
STATUTORY INSTRUMENTS

1993 No. 3102

EDUCATION, ENGLAND AND WALES

**The Education (Grant-maintained Schools)
(Initial Governing Instruments) Regulations 1993**

Made - - - - *8th December 1993*
Laid before Parliament *10th December 1993*
Coming into force - - *1st January 1994*

Whereas—

- (a) pursuant to section 301(5) of the Education Act 1993(1), the Secretary of State for Education has consulted bodies appearing to him to be representative of the Church of England and the Roman Catholic Church, and the Secretary of State for Wales has consulted a body appearing to him to be representative of the Church in Wales; and
- (b) pursuant to section 8(1) of, and paragraph 15(c) of Schedule 1 to, the Tribunal and Inquiries Act 1992(2), the Secretary of State has consulted the Council on Tribunals;

Now therefore, in exercise of the powers conferred on the Secretary of State by sections 56(1), 56(3) and 301(6) of the Education Act 1993, the Secretary of State for Education, as respects England, and the Secretary of State for Wales, as respects Wales, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Education (Grant-maintained Schools) (Initial Governing Instruments) Regulations 1993 and shall come into force on 1st January 1994.

Initial instrument of government

2.—(1) For the purposes of section 56 of the 1993 Act, the initial instrument of government of a grant-maintained school shall be as set out in Schedule 1 to these Regulations.

(2) In this regulation and in regulations 3 and 4 below, references to the 1993 Act are to the Education Act 1993.

Initial articles of government

3. For the purposes of section 56 of the 1993 Act, the initial articles of government of a grant-maintained school shall be as set out in Schedule 2 to these Regulations.

(1) 1993 c. 35.

(2) 1992 c. 53; paragraph 15(c) of Schedule 1 to that Act is to be amended by paragraph 174 of Schedule 19 to the Education Act 1993, although that provision is not in force at the date of the making of these Regulations.

Provisions of the initial articles of government having effect on incorporation

4.—(1) In the case of a governing body incorporated in pursuance of proposals for the establishment of a new grant-maintained school, the following provisions of the initial articles of government shall have effect from the incorporation date: Articles 1, 2, 4, 5, 7, 8, 12, 15, 17, 18, 19, 20, 21 and 22, paragraph 2 of Appendix 1 and Appendix 2.

(2) In this regulation “the initial articles of government” is a reference to the initial articles of government set out in Schedule 2 to these Regulations;

“the incorporation date” means the date specified in the proposals for the establishment of a new grant-maintained school as the proposed incorporation date in relation to the school; and

“proposals for the establishment of a new grant-maintained school” shall be interpreted in accordance with section 22(2)(b) of the 1993 Act.

SCHEDULE 1

Regulation 2

INITIAL INSTRUMENT OF GOVERNMENT

PART I

INTRODUCTORY

Interpretation

1.—(1) In this Instrument—

“the 1986 Act” means the Education (No. 2) Act 1986⁽³⁾;

“the 1988 Act” means the Education Reform Act 1988⁽⁴⁾;

“the 1993 Act” means the Education act 1993;

“first governor” has the meaning assigned to it by paragraph 12 of Schedule 7 to the 1993 Act⁽⁵⁾;

“foundation governor” has the meaning assigned to it by paragraph 13 of Schedule 7 to the 1993 Act⁽⁶⁾;

“funding authority” has the meaning assigned to it by section 5(1) of the 1993 Act;

“the Governing Body” means the governing body of any grant-maintained school for which this Instrument is the instrument of government by virtue of section 56(1) and (2) of the 1993 Act;

“implementation date” means the date specified in the Proposals as the proposed date for this implementation;

“incorporation date” means the date on which the Governing Body were incorporated;

“initial first governor” has the meaning assigned to it by paragraphs 2 and 7 of Schedule 7 to the 1993 Act;

“initial foundation governor” has the meaning assigned to it by paragraphs 2 and 8 of Schedule 7 to the 1993 Act;

“initial parent governor” has the meaning assigned to it by paragraphs 2 and 5 of Schedule 7 to the 1993 Act;

“initial sponsor governor” has the meaning assigned to it by paragraphs 2 and 9 of Schedule 7 to the 1993 Act;

“initial teacher governor” has the meaning assigned to it by paragraphs 2 and 6 of Schedule 7 to the 1993 Act;

“parent governor” has the meaning assigned to it by paragraph 10 of Schedule 7 to the 1993 Act⁽⁷⁾;

(3) 1986 c. 61.

(4) 1988 c. 40.

(5) Paragraph 12 of Schedule 7 to the Education Act 1993 (c. 35) is subject to the modifications contained in paragraph 10(2)(c) of Schedule 2 to the Education Act 1993 (Commencement No. 2 and Transitional Provisions) Order 1993 (S.I. 1993/3106) as it applies to governing bodies incorporated under Chapter IV of Part I of the Education Reform Act 1988 (c. 40).

(6) Paragraph 13 of Schedule 7 to the Education Act 1993 (c. 35) is subject to the transitional provisions contained in paragraph 11 of Schedule 2 to the Education Act 1993 (Commencement No. 2 and Transitional Provisions) Order 1993 (S.I. 1993/3106) as it applies to governing bodies incorporated under Chapter IV of Part I of the Education Reform Act 1988 (c. 40).

(7) Paragraph 10 of Schedule 7 to the Education Act 1993 (c. 35) is subject to the modifications contained in paragraph 10(2)(a) of Schedule 2 to the Education Act 1993 (Commencement No. 2 and Transitional Provisions) Order 1993 (S.I. 1993/3106) as it applies to governing bodies incorporated under Chapter IV of Part I of the Education Reform Act 1988 (c. 40).

“the Promoters” means, where the School was established in pursuance of proposals published under section 49 of the 1993 Act, the persons who proposed the establishment of the School in accordance with that section;

“proposals for the acquisition of grant-maintained status” means, as the case may be, proposals published under section 62 of the 1988 Act or under section 32 of the 1993 Act;

“proposals for the establishment of a new grant-maintained school” means, as the case may be, proposals published under section 48 or 49 of the 1993 Act;

“registered”, in relation to parents or pupils, means shown in the register kept under section 80 of the Education Act 1944(8);

“the School” means the school conducted by the Governing Body or, where the Governing Body were incorporated in pursuance of proposals for the establishment of a new grant-maintained school, during the period before the implementation date the school proposed to be so conducted;

“sponsor governor” has the meaning assigned to it by paragraph 14 of Schedule 7 to the 1993 Act; and

“teacher governor” has the meaning assigned to it by paragraph 11 of Schedule 7 to the 1993 Act(9).

(2) In this Instrument, reference to “the Proposals” are to the proposals for acquisition of grant-maintained status, or (as the case may be) the proposals for the establishment of a new grant-maintained school, in pursuance of which the Governing Body were incorporated; and, where the Secretary of State modified the proposals (in accordance with, as the case may be, section 62(11) of the 1988 Act or section 33(2)(b) or 51(3) of the 1993 Act), they are references to the proposals as so modified.

(3) In this Instrument, unless the context otherwise requires, “parent”, in relation to a pupil at the School, includes any person—

- (a) who is not a parent of his but who has parental responsibility for him, or
- (b) who has care of him,

except for the purposes of paragraphs 3, 7, 10 and 11 below, where it only includes such a person if he is an individual.

(4) For the purposes of sub-paragraph (3) above—

- (a) “parental responsibility” has the same meaning as in the Children Act 1989(10); and
- (b) in determining whether an individual has care of a pupil, any absence of the pupil at a hospital or boarding school and any other temporary absences shall be disregarded.

(8) 1944 c. 31; section 80 was amended by paragraph 5 of Schedule 12 to the Education Reform Act 1988 (c. 40).

(9) Paragraph 11 of Schedule 7 to the Education Act 1993 (c. 35) is subject to the modifications contained in paragraph 10(2)(b) of Schedule 2 to the Education Act 1993 (Commencement No. 2 and Transitional Provisions) Order 1993 (S.I. 1993/3106) as it applies to governing bodies incorporated under Chapter IV of Part I of the Education Reform Act 1988 (c. 40).

(10) 1989 c. 41, section 3.

PART II

PROVISIONS APPLYING ONLY TO SCHOOLS WHICH WERE FORMERLY COUNTY SCHOOLS OR WHICH WERE ESTABLISHED BY THE FUNDING AUTHORITY

Application of Part II

2. This Part shall apply to the Governing Body if the School was—
- (a) a county school immediately before it became grant-maintained; or
 - (b) established in pursuance of proposals published under section 48 of the 1993 Act⁽¹¹⁾

First governors

3.—(1) The Governing Body shall include such number of first governors as is specified in the Proposals.

- (2) Subject to sub-paragraph (4) below—
- (a) at least two of the first governors shall (on the date or dates on which they respectively take office) be parents of registered pupils at the school; and
 - (b) at least two of the first governors shall (on the date or dates on which they respectively take office) be members of the local community,

but one person may satisfy both requirements.

(3) Subject to sub-paragraph (4) below, the Governing Body, in appointing first governors, shall secure that those governors include persons appearing to them to be members of the local business community although such persons may also satisfy one or both of the requirements of sub-paragraph (2) above.

(4) The provisions of sub-paragraphs (2) and (3) above are subject to subsections (5) and (6) of section 63 of the 1993 Act (which concern respectively the determination of initial first governors in the case of former county schools and the appointment of first governors in the case of schools established by the funding authority).

Power of Secretary of State to replace first governors and to make provision with respect to the filling of vacancies

4.—(1) The Secretary of State shall have power, where any of sub-paragraphs (2), (3) and (5) below apply, to replace all or any of the first governors.

(2) This sub-paragraph applies where the Governing Body have been guilty of substantial or persistent failure to comply, or secure compliance, with any requirement imposed by or under any enactment.

- (3) This sub-paragraph applies where—
- (a) there is a report of an inspection of the School in which the person who made it expressed the opinion that special measures were required to be taken in relation to the School;
 - (b) either that person was a member of the Inspectorate or the report stated that the Chief Inspector agreed with his opinion;
 - (c) if any registered inspector or member of the Inspectorate has made a later report of an inspection of the School under Chapter I of Part V of the 1993 Act, he did not express

(11) 1993 c. 35.

the opinion in the report that special measures were not required to be taken in relation to the School; and

- (d) the Secretary of State has received a statement prepared under section 210 of the 1993 Act (statement of special measures to be taken by the Governing Body), or the period allowed under subsection of that section for the preparation of such a statement has expired.

