

2008 No. 168 (W.21)

EDUCATION, WALES

**The Collaboration Between
Maintained Schools (Wales)
Regulations 2008**

EXPLANATORY NOTE

(This note is not part of the Regulations)

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

Regulation 1 provides that the Regulations will come into force on 16 March 2008. Regulation 2 contains the interpretation provisions.

Regulation 3 enables two or more school governing bodies to arrange for their functions to be discharged jointly and to delegate the exercise of those functions to a joint committee, insofar as such delegation would be permitted under the Government of Maintained Schools (Wales) Regulations 2005.

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

The joint committee must appoint a clerk to convene its meetings and ensure minutes of its proceedings are drawn up (regulation 5). Regulation 6 provides that a joint committee may appoint “non governor members”, who are not governors and who may be accorded voting rights by the collaborating governing bodies (subject to certain restrictions) if they are over 18 years old. Non governor members should be people who would not be disqualified from being governors

under the Government of Maintained Schools (Wales) Regulations 2005. Under regulation 7, joint committees have power to decide who may attend their meetings. Regulation 8 provides for convening meetings and voting.

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

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

2008 No. 168 (W.21)

EDUCATION, WALES

**The Collaboration Between
Maintained Schools (Wales)
Regulations 2008**

Made 28 January 2008

Laid before the National Assembly

for Wales 30 January 2008

Coming into force 16 March 2008

The Welsh Ministers, in exercise of the powers conferred on the National Assembly for Wales by sections 19(3), 23, 26, and 210(7) of the Education Act 2002 and now vested in them⁽¹⁾, make the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is the Collaboration Between Maintained Schools (Wales) Regulations 2008 and they come into force on 16 March 2008.

(2) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations —

“the 2002 Act” (“*Deddf 2002*”) means the Education Act 2002;

“the Government of Maintained Schools Regulations” (“*y Rheoliadau Llywodraethu Ysgolion a Gynhelir*”) means the Government of

(1) 2002 c.32; by virtue of the definition of “regulations” in section 212 of the 2002 Act, these Regulations made by the Welsh Ministers apply in relation to Wales. The functions of the National Assembly for Wales under these sections were transferred to the Welsh Ministers under paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32).

Maintained Schools (Wales) Regulations 2005(1);
and

“non governor member” (“*aelod nad yw’n llywodraethwr*”) means a person who is appointed by a joint committee as a member of it but who is not a member of a collaborating governing body.

Collaboration between schools

3.—(1) Two or more governing bodies (“collaborating governing bodies”) may arrange for any of their functions to be discharged jointly, subject to regulations 50 to 52 of the Government of Maintained Schools Regulations.

(2) Where collaborating governing bodies make arrangements in accordance with paragraph (1) in respect of any of their functions relating to individual members of the school staff, the Staffing of Maintained Schools (Wales) Regulations 2006(2) apply to the discharge of such functions.

(3) Where collaborating governing bodies make arrangements in accordance with paragraph (1), they may also delegate the discharge of any of their functions that may be delegated to a committee under regulation 50 of the Government of Maintained Schools Regulations, to a joint committee established by them.

(4) For the purposes of these Regulations, in regulations 50 to 52 of the Government of Maintained Schools Regulations —

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

“governor” (“*llywodraethwr*”) means a member of any of the collaborating governing bodies;

“governing body” (“*corff llywodraethu*”)(3) means a collaborating governing body; and

“head teacher” (“*pennaeth*”) means the head teacher of any of the schools.

Establishment of joint committees

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

(1) S.I. 2005/2914 (W.211) as amended by the Staffing of Maintained Schools (Wales) Regulations 2006/873 (W.81) and by the School Councils (Wales) Regulations 2005/3200 (W.236).

(2) S.I. 2006/ 873 (W.81).

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

(2) The quorum for a meeting of the joint committee and for any vote on any matter at such a meeting is one half (rounded up to a whole number) of the membership of the joint committee excluding any vacancies and any members suspended from that meeting in accordance with regulation 7.

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

(4) A joint committee must elect a member of that joint committee to act as chair in the absence of the chair appointed under paragraph (3).

(5) No person who is employed to work at the school, nor a registered pupil of the school may act as chair of a joint committee.

(6) The membership of a joint committee may include non governor members and the extent to which such members are entitled to vote is to be determined by the joint committee.

(7) The majority of members on any joint committee must be governors.

