
STATUTORY INSTRUMENTS

1994 No. 2104

EDUCATION, ENGLAND AND WALES

**The Education (Grant-maintained Special Schools)
(Initial Governing Instruments) Regulations 1994**

<i>Made</i>	- - - -	<i>6th August 1994</i>
<i>Laid before Parliament</i>		<i>9th August 1994</i>
<i>Coming into force</i>	- -	<i>1st September 1994</i>

Whereas pursuant to section 8(1) of, and paragraph 15(c) of Schedule 1 to, the Tribunal and Inquiries Act 1992(1), the Secretary of State has consulted the Council on Tribunals;

Now therefore, in exercise of the powers conferred on the Secretary of State by section 301(6) of, and paragraph 2(1) and (3) of Schedule 11 to, the Education Act 1993(2), 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 Special Schools) (Initial Governing Instruments) Regulations 1994 and shall come into force on 1st September 1994.

Initial instrument of government

2.—(1) For the purposes of paragraph 2 of Schedule 11 to the 1993 Act, the initial instrument of government of a grant-maintained special 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 paragraph 2 of Schedule 11 to the 1993 Act, the initial articles of government of a grant-maintained special school shall be as set out in Schedule 2 to these Regulations.

(1) 1992 c. 53; paragraph 15(c) of Schedule 1 was amended by paragraph 174 of Schedule 19 to the Education Act 1993.
(2) 1993 c. 35; for the definitions of “prescribed” and “regulations” see section 305(1).

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 made under section 183(3)(a) of the 1993 Act (proposals for the establishment of a new grant-maintained special school), the following provisions of the initial articles of government shall have effect from the incorporation date: Articles 1, 3, 4, 5, 13, 15, 16, 17, 18, 19 and 20, and the Appendix thereto.

(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; and

“the incorporation date” means the date specified in the proposals made under section 183(3)(a) of the 1993 Act as the proposed incorporation date in relation to the school.

SCHEDULE 1

Regulation 2

INITIAL INSTRUMENT OF GOVERNMENT

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Explanatory Note

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;

“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 special school for which this Instrument is the instrument of government by virtue of paragraph 2(1) and (2) of Schedule 11 to the 1993 Act;

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

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

“initial first governor”—

(a) where the governing body were incorporated in pursuance of proposals made under section 186 of the 1993 Act, has the meaning assigned to it by paragraphs 2 and 7(1) of Schedule 7 to the 1993 Act (as applied in relation to maintained special schools becoming grant-maintained special schools by regulation 15A of the Education (Grant-maintained Special Schools) Regulations 1994⁽⁵⁾); or

(b) where the governing body were incorporated in pursuance of proposals for the establishment of a new grant-maintained special school, means a person appointed by the funding authority as appearing to them to be committed to the good government and continuing viability of the School;

“initial parent governor” has the meaning assigned to it by paragraphs 2 and 5 of Schedule 7 to the 1993 Act (as applied in relation to maintained special schools becoming grant-maintained special schools by regulation 15A of the Education (Grant-maintained Special Schools) Regulations 1994);

“initial teacher governor” has the meaning assigned to it by paragraphs 2 and 6 of Schedule 7 to the 1993 Act (as applied in relation to maintained special schools becoming grant-maintained special schools by regulation 15A of the Education (Grant-maintained Special Schools) Regulations 1994);

“proposals for the establishment of a new grant-maintained special school” means proposals made under section 183(3)(a) 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⁽⁶⁾; and

“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-

(3) 1986 c. 61.

(4) 1988 c. 40.

(5) S.I. 1994/653, amended by S.I. 1994/1231.

(6) 1994 c. 31; section 80 was amended by paragraph 5 of Schedule 12 to the Education Reform Act 1988 (c. 40).

maintained special school, during the period before the implementation date, the school proposed to be so conducted.

(2) The following provisions apply for the purposes of this Instrument.

(3) References to “the Proposals” are to the proposals made under section 183(3)(a) or, as the case may be, 186 of the 1993 Act in pursuance of which the Governing Body were incorporated; and, where the Secretary of State modified those proposals (in accordance with, as the case may be, section 33(2)(b) or 184(4) of the 1993 Act), they are references to the proposals as so modified.

(4) In sub-paragraph (3) above, the reference to section 33(2)(b) of the 1993 Act is a reference to that section as it applies in relation to proposals for a maintained special school to become a grant-maintained special school by virtue of regulation 6 of the Education (Grant-maintained Special Schools) Regulations 1994.

(5) Any reference to a provision of Chapter V of Part II of the 1993 Act (including any provision of Schedules 5 and 6 to that Act) shall have effect as a reference to any such provision as applied in relation to grant-maintained special schools and the governing bodies of such schools by the Education (Grant-maintained Special Schools) Regulations 1994.

(6) 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 2, 5, 7 and 8 below, where it only includes such a person if he is an individual.

(7) For the purposes of sub-paragraph (6) above—

- (a) “parental responsibility” has the same meaning as in the Children Act 1989(7); 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.

First governors

2.—(1) The Governing Body shall include such number of first governors (being a number which will secure that they outnumber the other governors) as is specified in the Proposals.

(2) Subject to paragraph 3 below, first governors shall be appointed by the Governing Body from among persons who appear to them to be committed to the good government and continuing viability of the School.