(4) Expressions used in sub-paragraph (3) above which are also used in Part V of the 1993 Act shall have the same meaning as in that Part.

(5) This sub-paragraph applies where in the opinion of the Secretary of State any action taken or proposed by the Governing Body, or any failure of the Governing Body to act, is prejudicial to the provision of education by the School.

(6) The Secretary of State shall have power to make such provision as he thinks fit for filling vacancies for first governors if it appears to him that the Governing Body are unable or are unwilling to fill the vacancies.

(7) Paragraph 3(2) and (3) above shall not apply for the purposes of the appointment by virtue of this paragraph of any first governor.

Disqualification for holding office as first governor

5. A person who is a member of the teaching or other staff at the School shall be disqualified for holding office as a first governor on the Governing Body.

PART III

PROVISIONS APPLYING ONLY TO SCHOOLS WHICH WERE FORMERLY VOLUNTARY SCHOOLS OR WHICH WERE ESTABLISHED BY PROMOTERS

Application of Part III

6. This part shall apply to the Governing Body if the School was—
- (a) a voluntary school immediately before it became grant-maintained; or
 - (b) established in pursuance of proposals published under section 49 of the 1993 Act.

Foundation governors

7.—(1) The Governing Body shall include such number of foundation governors as is specified in the Proposals.

(2) Where the School was a voluntary school immediately before it became grant-maintained, the person or persons who, immediately before the incorporation date, were named in the School's instrument of government as being entitled to appoint the foundation governors to the governing body of the voluntary school shall be entitled to appoint the foundation governors for the Governing Body.

(3) Where the School was established in pursuance of proposals under section 49 of the 1993 Act, the Promoters shall be entitled to appoint the foundation governors for the Governing Body.

(4) Where the Proposals include a statement that any foundation governorship is to be held *ex officio*, the governorship shall be held by the holder of the office specified in the Proposals.

(5) Subject to sub-paragraphs (6) and (7) below, at least two of the foundation governors shall (on the date or dates on which they respectively take office) be parents of registered pupils at the School.

(6) Sub-paragraph (5) above is subject to section 65(8) of the 1993 Act (which relates to the determination of initial foundation governors in the case of a grant-maintained school which is a voluntary school immediately before it becomes grant-maintained).

(7) Sub-paragraph (5) above shall not apply, where the School was established in pursuance of proposals published under section 49 of the 1993 Act, in relation to the appointment of any foundation governor before the implementation date.

PART IV

PROVISIONS APPLYING TO ALL GRANT-MAINTAINED SCHOOLS

Parent governors

8.—(1) Subject to sub-paragraph (2) below, where the School is a primary school, the Governing Body shall include such number of parent governors as is specified in the Proposals.

(2) Where the School is a primary school in respect of which proposals for the acquisition of grant-maintained status were published under section 62 of the 1988 Act, the Governing Body shall include five parent governors.

(3) Where the School is a secondary school, the Governing Body shall include five parent governors.

Teacher governors

9. The Governing Body shall include such number of teacher governors as is specified in the Proposals.

Procedure for the election of parent and teacher governors

10.—(1) It shall be for the Governing Body to determine, for the purposes of an election of parent or teacher governors, any question whether a person is —

- (a) a registered parent of a registered pupil at the School; or
- (b) a teacher at the School.

(2) Subject to the following provisions of this paragraph, it shall be for the Governing Body to make all necessary arrangements for, and to determine all other matters relating to, any such election.

(3) The power conferred by sub-paragraph (2) above includes power to make provision as to qualifying dates but does not include power to impose any requirement as to the minimum number of votes required to be cast for a candidate to be elected.

(4) An election of parent or teacher governors which is contested must be held by secret ballot.

(5) The arrangements made under sub-paragraph (2) above shall, in the case of any election of a parent governor, provide for every person who is entitled to vote in the election to have an opportunity to do so by post or, if he so prefers, by having his ballot paper returned to the school by a registered pupil at the School.

(6) Where a vacancy for a parent governor is required to be filled by election, the Governing Body shall take such steps as are reasonably practicable to secure that every person who is known to them to be a registered parent of a registered pupil at the School is —

- (a) informed of the vacancy and that it is required to be filled by election;
- (b) informed that he is entitled to stand as a candidate, and vote, at the election; and
- (c) given an opportunity to do so.

Appointment of parent governors by the Governing Body

11.—(1) If—

- (a) one or more vacancies for parent governors are required to be filled by election; and
- (b) the number of parents standing for election as parent governors is less than the number of vacancies,

the required number of parent governors shall be made up by persons appointed by the other members of the Governing Body.

(2) Those members shall, in appointing a person under sub-paragraph (1) above —

- (a) appoint a person who is the registered parent of a registered pupil at the School, where it is reasonably practicable to do so; and
- (b) where it is not, appoint a person who is the parent of one or more children of compulsory school age.

Head teacher

12.—(1) The Governing Body shall include the head teacher of the School as a governor ex officio.

(2) Where the Governing Body were incorporated in pursuance of proposals for the acquisition of grant-maintained status, the reference in sub-paragraph (1) above to the head teacher of the School, in relation to any time before the implementation date, is to the existing head teacher of the School.

(3) Sub-paragraph (4) below applies where the Governing Body were incorporated in pursuance of proposals for the establishment of a new grant-maintained school.

(4) Where at any time before the implementation date a person is appointed to be the head teacher of the School, the Governing Body shall include that person as a governor ex officio from the date of his appointment.

Sponsor governors

13.—(1) This paragraph applies where the Proposals name a person as a sponsor of the School.

(2) Any person so named shall be a sponsor of the School.

(3) The governing body shall include such number of sponsor governors as is specified in the Proposals.

(4) Where the Proposals name two or more persons as sponsors of the School, each sponsor shall appoint such number of governors as is specified in relation to him in the Proposals.

(5) This paragraph is subject to section 66(4) of the 1993 Act (which provides, in the case of a governing body incorporated in pursuance of proposals for the establishment of a new grant-maintained school which name a person as a sponsor of the school, for the instrument of government to have effect as if it required the first appointments of sponsor governors to be made before the date of implementation of the proposals).

Appointment of additional governors

14.—(1) The Secretary of State may appoint not more than two additional governors if it appears to him that the Governing Body are not adequately carrying out their responsibilities in respect of the conduct or management of the School.

(2) During any period when any additional governors appointed by the Secretary of State by virtue of sub-paragraph (1) above are in office, the appointing authority may appoint a number of

additional first or, as the case may be, foundation governors not greater than the number of additional governors appointed by the Secretary of State who are then in office.

(3) In sub-paragraph (2) above, “the appointing authority” means the person entitled to appoint the first or, as the case may be, foundation governors on the Governing Body or, if more than one person is so entitled, those persons acting jointly.

Tenure of office: first and foundation governors

15.—(1) Subject to the following provisions of this paragraph, each first or foundation governor (other than a foundation governor who is a governor ex officio) shall hold office for such term as was specified in the Proposals as the term of office for initial governors of that category.

(2) An initial first or foundation governor (other than a foundation governor who is a governor ex officio) shall hold office for such term beginning with the incorporation date as may be specified as his proposed term of office in the Proposals.

(3) Any additional first or foundation governor appointed in pursuance of paragraph 14(2) above shall hold office for such term (not being more than five years) as may be specified in the terms of his appointment.

(4) Any first governor appointed in pursuance of paragraph 4 above shall hold office for such term (not being less than five nor more than seven years) as may be specified in the terms of his appointment.

Tenure of office: parent and teacher governors

16.—(1) Subject to the following provisions of this paragraph, each parent or teacher governor shall hold office for a term of four years.

(2) Where the Governing Body were incorporated under Chapter IV of Part I of the 1988 Act —

(a) any person who

(i) became a parent or teacher governor on the incorporation date, and

(ii) immediately before that date was a governor of that category on the former governing body of the School, shall hold office for the remainder of his term of office on the former governing body; and

(b) a parent or teacher governor who was elected under section 66, or elected or nominated under section 68, of the 1988 Act to hold office as such shall hold office for a term of four years beginning with the incorporation date.

(3) Where the Governing body were incorporated under Chapter II of Part II of the 1993 Act —

(a) an initial parent or teacher governor who was a governor of that category on the former governing body of the school immediately before the incorporation date shall hold office for the remainder of his term of office on the former governing body; and

(b) an initial parent or teacher governor who was elected or appointed under section 71, or elected, appointed or nominated under section 74, of the 1993 Act to hold office as such shall hold office for a term of four years beginning with the incorporation date.

(4) Where the Governing Body were incorporated in pursuance of proposals for the establishment of a new grant-maintained school, each parent or teacher governor appointed before the date of implementation of the Proposals shall hold office for such term as is prescribed by regulations made under paragraph 10(4) of Schedule 5 to that Act⁽¹²⁾.

⁽¹²⁾ No regulations have been made under this provision at the date of the making of those Regulations.

Tenure of office: sponsor governors

- 17.—(1) Subject to sub-paragraph (2) below, each sponsor governor shall hold office —
- (a) where the Governing Body were incorporated in pursuance of proposals for the acquisition of grant-maintained status, for such term as was specified in the Proposals as the proposed term of office for initial governors of that category; or
 - (b) where the Governing Body were incorporated in pursuance of proposals for the establishment of a new grant-maintained school, for such term as was specified in the Proposals as the proposed term of office for such governors.

(2) Where the Governing Body were incorporated in pursuance of proposals for the acquisition of grant-maintained status, an initial sponsor governor shall hold office for such term beginning with the incorporation date as may be specified as his proposed term of office in the Proposals.

Tenure of office: general

18. Nothing in paragraphs 15 to 17 above shall be taken to prevent a governor—
- (a) from being elected or appointed for a further term of office; or
 - (b) from being disqualified, by virtue of paragraph 5 above or paragraphs 20 to 23 below, for continuing to hold office.

Resignation and removal from office

19.—(1) Any governor (other than one holding office ex officio) may at any time resign his office.

(2) Any foundation governor (other than one holding office ex officio) and any sponsor governor may be removed from office by the person or persons who appointed him.

(3) For the purposes of sub-paragraph (2) above, where the School was a voluntary school immediately before it became grant-maintained an initial foundation governor shall be treated as having been appointed by the person or persons entitled to appoint foundation governors under paragraph 7(2) above.

