouse or some one living with that person as if he or she were that person's spouse), to the knowledge of that person has, or would be treated as having, such an interest.

(2) For the purposes of regulation 9, a relevant person shall not be treated as having a pecuniary interest in any matter by reason only of—

- (a) if he is paid to work at a school, having an interest in the matter that is no greater than the interest of the generality of those paid to work at the school;
- (b) his nomination or appointment by, his membership of, or his employment by, any public body; or
- (c) his membership of a corporation or other body, if he has no significant financial interest in any securities of that corporation or other body.

(3) Members of the joint committee are not, by reason of their pecuniary interest in the matter, prevented from considering and voting upon proposals for one or more of the collaborating governing bodies to take out insurance protecting its members against liabilities incurred by them arising out of their office and a collaborating governing body will not, by reason of the pecuniary interest of its members, be prevented from obtaining such insurance and paying the premiums.

Appointment as member of the joint committee, chair or clerk

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

- (a) his own appointment, reappointment or removal as a member of the joint committee; or
- (b) his own appointment or removal from office as clerk to, or chair of, the joint committee.

(2) In any case where sub-paragraph (1) applies, the relevant person's interests shall be treated for the purpose of regulation 9(2) as being in conflict with the collaborating governing bodies' interests.

Pay or appraisal of persons working at one of the collaborating schools

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

(2) This sub-paragraph applies where a head teacher is present at a meeting of the joint committee 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 relevant person's interests shall be treated for the purpose of regulation 9(2) as being in conflict with the collaborating governing bodies' interests.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations enable school governing bodies to develop joint working arrangements and, if they wish, to delegate the exercise of their functions to one or more joint committees.

Regulation 1 provides that the Regulations will come into force on 1st September. Regulation 2 contains the interpretation provisions.

Regulation 3 enables two or more school governing bodies to arrange for their functions to be discharged jointly and to delegate the exercise of those functions to a joint committee, insofar as such delegation would be permitted under the School Governance (Procedures) (England) Regulations 2003.

Regulations 4 to 10 deal with the establishment, membership and proceedings of joint committees. Regulation 4 provides for the collaborating governing bodies to establish a joint committee, including determining its constitution, membership and terms of reference which must be reviewed annually. The joint committee determines its own quorum (which is not less than three governors), appoints its own chair (who may be removed from office at any time) and may appoint associate members whose voting rights are determined by the collaborating governing bodies.

The joint committee must appoint a clerk to convene its meetings and ensure minutes of its proceedings are drawn up (regulation 5). Regulation 6 provides that a joint committee may appoint “associate members”, who are not governors and who may be accorded voting rights by the collaborating governing bodies (subject to certain restrictions) if they are over 18 years old. Associate members should be people who would not be disqualified from being governors under the School Governance (Constitution) (England) Regulations 2003. Under regulation 7, joint committees have power to decide who may attend their meetings. Regulation 8 provides for convening meetings and voting.

Regulation 9 and the Schedule deal with conflicts of interest and the circumstances in which members of a joint committee and others who are otherwise entitled to attend meetings of the joint committee must withdraw from the meeting and not vote. The general principle is that where there is a conflict between the interests of such a person and the interests of the collaborating governing bodies, or where the principles of natural justice require a fair hearing and there is any reasonable doubt about a person’s ability to act impartially, he should withdraw from the meeting and not vote.

Regulation 10 deals with the drawing up of minutes of joint committee meetings and the publication of the minutes.

STATUTORY INSTRUMENTS

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