(3) Where it is reasonably practicable, 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.

(4) At least two of the first governors shall be persons with experience of education for those with special educational needs.

(5) One person may satisfy the requirements of both sub-paragraphs (3) and (4) above.

(6) The Governing Body, in appointing first governors, shall secure that those governors include a person appearing to them to be a member of the local business community (although such a person may also satisfy one or both of the requirements of sub-paragraphs (3) and (4) above).

(7) 1989 c. 41, section 3.

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

3.—(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 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 (2) 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) The Secretary of State shall, in appointing a person to be a first governor in accordance with this paragraph, appoint a person who appears to him to be committed to the good government and continuing viability of the School.

(8) Paragraph 2(3) to (6) 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

4. 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.

Parent governors

5.—(1) The Governing Body shall include such number of parent governors (being not less than three nor more than five) as is specified in the Proposals.

(2) In this Instrument, “parent governor” means—

- (a) where the School is established in a hospital—
 - (i) a person appointed by the other members of the Governing Body; or
 - (ii) an initial parent governor; or
- (b) in any other case—

- (i) a person elected by persons who are themselves registered parents of registered pupils at the School;
- (ii) a person appointed by virtue of paragraph 8 below;
- (iii) where the School is to be established in pursuance of proposals for the establishment of a new grant-maintained special school, a person appointed before the implementation date by virtue of regulation 2(2)(e) of the Education (Initial Government of Grant-maintained Special Schools) Regulations 1994(8); or
- (iv) an initial parent governor.

(3) For the purposes of sub-paragraph (2)(a)(i) above, to qualify for appointment as a parent governor a person must when he is appointed be a registered parent of a registered pupil at the School or, if that is not reasonably practicable, a parent of one or more children of compulsory school age; and, for the purposes of sub-paragraph (2)(b)(i) above, to qualify for election a person must be a registered parent of a registered pupil.

Teacher governors

6.—(1) The Governing Body shall include such number of teacher governors (being either two or one) as is specified in the Proposals.

(2) In this Instrument, “teacher governor” means—

- (a) a person who is elected by persons who are teachers at the School;
- (b) where the school is to be established in pursuance of proposals for the establishment of a new grant-maintained special school, a person appointed before the implementation date by virtue of regulation 3(2)(d) of the Education (Initial Government of Grant-maintained Special Schools) Regulations 1994(9); or

(3) For the purposes of sub-paragraph (2)(a) above, to qualify for such election a person must himself, when he is elected be a teacher at the school.

Procedure for the election of parent and teacher governors

7.—(1) It shall be for the Governing Body to determine, for the purposes of any 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

(8) S.I. 1994/2003. Regulation 2(2)(e) modifies paragraph 5 of Schedule 11 to the Education Act 1993 (c. 35), in relation to persons holding office as parent governors before the date of implementation of proposals for the establishment of a new grant-maintained special school, by inserting in that paragraph new provisions (sub-paragraphs (9) and (10)) relating to the appointment of parent governors before the implementation date of the proposals.

(9) Regulation 3(2)(d) modifies paragraph 6 of Schedule 11 to the Education Act 1993 (c. 35), in relation to persons holding office as teacher governors before the date of implementation of proposals for the establishment of a new grant-maintained special school, by inserting in that paragraph new provisions (sub-paragraphs (8) and (9)) relating to the appointment of teacher governors before the implementation date of the proposals.

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

8.—(1) This paragraph applies where the School is not established in a hospital.

(2) 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.

(3) Those members shall, in appointing a person under sub-paragraph (2) 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 with special educational needs or, if that is not reasonably practicable, a person who is a parent of a person of any age with special educational needs.

Head teacher

9.—(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 made under section 186 of the 1993 Act (proposals for a special school maintained by a local education authority to become a grant-maintained special school), 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 special 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.

Appointment of additional governors

10.—(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 Governing Body may appoint a number of additional first governors not greater than the number of additional governors appointed by the Secretary of State who are then in office.

Tenure of office: first governors

11.—(1) Subject to the following provisions of this paragraph, each first governor shall hold office for such term as was specified in the Proposals as the term of office for governors of that category.

(2) An initial first 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.

(3) Any additional first governor appointed in pursuance of paragraph 10(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 3 above shall hold office for such term (not being less than five years nor more than seven years) as may be specified in the terms of his appointment.

Tenure of office: parent and teacher governors

12.—(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 in pursuance of proposals made under section 186 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.

(3) Where the Governing Body were incorporated in pursuance of proposals for the establishment of a new grant-maintained special school, each parent or teacher governor appointed before the date of implementation of the Proposals shall hold office—

(a) until the end of the first school term following the implementation date; or

(b) (if that period would exceed four years) for a term of four years.

Tenure of office: general

13.—(1) Nothing in paragraphs 11 and 12 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 15 to 18 below, for continuing to hold office.

Resignation and removal from office

14. Any governor (other than the head teacher) may at any time resign his office; and where in accordance with this paragraph a governor does so, he shall give written notice of his resignation to the Clerk to the Governing Body.

Disqualification for holding office: persons under eighteen years of age

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

Disqualification for holding office: bankruptcy etc.