(4) Where in accordance with this paragraph a governor resigns his office or is removed from office, the governor or, as the case may be, those removing him from office shall give written notice thereof to the Clerk to the Governing Body.

Disqualification for holding office: persons under 18 years of age

20. Any person who is under the age of 18 years shall be disqualified for holding office as a governor of the School.

Disqualification for holding office: bankruptcy etc.

21.—(1) Subject to the following provisions of this paragraph, a person shall be disqualified for holding, or for continuing to hold, office as a governor of the School if he has been adjudged bankrupt or has made a composition or arrangement with his creditors; and a governor, on becoming so disqualified, shall give written notice of that fact to the Clerk to the Governing Body.

(2) Where a person is disqualified by reason of his having been adjudged bankrupt, that disqualification shall cease —

- (a) on his discharge from bankruptcy; or
- (b) if the bankruptcy order is previously annulled, on the date of the annulment.

(3) Where a person is disqualified by reason of his having made a composition or arrangement with his creditors and he pays his debts in full, the disqualification shall cease on the date on which

the last such payment is made and in any other case it shall cease on the expiration of three years from the date on which the terms of the deed of composition or arrangement are fulfilled.

Disqualification for holding office: criminal convictions

22.—(1) Subject to sub-paragraph (5) below, a person shall be disqualified for holding, or for continuing to hold, office as a governor of the 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 governor would otherwise have taken effect or, as the case may be, on which he would otherwise have become a governor ex officio; or
- (b) since his appointment or election as governor or, as the case may be, since he became a governor ex officio,

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 governor would otherwise have taken effect or, as the case may be, on which he would otherwise have become a governor ex officio, he has been convicted as aforesaid of any offence 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 as aforesaid of any offence and 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 governor would otherwise have taken effect or, as the case may be, on which he would otherwise have become a governor ex officio; or
- (b) since his appointment or election as governor or, as the case may be, since he became a governor ex officio,

he has been convicted under section 40 of the Local Government (Miscellaneous Provisions) Act 1982⁽¹³⁾ (nuisance and disturbance on education premises) of an offence which took place on the premises of a school maintained by a local education authority or a grant-maintained school, and has been sentenced to a fine.

(7) Where, by virtue of this paragraph—

- (a) a person becomes disqualified for holding, or for continuing to hold, office as a governor of the School; and
- (b) he is, or is proposed, to become such a governor,

he shall upon becoming so disqualified give written notice of that fact to the Clerk to the Governing Body.

⁽¹³⁾ 1982 c. 30; section 40 was amended by paragraph 29 of Schedule 12 to the Education Reform Act 1988 (c. 40).

Disqualification for holding office: absence from meetings

23.—(1) This paragraph applies to any governor of the School other than a governor ex officio.

(2) Subject to sub-paragraph (6) below, where a governor to which this paragraph applies has without the consent of the Governing Body failed to attend any meetings thereof for the relevant period, beginning with the date on which he last attended such a meeting, he shall on the expiry of that period be disqualified for continuing to hold office as such a governor.

(3) In sub-paragraph (2) above, the reference to the relevant period is to such period (not being less than six nor more than twelve months) as may from time to time be determined by the Governing Body; and where no such determination has been made is a reference to the period of six months.

(4) Where the Governing Body determine or redetermine the relevant period for the purposes of sub-paragraph (2) above, the Clerk to the Governing Body shall give written notice of that decision to every member of the Governing Body within the period of fifteen days beginning with the date of the decision; and the determination or, as the case may be, the redetermination shall not have effect until the expiry of the period referred to in sub-paragraph (5) below.

(5) The period is that which applies for the purposes of sub-paragraph (2) above at the date of the decision to which the notice under sub-paragraph (4) above relates beginning with the date of the decision.

(6) The Governing Body may determine that sub-paragraph (2) above shall not apply, but that sub-paragraph (7) below shall apply instead.

(7) Subject to sub-paragraph (8) below, where a governor to which this paragraph applies has without the consent of the Governing Body failed to attend the relevant number of consecutive meetings of the Governing Body, he shall be disqualified for continuing to hold office as such a governor from the date immediately following the date on which the last such meeting was held.

(8) A person who would otherwise be disqualified by virtue of sub-paragraph (7) above shall not be so disqualified if the period beginning with the date on which he last attended a meeting of the Governing Body to the date of the last of the meetings referred to in sub-paragraph (7) above is less than six months; however, if he has still failed to attend any meeting of the Governing Body on the expiry of the period of six months beginning with the date on which he last attended such a meeting, he shall be so disqualified from the date of the expiry of that period.

(9) For the purposes of sub-paragraph (7) above, the relevant number is the number determined by the Governing Body on resolving, in accordance with sub-paragraph (6) above, that sub-paragraph (7) above shall apply; or such other number as the Governing Body may from time to time determine.

(10) Where the Governing Body make a determination in accordance with sub-paragraph (6) or (9) above, the Clerk to the Governing Body shall give written notice of that determination to every member of the Governing Body within the period of fifteen days beginning with the date of the determination; and the determination shall not have effect until the expiry of the period of six months beginning with the date on which it was made.

(11) For the purposes of sub-paragraphs (4) and (10) above, notice may be given to a person by leaving it at, or by sending it by first class post to, his usual place of residence.

(12) Nothing in this paragraph shall prevent a person, who has been disqualified in accordance with this paragraph for continuing to hold office, from being elected or appointed for a further term of office as a governor of the School.

Notification of appointments and vacancies

24.—(1) Subject to sub-paragraph (3) below, where a vacancy in the office of an appointed member occurs by reason of his death, or his ceasing to hold office in accordance with the provisions of this Instrument (other than by reason of the expiry of his term of office), the Clerk to the Governing

Body shall as soon as is reasonably practicable give notice in writing of that fact to the person or persons entitled to appoint a person to that office.

(2) Subject to sub-paragraph (3) below, the Clerk to the Governing Body shall, at least two months before the date of the expiry of the term of office of an appointed member, give notice in writing of that fact to the person or persons entitled to appoint a person to that office.

(3) Sub-paragraphs (1) and (2) above shall not apply where the person or persons entitled to appoint a person to the office in question have already notified the Clerk to the Governing Body in writing of the person appointed by them.

(4) Where any person or persons make an appointment to the Governing Body, they shall give written notice of the appointment to the Clerk to the Governing Body, specifying the name and usual place of residence of the person so appointed.

(5) For the purposes of this paragraph, “appointed member” means—

- (a) a first or, as the case may be, foundation governor; or
- (b) a sponsor governor.

Chairman and Vice-chairman of the Governing Body

25.—(1) The Governing Body shall each school year, at their first meeting in that year, elect a Chairman and a Vice-chairman from among their number (subject however to sub-paragraph (2) below).

(2) A governor who is a member of the staff of the School, or is a registered pupil thereat, shall not be eligible for election as Chairman or Vice-chairman.

(3) Subject to sub-paragraphs (4) and (5) below, the Chairman or Vice-chairman shall hold office as such until his successor has been elected in accordance with sub-paragraph (1) above.

(4) The Chairman or Vice-chairman may at any time resign his office by giving notice in writing to the Clerk to the Governing Body.

(5) The Chairman or Vice-chairman shall cease to hold office if—

- (a) he ceases to be a member of the Governing Body;
- (b) in the case of the Chairman, he is removed from office in accordance with paragraph 26 below; or
- (c) in the case of the Vice-chairman, he is elected in accordance with sub-paragraph (6) below to fill a vacancy in the office of Chairman.

(6) Where by reason of any of the matters referred to in sub-paragraph (5) above a vacancy arises in the office of Chairman or Vice-chairman, the Governing Body shall at their next meeting elect one of their number to fill that vacancy (subject however to sub-paragraph (2) above).

(7) Subject to sub-paragraph (8) below, where the Chairman is absent from any meeting or there is at the time a vacancy in the office of the Chairman, the Vice-chairman shall act as the chairman for the purposes of the meeting.

(8) Where in the circumstances referred to in sub-paragraph (7) above the Vice-chairman is absent from the meeting or there is at the time a vacancy in the office of Vice-chairman, the Governing Body shall elect one of their number to act as chairman for the purposes of that meeting, provided that the governor elected shall not be a member of the staff of the School, or a registered pupil thereat.

Removal from office of the Chairman of the Governing Body

26.—(1) Subject to the following provisions of this paragraph, the Governing Body may remove the Chairman from office.

(2) Subject to sub-paragraphs (3) and (4) below, a resolution to remove the Chairman from office which is passed at a meeting of the Governing Body shall not have effect unless —

- (a) it is confirmed by a resolution passed at a second meeting of the Governing Body held not less than fourteen days after the first meeting (“the second meeting”); and
- (b) the matter of the Chairman’s removal from office is specified as an item of business on the agenda for each of those meetings.

(3) Where the Governing Body include first governors appointed by the Secretary of State in accordance with paragraph 4(1) and (3) above, sub-paragraph (4) below shall apply instead of sub-paragraph (2) above.

(4) A resolution to remove the Chairman from office which is passed at a meeting of the Governing Body shall not have effect unless the matter of the Chairman’s removal from office is specified as an item of business on the agenda for that meeting.

(5) Before the Governing Body resolve at the relevant meeting on whether to confirm the resolution to remove the Chairman from office, the governor or governors proposing his removal shall at that meeting state their reasons for doing so and the Chairman shall be given an opportunity to make a statement in response.

(6) In sub-paragraph (5) above, the reference to the relevant meeting is —

- (a) in any case to which sub-paragraph (2) above applies, to the second meeting held to consider the Chairman’s removal; and
- (b) in any case to which sub-paragraph (4) above applies, to any meeting held to consider the Chairman’s removal from office.

Clerk to the Governing Body

27.—(1) The Governing Body shall appoint a person (who is not a member of the Governing Body) to serve as the Clerk to the Governing Body.

(2) The Governing Body shall have power, where the Clerk to the Governing Body fails to attend any of their meetings, to appoint one of their number to act as clerk for the purposes of that meeting, but without prejudice to his position as governor.

Convening of meetings of the Governing Body

28.—(1) The Governing Body shall hold at least one meeting in every school term.

(2) Meetings of the Governing Body shall be convened by the Clerk to the Governing Body; and, without prejudice to sub-paragraph (4) below, in exercising his functions under this sub-paragraph the Clerk to the Governing Body shall comply with any direction —

- (a) given by the Governing Body; or
- (b) given by the Chairman or, in his absence or where there is a vacancy in the office of Chairman, the Vice-chairman of the Governing Body, so far as such direction is not inconsistent with any direction given as mentioned in paragraph (a) above.

(3) Any three members of the Governing Body may, by notice in writing given to the Clerk to the Governing Body, requisition a meeting thereof; and it shall be the duty of the Clerk to the Governing Body, subject to sub-paragraph (4) below, to convene such a meeting as soon as is reasonably practicable.

(4) Each member of the Governing Body shall be given, at least seven clear days before the date of a meeting —

- (a) notice in writing thereof, signed by the Clerk to the Governing Body; and
- (b) a copy of the agenda for the meeting:

Provided that where the Chairman or, in his absence or where there is a vacancy in the office of Chairman, the Vice-chairman so determines on the ground that there are matters demanding urgent consideration, it shall be sufficient if the written notice of a meeting, and the copy of the agenda therefor, are given within such shorter period as he directs.

(5) The power of the Chairman or Vice-chairman under sub-paragraph (4) above to direct that a meeting be held within a shorter period shall not apply in relation to any meeting at which the Chairman's removal from office is to be considered in accordance with paragraph 26 above.

(6) For the purposes of sub-paragraph (4) above, notice of a meeting, and a copy of the agenda therefor, may be given to a person by leaving it at, or sending it by post to, his usual place of residence.

(7) The convening of a meeting and the proceedings conducted thereat shall not be invalidated by reason of any individual not having received written notice of the meeting or a copy of the agenda therefor.

Termination and adjournment of meetings

29.—(1) If the number of members of the Governing Body who are present at the time and place appointed for a meeting thereof does not constitute a quorum for the purposes of paragraph 30 below, the meeting shall not be held.

(2) A meeting of the Governing Body shall be terminated forthwith if —

- (a) the Governing Body so resolve, or
- (b) the number of members present ceases to constitute a quorum for a meeting of the Governing Body in accordance with paragraph 30 below.

(3) Where in accordance with sub-paragraph (1) or (2) above a meeting is not held or is terminated before all the matters specified as items of business on the agenda for the meeting have been disposed of, a further meeting shall be convened by the Clerk to the Governing Body as soon as is reasonably practicable.

(4) Where the Governing Body resolve in accordance with sub-paragraph (2)(a) above to adjourn a meeting before all the items of business on the agenda have been disposed of, the Governing Body shall before doing so determine the time and date at which a further meeting is to be held for the purposes of completing the consideration of those items, and they shall direct the Clerk to the Governing Body to convene a meeting accordingly.

(5) In any case falling within sub-paragraph (4) above, the Governing Body may determine that the further meeting referred to in that sub-paragraph shall be held at a date and time which, because of its proximity in time to the adjourned meeting, would not allow the Clerk to the Governing Body a sufficient period for the purpose of giving the notice required by paragraph 28(4) above: Provided that in such a case the Clerk to the Governing Body shall use his best endeavours to secure that any member of the Governing Body not present at the first meeting is informed of the time and date of the further meeting.

Quorum

30.—(1) The quorum for a meeting of the Governing Body and any vote on any matter thereat shall, subject to sub-paragraph (2) below, be one-third (rounded up to a whole number) of the membership when complete.

(2) Subject to sub-paragraph (3) below, the quorum for the purposes of—

- (a) appointing a first or parent governor in pursuance of (as the case may be) paragraph 3 or 11 above; or
- (b) any vote on the removal of the Chairman of the Governing Body in accordance with paragraph 26 above,

shall be two-thirds (rounded up to a whole number) of the persons who are at the time members of the Governing Body.

(3) In any case to which paragraph 26(3) above applies, sub-paragraph (2)(b) above shall have effect as if the reference to two-thirds were a reference to one-half.

Minutes of meetings etc.

31.—(1) The minutes of the proceedings of a meeting of the Governing Body shall, subject to sub-paragraph (2) below, be drawn up and entered into a book kept for the purpose by the person acting as the clerk to the Governing Body for the purposes of the meeting; and shall be signed (subject to the approval of the Governing Body) at the same or next subsequent meeting by the person acting as the chairman thereof.

(2) The minutes of proceedings of meetings may be entered on loose-leaf pages consecutively numbered; but in that case the person signing the minutes shall initial each page.

(3) The person acting as the clerk to the Governing Body for the purposes of any meeting shall record immediately before the entry recording the minutes of that meeting in the book or pages used for that purpose the names of those members of the Governing Body present at the meeting concerned.

Public access to meetings

32. Any question whether any person who is not a member of the Governing Body or the Clerk to the Governing Body should be allowed to attend meetings thereof shall be determined by the Governing Body.

Publication of minutes and papers

33.—(1) Subject to sub-paragraph (2) below, the Governing Body shall ensure that a copy of—

- (a) the agenda for every meeting of the Governing Body;
- (b) the draft minutes of every such meeting, if they have been approved by the person acting as chairman of that meeting;
- (c) the signed minutes of every such meeting; and
- (d) any report, document or other paper considered at any such meeting,

are, as soon as is reasonably practicable, made available at the School to persons wishing to inspect them.

(2) There may be excluded from any item required to be made available in pursuance of sub-paragraph (1) above, any material relating to —

- (a) a named teacher or other person employed, or proposed to be employed, at the School;
- (b) a named pupil at, or candidate for admission to, the School; and
- (c) any matter which, by reason of its nature, the Governing Body are satisfied should remain confidential.

Proceedings of the Governing Body

34.—(1) Subject to the provisions of this Instrument and the articles of government for the School and the provisions of Chapter V of Part II of, and Schedule 5 to, the 1993 Act, the Governing Body may regulate their own procedure in accordance with the following provisions of this paragraph.

(2) The Governing Body shall determine the rules which are to apply for the purposes of regulating their procedure, and shall make a written statement of those rules.

(3) The Governing Body may vary or revoke any of the rules determined under sub-paragraph (2) above; but where they do so they shall revise the written statement made under that sub-paragraph.

(4) The Governing Body shall comply with the rules determined by them in accordance with sub-paragraphs (2) or (3) above.

(5) The Clerk to the Governing Body shall secure that a copy of any statement prepared in accordance with sub-paragraphs (2) or (3) above is given to each member of the Governing Body.

(6) For the purposes of sub-paragraph (5) above, a copy of any statement prepared in accordance with sub-paragraphs (2) or (3) above may be given to a person by leaving it at, or sending it by post to, his usual place of residence.

(7) Subject to sub-paragraph (8) below, every question to be decided at a meeting of the Governing Body shall be determined by a majority of the votes of the members present and voting on the question.

(8) Where there is an equal division of votes the Chairman or, as the case may be, the person who in accordance with paragraphs 25(7) or (8) above is acting as chairman for the purposes of the meeting shall have a second or casting vote.

Restrictions on persons taking part in proceedings

35. Without prejudice to paragraph 32 above, Appendix 1 to this Schedule shall have effect for the purposes of describing the only circumstances and cases in which a member of the Governing Body or any other person present at a meeting of the Governing Body shall be required —

- (a) to withdraw from the meeting;
- (b) not to take part in the consideration or discussion of any matter; or
- (c) in the case of a member of the Governing Body, not to vote on any question with respect to any matter.

Establishment and constitution of committees of the Governing Body

36.—(1) Nothing in this paragraph or in paragraph 37 below shall apply to an appeal committee constituted in accordance with paragraphs 42 or 43 below.

(2) Subject to the provisions of the articles of government for the School, the Governing Body may establish such committees as they think fit for the purpose of exercising on their behalf such functions as they may delegate in accordance with paragraph 39 below.

(3) Subject to the following provisions of this paragraph, the constitution of any committee of the Governing Body shall be determined by the Governing Body.

(4) The membership of any committee of the Governing Body may include persons who are not members of the Governing Body.

(5) Subject to sub-paragraph (6) below, the members of the committee who are not members of the Governing Body shall not be entitled to vote in any proceedings of the committee.

(6) The Governing Body may determine that the members of a committee who are not members of the governing body shall be entitled to vote in any proceedings of the committee.

(7) The Discipline Committee and the Staff Committee shall each include not less than three members of the Governing Body, none of whom shall be the head teacher.

(8) The Admissions Committee shall include not less than three members of the Governing Body, one of whom shall be the head teacher.

(9) In this Instrument—

- (a) references to the Admissions Committee are to the committee established by the Governing Body in accordance with the articles of government for the School for the purpose of exercising on their behalf functions with respect to the determination of applications for admission to the School,
- (b) references to the Discipline Committee are to the committee established by the Governing Body in accordance with the articles of government for the School for the purpose of exercising on their behalf functions with respect to the exclusion of pupils from the School, and
- (c) references to the Staff Committee are to the committee established by the Governing Body in accordance with the articles of government for the School for the purpose of exercising on their behalf functions with respect to the discipline and dismissal of persons employed to work at the School.

Proceedings and meetings of committees

37.—(1) Appendix 2 to this Instrument shall have effect with respect to the meetings and proceedings of committees of the Governing Body.

(2) Subject to the provisions of Appendix 2, the Governing Body may determine the rules which are to apply for the purposes of regulating the procedure of such committees, and different rules may be made to apply in respect of different committees.

(3) The Governing Body shall make a written statement of the rules determined by them for the purposes of sub-paragraph (2) above.

(4) The Governing Body may vary or revoke any of the rules determined under sub-paragraph (2) above; but where they do so they shall revise the written statement made under sub-paragraph (3) above.

(5) The Clerk to the Governing Body shall secure that a copy of any statement prepared in accordance with sub-paragraph (3) or (4) above is given to each member of every committee to which it applies.

(6) For the purposes of sub-paragraph (5) above, a copy of any statement prepared in accordance with sub-paragraph (3) or (4) may be given to a person by leaving it at, or sending it by post to, his usual place of residence.

(7) Subject to the provisions of Appendix 2 to the Instrument and any rules determined by the Governing Body in accordance with sub-paragraph (2) or (4) above, a committee may regulate its own procedure.

(8) The proceedings of a committee of the Governing Body shall not be invalidated by —

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

Restrictions on persons taking part in proceedings of the Admissions, Discipline and Staff Committees

38.—(1) If a person being a pupil or his parent, is present at a meeting of the Admissions Committee at which the admission of that pupil is a subject of consideration, he shall withdraw from the meeting during the discussion or consideration of the matter in question and shall not vote on any question with respect thereto.