16.—(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

17.—(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
- (b) since his appointment or election as governor, 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 twenty years ending with the date immediately preceding the date on which his appointment or election as governor would otherwise have taken effect, 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
- (b) since his appointment or election as governor,

he has been convicted under section 40 of the Local Government (Miscellaneous Provisions) Act 1982⁽¹⁰⁾ (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—

⁽¹⁰⁾ 1982 c. 30; section 40 was amended by paragraphs 29 and 90 of Schedule 12 to the Education Reform Act 1988 (c. 40).

(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.

Disqualification for holding office: absence from meetings

18.—(1) This paragraph applies to any governor of the School other than the head teacher.

(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, 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.

Chairman and Vice-chairman of the Governing Body

19.—(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 20 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-paragraphs (4) and (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

20.—(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 3(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

21.—(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

22.—(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 20 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 member of the governing body not having received written notice of the meeting or a copy of the agenda therefor.

Termination and adjournment of meetings

23.—(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 24 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 24 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 22(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

24.—(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, parent or teacher governor in pursuance of (as the case may be) paragraph 2, 5, 6 or 8 above; or
- (b) any vote on the removal of the Chairman of the Governing Body in accordance with paragraph 20 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 20(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.

25.—(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

26. 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

27.—(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

28.—(1) Subject to the provisions of this Instrument and the articles of government for the School and the provisions of Schedules 5 and 11 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-paragraph (2) or (3) above.

(5) The Clerk to the Governing Body shall secure that a copy of any statement prepared in accordance with sub-paragraph (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-paragraph (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 paragraph 19(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

29. Without prejudice to paragraph 26 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

30.—(1) Nothing in this paragraph or in paragraph 31 below shall apply to an appeal committee constituted in accordance with paragraph 36 or 37 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 33 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) Any member of a committee who is not entitled to vote in the proceedings of that committee shall also not be eligible to be the chairman of that committee.

(8) 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.

(9) In this Instrument—

- (a) 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
- (b) 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

31.—(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 or 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) 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 the provisions of Appendix 2 to this 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 Discipline and Staff Committees

32.—(1) Subject to sub-paragraph (3) 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.

(2) Subject to sub-paragraph (3) 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.

(3) 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.

(4) The preceding provisions of this paragraph are without prejudice to the generality of paragraph 29 above and Appendix 1 to this Instrument (as they have effect by virtue of Appendix 2 thereto).

(5) 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

33.—(1) Subject to sub-paragraph (2) and paragraph 34 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

34.—(1) Subject to sub-paragraph (4) below, the Chairman shall have power, where in his opinion the circumstances mentioned in sub-paragraph (2) 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 33 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

35.—(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 the exclusion of pupils

36. 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

37.—(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.

APPENDIX 1

RESTRICTION ON PERSONS TAKING PART IN PROCEEDINGS OF THE GOVERNING BODY

1.—(1) In this Appendix—

- (a) any reference to a person present at a meeting of the Governing Body is a reference to a member thereof or other person so present except that, so far as it concerns voting, it is a reference only to a member of the Governing Body so present; and
- (b) any reference to a person's spouse includes a person living with him as if she were his spouse.

(2) In relation to the person who is acting as the clerk to the Governing Body for the purposes of any meeting thereof, none of the provisions of this Appendix (other than paragraph 5 below) shall have effect; but, during any period for which his withdrawal would be required but for this sub-paragraph, he shall not act in any capacity other than that of a clerk.

2.—(1) Subject to sub-paragraph (4) below, if a person has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter and is present at a meeting of the Governing Body at which the contract or other matter is the subject of consideration, he shall at the meeting and as soon as practicable after its commencement disclose that fact and—

- (a) take no part in the consideration or discussion of the contract or matter,
- (b) unless the Governing Body otherwise allow, withdraw from the meeting during such consideration or discussion, and
- (c) not vote on any question with respect to the contract or matter.

(2) For the purposes of this paragraph, a person shall be treated as having an indirect pecuniary interest in a contract, proposed contract or other matter if—

- (a) he or any nominee of his is a member, or he is an employee, of a corporation or other body with which the contract was made or is proposed to be made or which has a direct pecuniary interest in the matter under consideration, or
- (b) he is a partner, or is in the employment, of a person with whom the contract was made or is proposed to be made or who has a direct pecuniary interest in the matter under consideration:

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

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

(4) For the purposes of this paragraph, a member of the Governing Body who is a teacher at the School shall not be treated as having a direct or indirect pecuniary interest in a contract, proposed contract or other matter by reason only—

- (a) of having an interest in the contract or matter which is no greater than the interest of the generality of teachers at the School,
- (b) of the fact that the contract or matter under consideration or discussion concerns the exercise by the Governing Body of any of their functions relating to the curriculum for the School, or

(c) of the fact that the contract or matter under consideration or discussion involves expenditure by the Governing Body of any sum for the purposes of the School.

(5) In this paragraph, “securities” shall be interpreted in accordance with section 142 of the Financial Services Act 1986⁽¹¹⁾.

3.—(1) This sub-paragraph applies where a person is present at a meeting of the Governing Body at which the subject of consideration is, in relation to either himself or to a relative of his (including his spouse) living with him—

- (a) the person’s appointment to a post at the School, or
- (b) where the person concerned is already employed by the Governing Body to work at the School, his transfer from one post to another, his promotion or retirement.