(2) Subject to sub-paragraph (4) below, if a person—

- (a) being a pupil or his parent, is present at a meeting of the Discipline Committee at which disciplinary action against that pupil is a subject of consideration;

- (b) being a pupil or his parent, is present at such a meeting at which, arising out of an alleged incident involving that pupil, disciplinary action against another pupil is a subject of consideration;
- (c) having made allegations, or having been a witness of an alleged incident, is present at such a meeting at which, arising out of those allegations or that incident, disciplinary action against a pupil is a subject of consideration; or
- (d) having been concerned (whether as the head teacher or otherwise) with disciplinary action taken against a pupil, is present at such a meeting at which a subject of consideration is an appeal against that disciplinary action,

he shall withdraw from the meeting during the discussion or consideration of the matter in question and shall not vote on any question with respect thereto.

(3) Subject to sub-paragraph (4) below, if a person—

- (a) having made allegations, or having been a witness of an alleged incident, is present at a meeting of the Staff Committee at which, arising out of those allegations or that incident, disciplinary action against a person employed at the School is a subject of consideration;
- (b) having been concerned (whether as the head teacher or otherwise) with disciplinary action taken against a person employed at the School, is present at such a meeting at which a subject of consideration is an appeal against that disciplinary action; or
- (c) being employed at the School is present at any such meeting at which a subject of consideration is disciplinary action against him,

he shall withdraw from the meeting during the discussion or consideration of the matter in question and shall not vote on any question with respect thereto.

(4) Where the Discipline or the Staff Committee are considering disciplinary action against a pupil or (as the case may be) any person employed at the School, nothing in this paragraph shall be construed as precluding that committee, at any hearing conducted by them into the matter, from allowing —

- (a) the person against whom disciplinary action is being considered and, in the case of a pupil, his parent to attend the hearing and to be heard in the matter, or
- (b) a person who appears to them to be able to give evidence relevant to their consideration of the matter to attend the hearing and present his evidence.

(5) The preceding provisions of this paragraph are without prejudice to the generality of paragraph 35 above and Appendix 1 to this Instrument (as they have effect by virtue of Appendix 2 thereto).

(6) For the purposes of this paragraph, “disciplinary action” includes—

- (a) in relation to a person who is employed at the school, the suspension and dismissal of that person, and
- (b) in relation to a pupil at the school, the permanent exclusion of that pupil from the school.

Delegation of functions

39.—(1) Subject to sub-paragraph (2) and paragraph 40 below, the Governing Body may, in such circumstances as they think fit, delegate any of the functions conferred on them by or under any enactment, including any functions conferred on them by or under the articles of government for the School, to any committee established by them or to any member of the Governing Body.

(2) Sub-paragraph (1) above is subject to any provision of the articles of government for the School requiring a function of the Governing Body to be delegated to a particular committee of the Governing Body.

Delegation of functions to the Chairman and Vice-chairman in cases of urgency

40.—(1) Subject to sub-paragraph (4) below, the Chairman shall have power, where in his opinion the circumstances mentioned in sub-paragraph below apply, to exercise any function of the Governing Body (other than a function delegated by them to a member or a committee of the Governing Body in accordance with paragraph 37 above or the articles of government for the School).

(2) The circumstances are that a delay in exercising the function would be likely to be seriously detrimental to the interests of the School, or to the interests of any registered pupil at the School or his parent, or a person employed to work at the School.

(3) In sub-paragraph (2) above, “a delay” means a delay for a period extending beyond the day preceding the earliest date on which it would be reasonably practicable for a meeting of the Governing Body to be held.

(4) Where it appears to the Vice-chairman that—

- (a) the circumstances mentioned in sub-paragraph (2) apply, and
- (b) that the Chairman (whether by reason of a vacancy in his office or otherwise) would be unable to exercise the function in question before the detriment referred to in that sub-paragraph is suffered,

the reference in sub-paragraph (1) above to the Chairman shall have effect as if it were a reference to the Vice-chairman.

Reporting to Governing Body following the exercise of delegated functions

41.—(1) This paragraph applies where in accordance with the preceding provisions of this Instrument or the provisions of the articles of government for the School any function has been delegated to a member of the Governing Body or a committee established by them.

(2) Any member or committee to whom a function of the Governing Body has been delegated shall report to the Governing Body in respect of any action taken or decision made with respect to the exercise of that function at the meeting of the Governing Body immediately following the taking of the action or the making of the decision.

Constitution of appeal committees dealing with admissions and exclusions of pupils

42. An appeal committee established in accordance with the provisions of the articles of government for the School made in pursuance of paragraph 5(1) of Schedule 6 to the 1993 Act shall be constituted in accordance with Appendix 3 to this Instrument.

Constitution of appeal committees dealing with staff discipline matters

43.—(1) An appeal committee established in accordance with the provisions of the articles of government for the School made in pursuance of paragraphs 2(3) and 3(2)(c) of Schedule 6 to the 1993 Act shall be constituted in accordance with sub-paragraphs (2) to (5) below.

(2) An appeal committee constituted in accordance with this paragraph shall consist of an odd number (being not less than five) of eligible governors appointed by the Governing Body.

(3) For the purposes of sub-paragraph (2) above, “eligible governor” means a member of the Governing Body other than the head teacher or a member of the Staff Committee.

(4) The members of an appeal committee constituted in accordance with this paragraph shall appoint a person from among their number to be chairman of the committee.

(5) The members of the appeal committee shall select a person, who is not from among their number, to act as the clerk to the committee; and the Governing Body shall appoint the person so selected so to act.

SCHEDULE 2

Regulation 3

INITIAL ARTICLES OF GOVERNMENT

Interpretation

1.—(1) In these Articles—

“the 1988 Act” means the Education Reform Act 1988⁽¹⁵⁾;

“the 1993 Act” means the Education Act 1993⁽¹⁶⁾;

“approved admission number” shall be interpreted in accordance with section 149 of the 1993 Act;

“the Clerk to the Governing Body” means the person appointed by the Governing Body in accordance with the instrument of government to be the clerk to the Governing Body;

“funding authority” has the meaning assigned to it by section 5(1) of the 1993 Act;

“the Governing Body” means the governing body of any grant-maintained school to which these Articles apply by virtue of sections 56(1) and (3) of the 1993 Act;

“the Head Teacher” means the person appointed to be the head teacher or acting head teacher of the School;

“relevant age group” shall be interpreted in accordance with section 155(4) of the 1993 Act;

“registered”, in relation to parents or pupils, means shown in the register kept under section 80 of the Education Act 1944⁽¹⁷⁾; and

“the School” means the school conducted by the Governing Body; and

“school holidays” includes any school holidays which are not less than five days in length and which take place during the course of a school term.

(2) In these Articles, unless the context otherwise requires, “parent”, in relation to a pupil at the School, includes any person —

(a) who is not a parent of his but who has parental responsibility for him, or

(b) who has care of him,

except for the purposes of Article 14, where it only includes such a person if he is an individual.

(3) For the purposes of paragraph (2) above—

(a) “parental responsibility” has the same meaning as in the Children Act 1989⁽¹⁸⁾; and

(b) in determining whether an individual has care of a pupil, any absence of the pupil at a hospital or boarding school and any other temporary absences shall be disregarded.

(15) 1988 c. 40.

(16) 1993 c. 35.

(17) 1944 c. 31; section 80 was amended by paragraph 5 of Schedule 12 to the Education Reform Act 1988 (c. 40).

(18) 1989 c. 41, section 3.

Transitional provisions in connection with the commencement of the 1993 Act

2. The following provisions of these Articles are subject to the provisions of Appendix 1 to these Articles (which relate to the commencement of various provisions of the 1993 Act).

General responsibilities of the Governing Body and the Head Teacher with respect to the conduct of the School

3.—(1) Subject to paragraph (2) below, the conduct of the School shall be under the direction of the Governing Body.

(2) Paragraph (1) above is subject to—

- (a) any provision of these Articles conferring specific functions on any person other than the Governing Body; and
- (b) any other provision affecting the conduct of the School made by or under the Education Acts 1944 to 1993 or any other enactment.

(3) Subject to paragraph (4) below, the Head Teacher shall be responsible for the internal organisation and management of the School, and for deploying and managing the staff of the School (other than the Clerk to the Governing Body).

(4) In exercising his functions under paragraph (3) above the Head Teacher shall comply with any direction given by the Governing Body.

(5) The Head Teacher shall furnish the Governing Body with such reports in connection with the discharge of his functions as the Governing Body may require.

(6) It shall be the duty of the Governing Body and the Head Teacher to exercise their functions with respect to the conduct of the School with a view to —

- (a) securing that there are good relations and mutual respect and tolerance between the staff and pupils at the School and other persons in the local community served by it; and
- (b) promoting among the pupils at the School a regard for good relations and mutual respect and tolerance between —
 - (i) persons belonging to different racial groups;
 - (ii) persons of different genders;
 - (iii) persons of different ages; and
 - (iv) persons of different creeds, beliefs and opinions.

(7) It shall be the duty of the Head Teacher to exercise his functions in relation to the School with a view to assisting the Governing Body in complying with the provisions of sections 22 and 25 of the Sex Discrimination Act 1975⁽¹⁹⁾ and sections 17 and 19 of the Race Relations Act 1976⁽²⁰⁾ (which are concerned respectively with preventing sex discrimination and racial discrimination in the field of education).

(8) In this Article the reference to “racial groups” shall be interpreted in accordance with section 3 of the Race Relations Act 1976.

⁽¹⁹⁾ 1975 c. 65; sections 22 and 25 were amended by paragraphs 15 and 16 of Schedule 12 to the Education Reform Act 1988 (c. 40) respectively.

⁽²⁰⁾ 1976 c. 74; sections 17 and 19 were amended by paragraphs 18 and 19 of Schedule 12 to the Education Reform Act 1988 (c. 40) respectively.

Curriculum: general

4.—(1) The Governing Body and the Head Teacher, in exercising their functions with respect to the conduct of the School, shall secure that they discharge the duties imposed on them under Chapter I of Part I of the 1988 Act relating to the curriculum for the School.

(2) Subject to the provisions of Chapter I of Part I of the 1988 Act (which require the provision in schools of a basic curriculum including the National Curriculum), the content of the secular curriculum for the school shall be under the control of the Governing Body.

(3) The Governing Body shall, when considering the content of the secular curriculum for the School, have regard to any representations with respect to that curriculum —

- (a) which are made to them by any persons connected with the community served by the School; or
- (b) which are made to them by the chief officer of police and are connected with his responsibilities.

(4) The Governing Body shall make, and keep up to date, a written statement of what in their opinion should be the aims of the secular curriculum for the School, and shall furnish the Head Teacher and the Secretary of State with a copy of that statement.

(5) Where the School is a primary school, the Governing Body shall—

- (a) consider separately the question of whether sex education shall form part of the secular curriculum for the School; and
- (b) make, and keep up to date, a separate written statement
 - (i) of their policy with regard to the content and organisation of the relevant part of the curriculum; or
 - (ii) where they conclude that sex education should not form part of the secular curriculum, of that conclusion; and
- (c) furnish the Head Teacher and the Secretary of State with a copy of that statement.

(6) Save as otherwise expressly provided, the Head Teacher shall be allocated by the Governing Body such functions as will, subject to the resources available, enable him to determine and organise the secular curriculum and secure that it is followed within the School.

(7) The Head Teacher shall make available for inspection at the School (at all reasonable times) to all persons wishing to inspect it a copy of any statement made by the Governing Body in accordance with paragraph (4) or (5) above.

Curriculum: complaints.

5.—(1) The Governing Body shall make arrangements for the consideration and disposal of complaints relating to any matter concerning the curriculum followed within the School including, in particular, the discharge by the Governing Body of the duties imposed on them under Chapter I of Part I of the 1988 Act.

(2) The arrangements referred to in paragraph (1) above must, in particular, provide —

- (a) for any complaint to be made in the first instance in writing to the Head Teacher for his consideration; and
- (b) if the complainant is dissatisfied with the response to his complaint from the Head Teacher, or he does not receive any such response within a period specified under the arrangements, for the complainant to be able to refer the matter to the Governing Body for their consideration.

(3) The Governing Body may from time to time revise the arrangements made by them under this Article; and any such arrangements (whether as initially determined or as revised by the Governing Body) shall not have effect unless they have been approved by the Secretary of State.

Admissions: reduction of approved admission number

6.—(1) This Article applies where—

- (a) the Governing Body intend in accordance with section 149(4) of the 1993 Act to apply to the Secretary of State for his approval for a variation in the approved admission number for any relevant age group; and
- (b) the effect of the variation would be to reduce the approved admission number in relation to that age group.

(2) Before applying to the Secretary of State for the approved admission number to be reduced in relation to any relevant age group, the Governing Body shall publish their proposals in accordance with paragraph (3) below.

(3) The proposals shall be published—

- (a) in at least one newspaper circulating in the area served by the School;
- (b) by being posted in at least one conspicuous place within that area; and
- (c) by being posted at or near the main entrance to the School, or (if there is more than one main entrance) all of them.

(4) The published proposals shall be accompanied by a statement which explains the effect of paragraphs (5) and (6) below.

(5) Within the period of two months beginning with the date of publication of the proposals, objections to the proposals may be submitted to the Governing Body by any of the following —

- (a) if the proposals affect the provision of education to which section 2(1) of the Further and Higher Education Act 1992(21) applies, the appropriate further education funding council;
- (b) any ten or more local government electors for the area of the local education authority in which the School is situated;
- (c) the governing body of any school affected by the proposals; and
- (d) any local education authority concerned.

(6) The Governing Body shall not apply to the Secretary of State for the approved admission number for any relevant age group to be reduced until after the period referred to in paragraph (5) above has expired; and, where they do so, they shall send to the Secretary of State copies of all the objections made to their proposals (and not withdrawn in writing) together with their observations on them.

(7) If an order under section 12(1) of the 1993 Act applies to the area of the local education authority in which the School is situated, this Article shall have effect as if the references to the Secretary of State were to the funding authority.

(8) In paragraph (5) above—

- (a) the reference to “the date of publication of proposals” is
 - (i) to the date on which the requirements of paragraph (3) above are satisfied; or
 - (ii) where different requirements are satisfied on different dates, to the last of those dates; and
- (b) the reference to “the appropriate further education funding council” is —

(21) 1992 c. 13.

- (i) where the School is situated in England, to the Further Education Funding Council for England; and
- (ii) where the School is situated in Wales, to the Further Education Funding Council for Wales.

Admissions: arrangements for admission of pupils to the School

7.—(1) The governing Body shall determine, and may from time to time revise, the arrangements for the admission of pupils to the School in any school year.

(2) The arrangements for the admission of pupils to the School (whether as initially determined or as revised by the Governing Body) shall not have effect unless they have been approved by the Secretary of State.

(3) The arrangements for the admission of pupils to the School shall include —

- (a) the number of pupils intended to be admitted to the School in any school year in each relevant age group;
- (b) the arrangements which are to apply with respect to the making of applications for admission to the School;
- (c) the policy to be followed in deciding admissions (“admissions policy”);
- (d) any arrangements which may be adopted by the Governing Body, with the approval of the Secretary of State, for preserving the particular religious character of the School; and
- (e) where pupils are to be selected for admission to the School wholly or partly on the basis of ability or aptitude, the arrangements made for that purpose.

(4) For the purposes of paragraph (2)(c) above, the admissions policy shall include the criteria to be applied in deciding admissions where the number of applications for admission of pupils in a relevant age group in any school year which do not fall to be rejected in accordance with (as the case may be) Article 8(1)(a) or (c) below is greater than the number of pupils intended to be admitted in that age group in that year.

Admissions: determining applications for admission

8.—(1) Where an application for admission has been made in accordance with the arrangements for admission of pupils to the School, the Governing Body shall admit the child concerned unless —

- (a) his admission would be incompatible with the arrangements for the admission of pupils to the School, including in particular
 - (i) any arrangements for preserving the particular religious character of the School made in accordance with Article 7(3)(d); and
 - (ii) any arrangements for selecting pupils by reference to ability or aptitude made in accordance with Article 7(3)(e);
- (b) his admission would prejudice the provision of efficient education or the efficient use of resources at the School; or
- (c) a local education authority maintain a statement of special educational needs for him under section 168 of the 1993 Act, and that statement names another school.

(2) For the purposes of paragraph (1)(b) above, no such prejudice shall be taken to arise from the admission of a child to the School if, were he admitted to the School, the number of pupils within the relevant age group to which he would be admitted in the school year in which he would be admitted would not exceed the number of pupils intended to be admitted to the School in that age group in that year.

(3) The Governing Body shall establish a committee constituted in accordance with the provisions of the instrument of government for the purpose of determining applications for admission to the School (“the Admissions Committee”).

(4) Where a child has been refused admission to the School, the Governing Body shall secure that the parent of the child is informed of —

- (a) his right to appeal against that decision; and
- (b) the arrangements made by the Governing Body, pursuant to Article 12, for enabling appeals to be made against decisions refusing admission to the School.

Discipline: general duties in relation to pupils

9.—(1) Subject to paragraph (2) below, the Head Teacher shall determine measures (which may include the making of rules and provision for enforcing them) to be taken with a view to —

- (a) promoting, among pupils at the School, self-discipline and proper regard for authority;
- (b) encouraging good behaviour and respect for others on the part of those pupils;
- (c) securing that the standard of behaviour of those pupils is acceptable; and
- (d) otherwise regulating the conduct of those pupils.

(2) In determining any such measures, the Head Teacher shall—

- (a) act in accordance with any written statement of general principles provided for him by the Governing Body; and
- (b) have regard to any guidance that they may offer in relation to particular matters.

(3) It shall be the duty of the Head Teacher to make such measures generally known within the School.

(4) For the purposes of paragraph (1) above, the standard of behaviour which is to be regarded as acceptable at the School shall be determined by the Head Teacher, so far as it is not determined by the Governing Body.

(5) The power to exclude a pupil from the School (whether by suspension, expulsion or otherwise) shall be exercisable only by the Head Teacher.

Exclusion of pupils

10.—(1) It shall be the duty of the Head Teacher—

- (a) where he excludes from the School a pupil who is under the age of eighteen years, to take (without delay) reasonable steps to inform a parent of the pupil of the period of the exclusion and the reasons for it; and
- (b) where he decides that any exclusion of such a pupil from the School which was originally for a fixed period should be made permanent, to take (without delay) reasonable steps to inform a parent of the pupil of his decision and the reasons for it.

(2) Where the Head Teacher excludes any pupil from the School, he shall (without delay) take reasonable steps to inform the pupil, if he is aged eighteen years or over, or, if he is not, a parent of his, that the pupil or (as the case may be) the parent may make representations about the exclusion to the Discipline Committee established in accordance with Article 11(1).

(3) It shall be the duty of the Head Teacher, where he excludes a pupil from the School —

- (a) for more than five school days (in the aggregate) in any one school term; or
- (b) in such circumstances in which the pupil would, as a result of his exclusion from the School, lose an opportunity to take any public examination,

to inform (without delay) the Discipline Committee established in accordance with Article 11(1) of the period of the exclusion and of the reasons for it, and where he decides that any exclusion of a pupil from the School which was originally for a fixed period should be made permanent, to inform them (without delay) of his decision and the reasons for it.

Reinstatement of excluded pupils

11.—(1) The Governing Body shall establish a committee to be known as the Discipline Committee for the purpose of exercising the functions assigned to it by this Article.

(2) It shall be the duty of the Discipline Committee, where they have been informed of the permanent exclusion of a pupil from the School —

- (a) to consider whether he should be reinstated immediately, reinstated by a particular date or not reinstated;
- (b) where they consider he should be reinstated, to give the appropriate direction to the Head Teacher; and
- (c) where they consider he should not be reinstated, to inform
 - (i) the pupil, if he is aged eighteen years or over, or, if he is not, a parent of his; and
 - (ii) the Head Teacher, of their decision.

(3) In any case to which paragraph (2)(c) above applies, the Discipline Committee shall also inform the pupil or (as the case may be) his parent of —

- (a) his right to appeal against the decision permanently to exclude the pupil; and
- (b) the arrangements made by the Governing Body in accordance with Article 12 for enabling an appeal to be made against any decision permanently to exclude a pupil from the School.

(4) The Head Teacher shall comply with any direction given by the Discipline Committee in accordance with paragraph (2)(b) above.

(5) It shall be the duty of the Head Teacher, where he has excluded a pupil from the School for a fixed period —

- (a) for more than five school days (in the aggregate) in any one school term, or
- (b) in circumstances in which the pupil would, as a result of his exclusion from the School, lose an opportunity to take any public examination,

to comply with any direction for the reinstatement of the pupil given by the Discipline Committee.