(2) This sub-paragraph applies where—

- (a) a person is present at a meeting of the Governing Body at which a subject of consideration is the transfer from one post to another, dismissal, promotion, retirement or suspension of another person employed as a teacher or otherwise at the School, and
- (b) the effect of the transfer, dismissal, promotion, retirement or suspension would be to create a vacancy for which the person first mentioned in paragraph (a) above, or a relative of his (including his spouse) living with him, could be a candidate.

(3) In any case where sub-paragraph (1) or (2) above applies, the person first mentioned in that sub-paragraph shall—

- (a) take no part in the consideration or discussion of the matter in question,
- (b) unless the Governing Body otherwise allow, withdraw from the meeting during such consideration or discussion, and
- (c) not vote on any question with respect to that matter.

4. If a person being a pupil or his parent, is present at a meeting of the Governing Body 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 and shall not vote on any question with respect thereto.

5.—(1) Where the Clerk to the Governing Body is present at any meeting of the Governing Body at which a subject of consideration is disciplinary action against him, he shall withdraw from the meeting during the discussion or consideration of that matter.

(2) For the purposes of this paragraph and paragraph 6 below, “disciplinary action” shall be interpreted in accordance with paragraph 32(5) above.

6. If a person who is a relative (other than a parent) of a pupil at the School is present at a meeting of the Governing Body at which a subject of discussion is—

- (a) the admission of, or disciplinary action against, that pupil, or
- (b) disciplinary action against another pupil at the School arising out of an alleged incident involving the pupil first mentioned in this paragraph,

he shall, at the meeting and as soon as practicable after its commencement, disclose the relationship.

7.—(1) This paragraph applies where a person employed at the School is present at a meeting of the Governing Body at which his conduct, his continued employment at the School or the appointment of a successor to him is a subject of consideration.

(2) Without prejudice to the preceding provisions of this Appendix, where this paragraph applies the person concerned shall—

(11) 1986 c. 60.

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- (a) take no part in the consideration or discussion of the matter in question, and
- (b) withdraw from the meeting during such consideration or discussion.

APPENDIX 2

PROCEEDINGS AND MEETINGS OF COMMITTEES

The provisions of this Instrument listed in the first column of the table below shall apply to committees of the Governing Body with the modifications set out in the second column of that table.

<i>Provision of the Instrument</i>	<i>Modifications</i>
Paragraph 15.	For “governor of the School” there is substituted “member of a committee of the Governing Body”.
Paragraph 16.	In sub-paragraph (1), for “governor of the School” and “governor” there is substituted in each case “member of a committee of the Governing Body”.
Paragraph 17.	For “governor of the School” and “governor” (in each place where they occur) there is substituted “member of a committee of the Governing Body”.
Paragraph 18(2) to (12).	There shall be deleted (in each place where they occur) the words “or election”.
	For “governor to which this paragraph applies” and “governor of the School” (in each place where they occur) there is substituted in each case “member of a committee of the Governing Body”.
	For “meetings of the Governing Body” (in each place where it occurs) there is substituted “meetings of the committee of which he is a member”.
	In sub-paragraph (2), for “meetings thereof” there shall be substituted “meetings of that committee”.
	In sub-paragraphs (2) and (7), for “such a governor” (in each place where it occurs) there is substituted “a member of that committee”.
	In sub-paragraphs (4) and (10), for “member of the Governing Body” (in each place where it occurs) there is substituted “member of any committee of the Governing Body affected by it”.
	In sub-paragraph (8), for “meeting of the Governing Body” (in each place where it

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<i>Provision of the Instrument</i>	<i>Modifications</i>
	occurs) there is substituted “meeting of the committee of which he is a member”.
	In sub-paragraph (12), the words “elected or” are deleted.
Paragraphs 22(4) and (6)	In sub-paragraph (4)— (a) for “the Governing Body” (where it occurs for the first time) there is substituted “a committee of the Governing Body”; (b) for “the Clerk to the Governing Body” there is substituted “the clerk to the committee”; (c) for “the Chairman” there is substituted “the chairman of the committee”; and (d) the words from “or, in his absence” to “the Vice-chairman” are deleted.
Paragraph 25.	In sub-paragraph (1), for “the Governing Body”— (a) where it occurs for the first time, there is substituted “a committee of the Governing Body”; and (b) where it occurs for the second and third times, there is substituted “the committee”.
	In sub-paragraph (3), for “the Governing Body”— (a) where it occurs for the first time, there is substituted “a committee of the Governing Body”; and (b) where it occurs for the second time, there is substituted “the committee”.
Paragraph 26.	For “the Governing Body”— (a) where it appears for the first time, there is substituted “a committee of the Governing Body”; and (b) where it appears for the last time, there is substituted “the committee concerned”.
	For “the Clerk to the Governing Body” there is substituted “the clerk to such a committee”.
Paragraph 27.	For “the Governing Body”— (a) where it occurs for the first time, there is substituted “a committee of the Governing Body”; and (b) in every other place where it occurs, there is substituted “the committee”.
Paragraph 28(7) and (8).	In sub-paragraph (7)—

<i>Provision of the Instrument</i>	<i>Modifications</i>
	<p>(a) for “the Governing Body” there is substituted “a committee of the Governing Body”; and</p> <p>(b) immediately before “members” there is inserted “eligible”.</p> <p>In sub-paragraph (8), for the words from “the Chairman” to “above” there is substituted “the person who”.</p> <p>After sub-paragraph (8), there is added—</p> <p>“(9) For the purposes of sub-paragraph (7) above, an “eligible member” means any person entitled to vote in the proceedings of the committee in accordance with paragraph 30 to this Instrument.”.</p>
Paragraph 29.	For “the Governing Body” (in each place where it occurs) there is substituted “a committee of the Governing Body”.
Appendix 1.	For “the Governing Body”—
	<p>(a) where it occurs in paragraphs 2(1)(b) and 3(3)(b), there is substituted “the committee”; and</p> <p>(b) in every other place where it occurs (other than in paragraphs 2(4)(b) and (c) and 3(1)(b), and where it occurs for the second time in paragraph 1(1)(a)), there is substituted “a committee of the Governing Body”.</p> <p>In paragraph 1—</p> <p>(a) in sub-paragraph (1)(a), for “a member of the Governing Body” there is substituted “an eligible member of the committee (within the meaning of paragraph 28(9) above)”; and</p> <p>(b) in sub-paragraph (2), the words “(other than paragraph 5 below)” are deleted.</p> <p>Paragraph 5 is deleted.</p>

APPENDIX 3

CONSTITUTION OF APPEAL COMMITTEES

1. An appeal pursuant to arrangements made by the Governing Body in accordance with the provisions of the articles of government for the School made in pursuance of paragraph 5 of Schedule 6 to the 1993 Act shall be to an appeal committee constituted in accordance with this Appendix.

2. An appeal committee shall consist of—

- (a) one person nominated by the Governing Body from among persons who are eligible to be lay members, and
- (b) two, four or six other members nominated by the Governing Body from persons appointed by them in accordance with paragraph 6(1) below.

3. The Governing Body shall not nominate under paragraph 2(a) above a person who falls within paragraph 6(1)(b) below.

4. In an appeal committee—

- (a) three members shall be nominated from among those appointed under paragraph 6(1)(b) below, in the case of a committee consisting of seven members;
- (b) two members shall be so nominated, in the case of a committee consisting of five members; and
- (c) one member shall be so nominated, in the case of a committee consisting of three members.

5. A person is eligible to be a lay member for the purposes of paragraph 2(a) above if—

- (a) he is a person without personal experience in the management of any school or the provision of education in any school (otherwise than as a governor or in any other voluntary capacity), and
- (b) he does not have, or has not at any time had, any connection with—
 - (i) the School, or
 - (ii) any person who is a member of, or employed by, the Governing Body,of a kind which might reasonably be taken to raise doubts about his ability to act impartially in relation to the School.

6.—(1) Subject to sub-paragraphs (2) and (3) below, the persons appointed—

- (a) may include one or more members of the Governing Body, and
- (b) shall include persons who—
 - (i) have experience in the provision of education for children with special educational needs;
 - (ii) are parents of one or more children of compulsory school age with special educational needs; or
 - (iii) are acquainted with the conditions in the area relating to the provision of education for children with special educational needs.

(2) A person shall not be appointed in pursuance of sub-paragraph (1) above, if he is employed as a teacher or otherwise at the School.

(3) A person shall not be appointed in pursuance of sub-paragraph (1)(b) above, if he—

- (a) has ever been a member of the Governing Body, or

(b) is a parent of a registered pupil at the School.

7. A person shall not be a member of an appeal committee for the consideration of any appeal against a decision if he was among those who made the decision or took part in discussions as to whether the decision should be made.

8.—(1) Subject to sub-paragraph (2) below, the members of an appeal committee shall appoint a person from among their number to be chairman of the committee.

(2) None of the members of the Governing Body may be chairman of an appeal committee.

9. 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 any person who has been so selected so to act.

10. The Governing Body shall have power to pay to the members of an appeal committee such travelling, subsistence or other allowances as they may determine.

11. An appeal pursuant to joint arrangements made by virtue of paragraph 5(2) of Schedule 6 to the 1993 Act by the Governing Body and the governing body of one or more other grant-maintained special schools shall be to an appeal committee constituted as provided in the preceding paragraphs of this Appendix, save that references to the Governing Body shall have effect as if they were references to the Governing Body and the governing body of every other school, which is a party to the arrangements, acting jointly.

SCHEDULE 2

Regulation 3

INITIAL ARTICLES OF GOVERNMENT

ARRANGEMENT OF ARTICLES

1. Interpretation
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10. Publication of information relating to the procedure on appeals against decisions permanently to exclude pupils
11. Annual report to parents
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22. Duty to make available copies of the instrument and articles of government
 - Appendix — Appeal Committees: procedure

Explanatory Note

Interpretation

1.—(1) In these Articles—

“the 1988 Act” means the Education Reform Act 1988⁽¹²⁾;

“the 1993 Act” means the Education Act 1993⁽¹³⁾;

“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 special school to which these Articles apply by virtue of paragraph 2(1) and (3) of Schedule 11 to the 1993 Act;

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

“registered”, in relation to parents or pupils, means shown in the register kept under section 80 of the Education Act 1944⁽¹⁴⁾;

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

“school day” has the meaning assigned to it by section 65(1) of the Education (No. 2) Act 1986⁽¹⁵⁾; 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 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 12, 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⁽¹⁶⁾; 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.