(6) Where the Head Teacher has been informed by the Discipline Committee in accordance with paragraph (2)(c) above that a pupil is not to be reinstated, he shall (without delay) inform the local education authority to whose area the pupil belongs of the decision to exclude him from the School.

(7) For the purposes of paragraph (6) above, any question whether a pupil belongs to the area of a particular local education authority shall be determined by the Head Teacher, as it would for the purposes of the Education Act 1980(22), in accordance with the regulations made under section 38(5) of that Act(23).

Appeals against admissions decisions and decisions permanently to exclude pupils

12.—(1) The Governing Body shall make arrangements for enabling—

- (a) a person, if he is aged eighteen years or over, or, if he is not, a parent of his, to appeal against any decision made by the Admissions Committee in accordance with Article 8 refusing him admission to the School; and

(22) 1980 c. 20.

(23) See the Education (Areas to which Pupils and Students Belong) Regulations 1989 (S.I. 1989/2037).

- (b) a pupil, if he is aged eighteen years or over, or, if he is not, a parent of his, to appeal against any decision by the Discipline Committee in accordance with Article 11(2) not to reinstate the pupil following his permanent exclusion from the School.
- (2) For the purposes of paragraph (1) above, the Governing Body may make joint arrangements with the governing body of one or more other grant-maintained schools.
- (3) Any appeal by virtue of this Article shall be to an appeal committee constituted in accordance with the provisions of the instrument of government for the Governing Body; and Appendix 2 to these Articles shall have effect in relation to any such appeal.
- (4) The decision of an appeal committee on any such appeal shall be binding on the persons concerned.
- (5) Where, in the case of an appeal against a decision not to reinstate a pupil following his permanent exclusion from the School, the appeal committee determines that the pupil in question should be reinstated, it shall direct that he be reinstated immediately or direct that he be reinstated on or before such date as is specified in the direction.

Annual report to parents

- 13.**—(1) The Governing Body shall prepare, once in every school year, a report (“the governors’ report”) containing —
- (a) a summary of the steps taken by the Governing Body in the discharge of their functions during the period since their last report; and
 - (b) the information referred to in paragraph (2) below.
- (2) Subject to paragraph (6) below, the governors’ report shall—
- (a) be as brief as is reasonably consistent with the requirements as to its contents;
 - (b) give details of the date, time and place for the next annual parents’ meeting and its agenda;
 - (c) indicate that the purpose of that meeting will be to discuss both the governors’ report and the discharge by the Governing Body and the Head Teacher of their functions in relation to the School;
 - (d) report on the consideration which has been given to any resolutions passed at the previous such meeting;
 - (e) give the name of each governor and indicate what category of governorship he holds;
 - (f) give, in relation to each governor who is not an ex officio governor, the date on which his term of office comes to an end;
 - (g) name, and give the address of, the chairman of the Governing Body and the Clerk to the Governing Body;
 - (h) give such information as is available to the Governing Body about arrangements for the next election of parent governors;
 - (i) give such information in relation to public examinations as is required to be published in accordance with regulations made under section 153(1) of the 1993 Act⁽²⁴⁾;
 - (j) describe what steps have been taken by the Governing Body to develop or strengthen the School’s links with the community (including links with the police);
 - (k) give particulars of the dates of the beginning and end of each school term and of each holiday for the school year immediately following the school year in which the report has been prepared; and

(24) Section 153(1) of the Education Act 1993 (c. 35) is not in force at the date of the making of these Regulations.

- (l) provide a summary of any changes to the information contained in the school prospectus since it was last published.
- (3) The Governing Body may produce their report in such language or languages (in addition to English) as they consider appropriate.
- (4) The Governing Body shall take such steps as are reasonably practicable to secure that —
 - (a) the registered parents of all registered pupils at the School and all persons employed at the School are given (free of charge) a copy of the governors' report;
 - (b) copies of the report are available for inspection (at all reasonable times and free of charge) at the School; and
 - (c) subject to paragraph (6) below, copies of the report are given to parents in accordance with sub-paragraph (a) above not less than two weeks before the annual parents' meeting at which that report is to be considered.
- (5) There shall be annexed to any copy of the governors' report made available for inspection in accordance with paragraph (4)(b) above the audited accounts of the School for the financial year ending with 31st March in the school year immediately preceding the school year in which the report is prepared.
- (6) The requirements imposed by paragraph (2)(b) to (d) and paragraph (4)(c) above shall not apply where in accordance with Article 14(10) the Governing Body have determined to refrain from holding the next annual parents' meeting.
- (7) The Governing Body shall furnish the Secretary of State with a copy of any governors' report produced by them.
- (8) In paragraph (5) above, “financial year” means a period of twelve months ending with 31st March.

Annual parents' meeting

- 14.**—(1) Subject to paragraph (10) below, the Governing Body shall hold a meeting once in every school year (“the annual parents' meeting”) which is open to —
- (a) all parents of registered pupils at the School; and
 - (b) such other persons as the Governing Body may invite.
- (2) The purpose of the meeting shall be to provide an opportunity for the discussion of —
- (a) the governors' report;
 - (b) the audited accounts annexed to that report in accordance with Article 13(5); and
 - (c) the discharge by the Governing Body and the Head Teacher of their functions in relation to the School.
- (3) The proceedings at any annual parents' meeting shall be under the control of the Governing Body.
- (4) No person who is not a parent of a registered pupil may vote on any question put to such a meeting.
- (5) Where the required number of parents of registered pupils at the School are present at any annual parents' meeting, the meeting may pass (by simple majority) resolutions on any matters which may properly be discussed at the meeting.
- (6) The Governing Body shall—
- (a) consider any such resolution which is duly passed at such a meeting and which they consider is a matter for them; and

(b) send to the Head Teacher a copy of any such resolution which they consider is a matter for him.

(7) The Governing Body shall comment (in writing) on any such resolution which they consider is a matter for them, for inclusion in their next governors' report.

(8) The Head Teacher shall consider any such resolution a copy of which has been sent to him by the Governing Body and shall provide the Governing Body with a brief comment on it (in writing) for inclusion in their next governors' report.

(9) For the purposes of this Article, any question whether a person is a parent of a registered pupil at the School shall be determined by the Governing Body.

(10) Where—

(a) the Governing Body are of the opinion that it would be impracticable to hold an annual parents' meeting in a particular school year;

(b) at least fifty per cent of the registered pupils at the School are boarders at the time when the Governing Body form that opinion; and

(c) an annual parents' meeting was held by the Governing Body in the immediately preceding school year,

they may refrain from holding such a meeting.

(11) In paragraph (5) above, “the required number” means any number equal to at least twenty per cent of the number of registered pupils at the School.

Terms, holidays and sessions

15. It shall be the duty of the Governing Body to determine—

(a) the dates at which the school terms and holidays are to begin and end; and

(b) the times at which the school session or, if there is more than one session, each school session is to begin and end on any day.

School premises

16.—(1) Subject to the following provisions of this Article, the occupation and use of the premises of the School shall be under the control of the Governing Body.

(2) The Governing Body, in exercising control of the use of the premises of the School, shall have regard to the desirability of the premises being made available for community use.

(3) Subject to paragraph (4) below, the Governing Body shall have power to enter into a transfer of control agreement with any body or person if their purpose, or one of their purposes, in doing so is to promote community user of the whole or any part of the premises of the School; and—

(a) they may do so notwithstanding that any trust deed relating to the School would, apart from this provision, expressly or impliedly preclude them from entering into such an agreement with that body or person or from conferring control on the controlling body in question; but

(b) they shall not enter into a transfer of control agreement unless the use to which the premises may be put under the agreement is in all other respects in conformity with any such requirements, prohibitions or restrictions imposed by the trust deed as would obtain if control were being exercised by the Governing Body.

(4) The Governing Body shall not enter into any transfer of control agreement which makes or includes provision for the use of the whole or any part of the premises of the School during school hours unless they have first obtained the appropriate authority's consent to the agreement in so far as it makes such provision.

- (5) In paragraph (4) above, the reference to the appropriate authority is —
- (a) where an order has been made under section 12(1) of the 1993 Act (transfer to the funding authority of responsibility for providing sufficient school places) in respect of the area of the local education authority in which the School is situated, to the funding authority; or
 - (b) in any other case, to the Secretary of State.
- (6) A transfer of control agreement shall be taken to include the following terms, namely —
- (a) that the controlling body, in exercising control of the use of any premises subject to the agreement shall have regard to the desirability of the premises being made available for community use; and
 - (b) that, if reasonable notice is given in writing by the Governing Body to the controlling body that such of the premises subject to the agreement as may be specified in the notice are reasonably required for the use by or in connection with the School at such times as may be so specified, then —
 - (i) the use of the specified premises at those times shall be under the control of the Governing Body; and
 - (ii) accordingly, those premises may be used at those times by or in connection with the School for such purposes as maybe specified in the notice,notwithstanding that their use at those times would, apart from this sub-paragraph, be under the control of the controlling body.
- (7) Where a transfer of control agreement makes provision for the use of any premises which are subject to the agreement to be occasionally under the control of the Governing Body, instead of the controlling body, in such circumstances, at such time or for such purposes as may be provided by or under the agreement, paragraph (5)(b) above shall not have effect in relation to that agreement if, at the time of entering into it, the Governing Body were of the opinion that the express provision would be more favourable to the interests of the School than the term that would otherwise be included by virtue of that provision.
- (8) Where any trust deed relating to the School provides for any person other than the Governing Body to be entitled to control the occupation and use of the premises of the School to any extent, then, if and to the extent that, disregarding any transfer of control agreement, the use of those premises is or would be under the control of such a person, this Article shall have effect with the substitution for references to the Governing Body of references to that person.
- (9) Where, in accordance with section 38 of the 1993 Act, the rights and liabilities of the former governing body of the School under a transfer of control agreement relating to the whole or any part of the premises of the School are transferred to the Governing Body, the power of the Governing Body to control the use and occupation of those premises shall be subject to the terms of that agreement.
- (10) Where in an agreement made under paragraph 1 or 2 of Schedule 10 to the 1988 Act, or under a determination made in accordance with paragraphs 62 to 64 of Schedule 8 to the Further and Higher Education Act 1992(25), arrangements are made with respect to the use of the whole or any part of the premises of the School, the power of the Governing Body to control the use and occupation of those premises shall be subject to the terms of those arrangements.
- (11) In this Article—
- “community use” means the use of the premises of the School (when not required by or in connection with the School) by members of the local community;

(25) 1992 c. 13; see also paragraph 61 of Schedule 8 to that Act which substitutes paragraphs 62 to 64 of Schedule 8 for paragraph 3 of Schedule 10 to the Education Reform Act 1988 (c. 40). Paragraph 61 of Schedule 8 is amended by section 47(6) of the Education Act 1993 (c. 35).