(4) For the purposes of these Articles, any question whether a pupil belongs to the area of a particular local education authority shall be determined, as it would for the purposes of the Education Act 1980⁽¹⁷⁾, in accordance with regulations made under section 38(5) of that Act⁽¹⁸⁾.

⁽¹²⁾ 1988 c. 40.

⁽¹³⁾ 1993 c. 35.

⁽¹⁴⁾ 1944 c. 31; section 80 was amended by paragraph 5 of Schedule 12 to the Education Reform Act 1988 (c. 40).

⁽¹⁵⁾ 1986 c. 61.

⁽¹⁶⁾ 1989 c. 41, section 3.

⁽¹⁷⁾ 1980 c. 20.

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

2.—(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 sex;
 - (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 relations 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.

Curriculum: general

3.—(1) In any case where the School is not established in a hospital, the Governing Body and the Head Teacher, in exercising their functions with respect to the conduct of the School, shall secure

(18) The current regulations are the Education (Areas to which Pupils and Students Belong) Regulations 1989 (S.I. 1989/2037, amended by 1990/361 and 1990/1653).

(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, and are applied in relation to grant-maintained special schools by regulation 42(1) of, and Part I of the Schedule to, the Education (Grant-maintained Special Schools) Regulations 1994 (S.I. 1994/653).

(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, and are applied in relation to grant-maintained special schools by regulation 42(1) of, and Part I of the Schedule to, the Education (Grant-maintained Special Schools) Regulations 1994 (S.I. 1994/653).

that they discharge the duties imposed on them under Chapter I of Part I of the 1988 Act⁽²¹⁾ 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 aim 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 provides primary education, the Governing Body shall—

- (a) consider separately the question of whether sex education shall form part of the secular curriculum at the School for pupils who are provided with primary education; 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 for pupils receiving primary education, 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

4.—(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 any 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.

(21) Provisions of Chapter of I Part I of the Education Reform Act 1988 (c. 42) are applied in relation to grant-maintained special schools by regulation 42(1) of, and Part I of the Schedule to, the Education (Grant-maintained Special Schools) Regulations 1994 (S.I. 1994/653).

(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: arrangements for admission of pupils to the School

5.—(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) In this Article, arrangements for the admission of pupils to the School shall include the policy to be followed by the Governing Body in determining applications for admission to the School.

Discipline: general duties in relation to pupils

6.—(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

7.—(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 8(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 8(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.

(4) Where the Head Teacher permanently excludes a pupil from the School, he shall inform (without delay) the local education authority to whose area the pupil belongs.

(5) For the purposes of this Article and Article 8, the Head Teacher shall be taken to have informed the Discipline Committee of a pupil's exclusion from the School when he has informed the chairman of, or the clerk to, the Discipline Committee of that exclusion.

Reinstatement of excluded pupils

8.—(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;
 - (ii) the Head Teacher; and
 - (iii) the local education authority to whose area the pupil belongs,
 of their decision.

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

- (a) his right to appeal against their decision not to reinstate the pupil;
- (b) the arrangements made by the Governing Body in accordance with Article 9 for enabling an appeal to be made against any such decision;
- (c) the last date by which an appeal may be made calculated in accordance with Article 9(4); and
- (d) the fact that, where he gives notice in writing to the Discipline Committee or the Governing Body that he does not intend to appeal, no appeal may be made after that notice has been given.

(4) Where in accordance with paragraph (3) above notice in writing is required to be given to a person, that notice may be given either—

- (a) by delivering the notice by hand to the person's last known address; or
- (b) by properly addressing, pre-paying and sending by first class post a letter containing the notice to the person at his last known address.

(5) The Discipline Committee shall complete any steps required to be taken under paragraphs (2) and (3) above within the period ending on the fifteenth school day following the date on which they were informed by the Head Teacher of the pupil's permanent exclusion from the School.

(6) Where in accordance with paragraph (2)(b) above the Discipline Committee give a direction to the Head Teacher to reinstate a pupil, they shall inform—

- (a) the pupil, if he is aged eighteen years or over, or, if he is not, a parent of his; and
- (b) the local education authority to whose area the pupil belongs,

of that fact on or before the first school day following the date on which the direction was given.

(7) For the purposes of calculating the periods referred to in paragraphs (5) and (6) above, where notice of any matter is sent by the Discipline Committee to a person at his last known address—

- (a) by first class post;
- (b) by facsimile transmission (or other similar means which produce a document containing a text of the communication); or
- (c) by delivery by hand;

the Discipline Committee shall be taken to have informed that person of that matter on the date on which (as the case may be) the notice was posted, transmitted or delivered.

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

(9) 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.

Appeals against decisions permanently to exclude pupils

9.—(1) The Governing Body shall make arrangements for enabling a pupil, if he is aged eighteen years or over, or, if he is not, a parent of his, to appeal against any decision of the Discipline Committee in accordance with Article 8(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 special 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 the Appendix to these Articles shall have effect in relation to any such appeal.

(4) No appeal against a decision of the Discipline Committee not to reinstate a pupil following his permanent exclusion from the School may be made after the fifteenth school day after the day on which the pupil or, as the case may be, a parent of his received the notice given in accordance with Article 8(3).

(5) For the purposes of calculating the period referred to in paragraph (4) above, the pupil or (as the case may be) his parent shall, unless the contrary is shown, be taken to have received the notice given in accordance with Article 8(3)—

- (a) where first class post is used, on the second school day after posting; or
- (b) where the notice is delivered by hand, on the date on which it is so delivered.

(6) Any notice in writing given to the Discipline Committee or the Governing Body by a pupil (if he is aged eighteen years or over) or his parent (if he is not), stating that he does not intend to appeal against a decision not to reinstate the pupil, shall be final; and, where any such notice is received

before the expiry of the period referred to in paragraph (4) above, the period for appealing shall expire on the date on which that notice is received.

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

(8) Where 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.

Publication of information relating to the procedure on exclusion appeals

10.—(1) The Governing Body shall, for each school year, publish particulars of the procedures applicable under these Articles, and any further arrangements made by the Governing Body in respect of appeals, in relation to the exclusion of pupils from the School.

(2) The particulars referred to in paragraph (1) above shall be published by making a copy available at the school, without charge, for reference by parents and other persons.

(3) In paragraph (1) above, the reference to an appeal is to an appeal against a decision of the Discipline Committee made under Article 8(2) not to reinstate a pupil following his permanent exclusion from the School.

Annual report to parents

11.—(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 other than the Head Teacher, 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 of the Governing Body;
- (h) where the School is not established in a hospital, 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;**(22)**
- (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);

(22) See the Education (Special Educational Needs) (Information) Regulations 1994 (S.I. 1994/1048).

- (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
 - (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 12(10) or (11) 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

- 12.—**(1) Subject to paragraphs (10) and (11) 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 11(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 the School is established in a hospital, and the Governing Body are of the opinion that it would be impracticable to hold an annual parents' meeting in a particular school year, they may refrain from holding such a meeting in that year.

(11) Where the School is not established in a hospital and—

- (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.

(12) 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

13. 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

14.—(1) Where the School is established in a hospital, the provisions of this Article shall have effect only to the extent to which the Governing Body are entitled to occupy the premises of the School.

(2) Subject to the following provisions of this Article, the use of the premises of the School shall be under the control of the Governing Body.

(3) 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.

(4) Subject to paragraph (5) 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 use 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.
- (5) 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.
- (6) In paragraph (5) 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.
- (7) 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 may be 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.
- (8) 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 (7) (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.
- (9) Where any trust deed relating to the School provides for any person other than the Governing Body to be entitled to control the 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.
- (10) Where, in accordance with section 38 of the 1993 Act⁽²³⁾ 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 of those premises shall be subject to the terms of that agreement.

(23) By virtue of regulation 9 of the Education (Grant-maintained Special Schools) Regulations 1994 (S.I. 1994/653), section 38 of the 1993 Act applies in relation to any school in respect of which proposals to become a grant-maintained special school have been approved as it applies in relation to any school in respect of which proposals for the acquisition of grant-maintained status are approved.

(11) 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⁽²⁴⁾ 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 of those premises shall be subject to the terms of those arrangements.

(12) 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;

“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 13.

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

(a) in paragraph (10) above, a transfer of control agreement entered into in accordance with section 42 of the Education (No. 2) Act 1986⁽²⁵⁾; or

(b) in any other case, an agreement which, subject to paragraph (7) 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

15.—(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.

⁽²⁴⁾ 1992 c. 13; see also paragraph 61 of Schedule 8 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).

⁽²⁵⁾ 1986 c. 61; section 42 was substituted by paragraph 5 of Schedule 13 to the Education Act 1993 (c. 35).

(6) Where the post of 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 shall, pending the making of such an appointment, appoint a person as acting head teacher.

(7) Where the post of 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 deputy head teacher.

(8) 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

16.—(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

17.—(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 18 and 19.

(2) Subject to paragraphs (3) and (4) below and Articles 18 and 19, 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

18.—(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

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

(2) 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.

(3) The Head Teacher shall be entitled to attend any such meeting as is referred to in paragraph (2) 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.

(4) 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.

(5) 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 the Appendix to these Articles shall have effect in relation to any such appeal.

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

(7) 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.

(8) For the purposes of paragraph (7) 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.

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

Staff: grievance procedures

20. 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

21. 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

22. 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 reasonable times and free of charge) by any parent of a registered pupil or person employed to work at the School.

APPENDIX

APPEAL COMMITTEES: PROCEDURE

1. This Appendix shall have effect with respect to the procedure on an appeal to an appeal committee established in accordance with any arrangements made by the Governing Body in pursuance of Articles 9 and 19.

2. An appeal shall be made by notice in writing setting out the grounds on which it is made.

3.—(1) Subject to sub-paragraph (2) below, an appeal committee shall meet to consider an exclusion appeal—

- (a) within the period ending with the fifteenth school day after the day on which the appeal is lodged; or
- (b) if the Governing Body has determined a shorter period, within that period.

(2) The Governing Body may extend the period within which an appeal committee are to consider an exclusion appeal where—

- (a) the pupil who is the subject of the appeal (if he is aged eighteen years or over) or his parent (if he is not) requests them to do so; and
- (b) they are satisfied that the circumstances are exceptional and justify the period under sub-paragraph (1) above being extended.