“the controlling body” means the body or person (other than the Governing Body) which has the control of the use of the whole or any part of the premises of the School under the transfer of control agreement in question;

“school hours” means any time during a school session or during a break between sessions on the same day, and “outside school hours” shall be construed accordingly; and

“school session” means a school session beginning and ending at such times as may from time to time be determined in accordance with Article 15.

(12) In this Article, “transfer of control agreement” means—

- (a) in paragraph (9) above, a transfer of control agreement entered into in accordance with (as the case may be) section 22 of the Education Act 1944 or section 42 of the Education (No.2) Act 1986; or
- (b) in any other case, an agreement which, subject to paragraph (6) above, provides for the use of so much of the premises of the School as may be specified in the agreement to be under the control, at such times as may be so specified, of such body or person as may be so specified.

Appointment of the head teacher and deputy head teacher

17.—(1) This Article applies in relation to the appointment of any person to fill a vacancy in the post of head teacher or deputy head teacher of the School.

(2) Before appointing any person as head teacher or deputy head teacher, the Governing Body shall advertise the vacancy in such publications circulating throughout England and Wales as they consider appropriate.

(3) The Governing Body shall appoint a selection panel consisting of at least three of their members to perform the functions conferred on the panel under this Article.

(4) The selection panel shall—

- (a) interview such applicants for the post as they think fit; and
- (b) where they consider that it is appropriate to do so, recommend to the Governing Body for appointment one of the applicants interviewed by them.

(5) If the selection panel are unable to agree on a person to recommend 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 (2) above; and
- (b) whether or not they re-advertise the vacancy, may require the panel to repeat the steps mentioned in paragraph (4) above.

(6) Where the post of head teacher or, as the case may be, deputy head teacher 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 the preceding provisions of this Article before the date on which the post falls vacant, the Governing Body may, pending the making of such an appointment, appoint a person as acting head teacher or, as the case may be, acting deputy head teacher.

(7) Any person employed to work at the School in accordance with this Article shall be employed under a written contract of employment.

Appointment of staff other than the head teacher and deputy head teacher

18.—(1) This paragraph applies in relation to the appointment of persons to work at the School (other than the Head Teacher and the deputy head teacher).

(2) Subject to the following provisions of this Article, the Governing Body may appoint such persons to work at the School as they think fit.

(3) The Governing Body may delegate the function of selecting a person to fill a post at the School to one or more governors (including the Head Teacher).

(4) Except where in accordance with paragraph (3) above the Governing Body delegate a person's selection to the Head Teacher, the persons making the selection shall consider any advice given by the Head Teacher before selecting any person to work at the school.

(5) Subject to paragraph (6) below, where there is a vacancy in a teaching post at the School, the Governing Body shall, unless they decide to fill the vacancy by the appointment of a person who is already employed to work at the School, advertise the vacancy as they think fit.

(6) Where the Governing Body advertise a vacancy in accordance with paragraph (5) above, they shall not be required to appoint a person who has applied for the vacancy in response to their advertisement.

(7) Any person employed to work at the School in accordance with this Article shall be employed under a written contract of employment.

Staff: discipline

19.—(1) The Governing Body shall establish a committee to be known as the Staff Committee for the purpose of exercising the functions assigned to it by this Article and Articles 20 and 21.

(2) Subject to paragraphs (3) and (4) below and Articles 20 and 21, the Staff Committee shall have control of all matters relating to the conduct and discipline of persons employed to work at the School.

(3) The Governing Body shall establish disciplinary rules and procedures in relation to the persons employed to work at the School and shall take such steps as appear to them to be appropriate for making them known to such persons.

(4) The Staff Committee shall consult the Head Teacher before taking any disciplinary action in relation to a person employed to work at the School.

(5) For the purposes of paragraph (4) above, "disciplinary action" includes any action relating to the suspension or dismissal of any person employed to work at the School.

Staff: suspension

20.—(1) Subject to paragraph (2) below, the Staff Committee and the Head Teacher shall both have power to suspend any person employed to work at the School where, in the opinion of the Staff Committee or the Head Teacher, as the case may be, his exclusion from the School is required.

(2) Where the Head Teacher suspends any person in accordance with paragraph (1) above, he shall immediately inform the Staff Committee of that fact and the reasons for his decision.

(3) Any suspension under this Article may be ended only by the Staff Committee; and the Staff Committee shall, on ending such a suspension immediately inform the Head Teacher.

(4) In these Articles, "suspend" means suspend without loss of emoluments.

Staff: dismissal

21.—(1) The Staff Committee shall have power to determine that any person employed to work at the School should be dismissed.

(2) The Staff Committee shall secure that, before determining that any person employed to work at the School should be dismissed, the person concerned is given at least seven days' written notice of any meeting at which they are to consider any proposal to dismiss him.

(3) Where the Staff Committee are to consider the dismissal of any person employed to work at the School, they shall secure that, before reaching a decision on whether to dismiss the person concerned —

- (a) he is given at least seven days' written notice of the meeting at which his dismissal is to be considered;
- (b) he is informed at the same time of his right to make representations (including oral representations) to the Staff Committee to be considered by them at that meeting; and
- (c) they have regard to any representations made by him.

(4) The Head Teacher shall be entitled to attend any such meeting as is referred to in paragraph (3) above; and, except where it concerns his dismissal, the Staff Committee shall have regard to any advice given by the Head Teacher before reaching their decision.

(5) The Governing Body shall make arrangements for enabling any person employed to work at the School to appeal against a decision of the Staff Committee to dismiss him.

(6) Any appeal by virtue of this Article shall be to an appeal committee constituted in accordance with the provisions of the instrument of government for the Governing Body; and Appendix 2 to these Articles shall have effect in relation to any such appeal.

(7) The decision of an appeal committee under this Article on any such appeal shall be binding on the persons concerned.

(8) Where in accordance with the preceding provisions of this Article it is determined by the Staff Committee that any person employed to work at the School should be dismissed, the Governing Body shall either give that person such notice terminating his contract of employment with them as is required under that contract or terminate that contract without notice if the circumstances are such that they are entitled to do so by reason of his conduct.

(9) For the purposes of paragraph (8) above, any determination made by the Staff Committee in accordance with the preceding provisions of this Article shall not have effect until —

- (a) where an appeal is made against the decision of the Staff Committee, that appeal has been determined; or
- (b) in any other case, the period for making such an appeal has expired,

and in any case to which paragraph (a) above applies, any such determination shall not thereafter have effect where the appeal is successful.

(10) This article shall not apply in relation to the dismissal of the Clerk to the Governing Body.

Staff: grievance procedures

22. The Governing Body shall establish procedures for giving members of the staff at the School opportunities for seeking redress of any grievances relating to their employment.

Staff: induction and training of teaching staff

23. It shall be the duty of the Governing Body to make arrangements with respect to —

- (a) the induction of newly qualified teachers at the School; and
- (b) the in-service training and professional development of teachers at the School.

Duty to make available copies of the instrument and articles of government

24. The Governing Body shall secure that copies of these Articles and the instrument of government applying to the School are made available for inspection at the School (at all times and free of charge) by any parent of a registered pupil or person employed to work at the School.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe the initial instrument and articles of government for certain grant-maintained schools. The schools to which the Regulations apply are grant-maintained schools whose governing bodies are incorporated under the Education Act 1993 (“the 1993 Act”), and those whose governing bodies are incorporated under Chapter IV of Part I of the Education Reform Act 1988 but for which no instrument or articles of government have been made under that Act before the commencement of section 56 of the 1993 Act.

The initial instrument of government for such schools is set out in Schedule 1 to the Regulations (regulation 2).

Part II of Schedule 1 applies to schools which were either county schools immediately before becoming grant-maintained, or were established in pursuance of proposals published under section 48 of the 1993 Act. Part II requires the governing body to include first governors. It also includes provision for the Secretary of State to replace first governors and to make provision with respect to the filling of vacancies in such governorships.

Part III of Schedule 1 applies to schools which were either voluntary schools immediately before becoming grant-maintained, or were established in pursuance of proposals published under section 49 of the 1993 Act. Part III requires the governing body to include foundation governors.

Part IV of Schedule 1 includes provisions which apply to all grant-maintained schools in respect of which the initial instrument of government has effect. It requires the governing body to include parent and teacher governors, and makes provision as to their election and, in the case of parent governors, appointment. It also provides for the governing body to include the head teacher as a governor; and to include sponsor governors where the proposals under which the school became grant-maintained name a person as a sponsor of the school. Provisions are also included in Schedule 1 with respect to the tenure of office of governors, their removal and resignation from office, and the circumstances in which a person is to be disqualified for holding or continuing to hold office as governor.

Part IV of Schedule 1 also includes provisions for the appointment of a chairman and vice-chairman of the governing body and a clerk to the governing body. It also makes provisions with respect to the meetings and proceedings of the governing body. Provisions are included in Schedule 1 with respect to the delegation of functions by the governing body and the establishment of committees for the purpose of exercising delegated functions. Schedule 1 also makes provision for the constitution of appeal committees.

The initial articles of government are set out in Schedule 2 to the Regulations (regulation 3).

Schedule 2 includes provisions dealing with the general responsibilities of the governing body and head teacher with respect to the conduct of the school. It also makes provision with respect to the curriculum at the school (including for dealing with complaints concerning the curriculum at the school). Schedule 2 includes provisions with respect to the arrangements for determining admissions to the school, and the exclusion of pupils. In this respect, Schedule 2 also provides for the establishment of appeal committees to hear appeals against admissions and exclusion decisions.

Schedule 2 includes provisions requiring the governing body to prepare an annual report and to hold an annual parents' meeting. It also includes provisions with respect to the use of school premises, and provisions concerning the appointment and dismissal of staff.

The Regulations provide, in the case of schools which are established as grant-maintained schools, for certain provisions of the Articles to have effect from the date of incorporation of the governing

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body (regulation 4). These include the provisions relating to the curriculum at the school, admissions and the appointment and dismissal of staff. Otherwise, by virtue of section 56(3) of the 1993 Act, the initial articles of government have effect from the implementation date of the proposals under which the school became grant-maintained.