(3) In this Appendix, “exclusion appeal” means an appeal against a decision of the Discipline Committee under Article 8(2) not to reinstate a pupil following his permanent exclusion from the School.

4.—(1) An appeal committee shall afford the appellant the opportunity of making representations including (if he so wishes) oral representations.

(2) The appeal committee shall afford the Head Teacher and a member of the relevant authority the opportunity of making written representations.

(3) Where in accordance with sub-paragraph (1) above the appellant decides to appear before the appeal committee in order to make oral representations to them—

- (a) they shall afford the Head Teacher and a member of the relevant authority the opportunity of appearing and making oral representations;
- (b) they may allow the appellant to be accompanied by a friend or to be represented; and
- (c) they may allow the relevant authority to be represented.

(4) In this paragraph, “the relevant authority” means the authority responsible for the decision or action against which the appeal is made.

5. In the event of a disagreement between the members of an appeal committee the appeal under consideration shall be decided by a simple majority of the votes cast and in the case of an equality of votes the chairman of the committee shall have a second or casting vote.

6. The decision of an appeal committee and the grounds on which it is made shall be communicated by the committee in writing to the appellant, the Governing Body, the Head Teacher and, in the case of an exclusion appeal, the local education authority to whose area the pupil belongs.

7.—(1) Subject to sub-paragraph (2) below, in the case of an exclusion appeal the decision of an appeal committee and the grounds on which it is made shall be communicated to the persons referred to in paragraph 6 above within—

- (a) the period ending with the seventeenth school day after the day on which the appeal is lodged; or
- (b) if the Governing Body has determined a shorter period, that period.

(2) Where the Governing Body extend the period for the consideration of an appeal in accordance with paragraph 3(2) above, they shall also (to the extent it appears to them to be necessary as a result of the extension of that period) extend the period within which the appeal committee are to communicate their decision.

8. All appeals shall be held in private except when otherwise directed by the Governing Body, but any member of the Council on Tribunals may attend as an observer any meeting of an appeal committee at which an appeal is considered.

9. Two or more exclusion appeals may be combined and dealt with in the same proceedings if the appeal committee consider that it is expedient to do so because the issues raised by the appeals are the same or connected.

10. Subject to paragraphs 2 to 9 above, all matters relating to the procedure on appeals, including the time within which they are to be brought, shall be determined by the Governing Body.

11.—(1) Subject to sub-paragraph (2) below, where joint arrangements for appeals have been made in accordance with Article 9(2), paragraphs 2 to 10 above shall have effect in respect of any appeal made under these Articles to an appeal committee established in accordance with those arrangements.

(2) In the case of any appeal to which sub-paragraph (1) above applies, paragraphs 8 and 10 above shall have effect as if for “the Governing Body” there were substituted the words “the Governing Body and the governing body of every other school which is a party to the arrangements, acting jointly”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe the initial instrument and articles of government for grant-maintained special schools.

The initial instrument of government is set out in Schedule 1 to the Regulations (regulation 2). Paragraph 2 of the initial instrument of government requires the governing body to include first governors. Paragraph 3 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. Paragraphs 5 and 6 respectively require the governing body to include parent and teacher governors, and make provision as to their election and, in the case of parent governors, appointment. Paragraph 9 provides for the head teacher to be a governor *ex officio*. Provisions are also included in the initial instrument of government with respect to governors' tenure of office (paragraphs 11 to 13), their removal and resignation from office (paragraph 14), and the circumstances in which a person is to be disqualified for holding or for continuing to hold office as governor (paragraphs 15 to 18).

The initial instrument of government includes provisions for the appointment of a chairman and vice-chairman of the governing body and a clerk to the governing body (paragraphs 19 to 21). It also makes provisions with respect to the meetings and proceedings of the governing body (paragraphs

22 to 29). Provisions are included with respect to the delegation of functions by the governing body (paragraphs 33 to 35), and the establishment of committees for the purpose of exercising delegated functions (paragraphs 30 to 32 and Appendix 2). The initial instrument of government also makes provision for the constitution of appeal committees (paragraphs 36 and 37 and Appendix 3).

The initial articles of government for grant-maintained special schools are set out in Schedule 2 to the Regulations (regulation 3).

The initial articles of government include provisions dealing with the general responsibilities of the governing body and head teacher with respect to the conduct of the school (Article 2). It also makes provision with respect to the curriculum at the school, including provision for dealing with complaints concerning the curriculum (Articles 3 and 4). The initial articles of government include provisions with respect to admissions to the school (Article 5), and the exclusion of pupils (Articles 7 and 8). The initial articles of government also provide for the establishment of appeal committees to hear appeals against decisions permanently to exclude pupils (Article 9 and the Appendix).

The initial articles of government include provisions requiring the governing body to prepare an annual report (Article 11), and to hold an annual parents' meeting (Article 12). The initial articles of government also include provisions with respect to the use of school premises (Article 14), and provisions concerning the appointment and dismissal of staff (Articles 15 to 19).

The Regulations provide for certain provisions of the initial articles of government to have effect, where the school was established in pursuance of proposals under section 183(3)(a) of the Education Act 1993, from the date of incorporation of the governing 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 paragraph 2(3) of Schedule 11 to the Education Act 1993, the initial articles of government have effect from the implementation date of the proposals under which the school became, or was established as, a grant-maintained special school.