Clerks to joint committees

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

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

(3) The clerk must —

- (a) convene meetings of the joint committee;
- (b) attend meetings of the joint committee and ensure that minutes of the proceedings are drawn up; and
- (c) perform any other functions determined by the joint committee.

Non governor members

6.—(1) A non governor member will continue in office until removed in accordance with regulation 4(1) or 6(7).

(2) Any person who is disqualified from holding office as a governor under regulation 24 of, and paragraphs 2 to 12 of Schedule 5 to, the Government of Maintained Schools Regulations is likewise disqualified from holding, or continuing to hold, office as a non governor member of a joint committee.

(3) Subject to paragraphs (4), (5) and (6), the collaborating governing bodies must determine the voting rights of non governor members.

(4) A non governor member must not vote on any resolution concerning —

- (a) an individual pupil (not falling within subparagraphs 5(a) or 5(b)) or member of staff if the non governor member was excluded under regulation 7(2) from that part of the meeting during which it was considered;
- (b) the budget and financial commitments of a collaborating governing body;
- (c) staff discipline;
- (d) staff dismissal; or
- (e) appeals resulting from any issue of staff discipline or staff dismissal.

(5) A non governor member may not be a member of any joint committee which is to consider any resolution concerning —

- (a) admissions; or
- (b) pupil discipline.

(6) A non governor member must not vote on any other business transacted by a joint committee unless he or she was aged 18 or over at the date of his or her appointment.

(7) A joint committee may remove a non governor member from office at any time.

Right of persons to attend meetings of joint committees

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

- (a) any governor who is a member of the joint committee, provided he or she is not a member of a collaborating governing body who has been suspended in accordance with regulation 49 of the Government of Maintained Schools Regulations;
- (b) a head teacher, whether or not he or she is a member of the joint committee;
- (c) the clerk to the joint committee; and
- (d) such other persons as the joint committee may determine.

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

(3) Paragraph 1(b) does not apply in relation to the committees referred to in regulations 55 and 56 of the Government of Maintained Schools Regulations or in relation to any joint committee or selection panel exercising any function under regulations 9 to 34 of the Staffing of Maintained Schools (Wales)

Regulations 2006.

Proceedings of joint committees

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

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

(2) Where a clerk has not been appointed committee meetings must be convened by the chair who, when exercising this function, must comply with any direction given by the joint committee.

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

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

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

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

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

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

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

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

Restrictions on persons taking part in proceedings

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

(2) Subject to paragraph (4), where —

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

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

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

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

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

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

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

Minutes

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

(2) The joint committee must supply its local education authority with a copy of the draft or signed minutes of any of its meetings on request by that local education authority.

(3) The minutes of proceedings must be entered into a book kept for the purpose by the clerk and may be entered on loose-leaf pages consecutively numbered but in that case the person signing the minutes must initial each page.

(4) The person acting as clerk to the joint committee for the purposes of any meeting must 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 joint committee and of any other person present at the meeting conferred.

(5) Subject to paragraph (6) the joint committee must, as soon as reasonably practicable make available for inspection at each of the collaborating schools by any interested person, and give to the collaborating governing bodies —

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

(6) The joint committee may exclude from any item required to be made available in pursuance of paragraph (5) any material relating to —

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

(7) Each page of published copies of any draft minutes of proceedings of meetings approved by the chair must indicate that they are draft minutes.

Jane Hutt

Minister for Children, Education, Lifelong Learning
and Skills, one of the Welsh Ministers.

28 January 2008

SCHEDULE

Regulation 9

Pecuniary interests and other specified conflicts of interest

Pecuniary interests

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

- (a) a relevant person was nominated or appointed to office as a member of a collaborating governing body by a person with whom the contract was made or is proposed to be made;
- (b) a relevant person is a partner of a person, or is in the employment of a person, with whom the contract was made or is proposed to be made; or
- (c) a relative of a relevant person (including his or her spouse, civil partner within the meaning of the Civil Partnership Act 2004⁽¹⁾ or some one living with that person as if he or she were that person's spouse or civil partner), to the knowledge of that person has, or would be treated as having, such an interest.

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

- (a) provided his or her interest in the matter is no greater than the interest of the generality of those paid to work at the school;
- (b) by reason only of the fact that he or she was nominated or appointed to office, is a member of, or is employed by any public body; or
- (c) by reason only of the fact that he or she is a member of a corporation or other body, if he or she has no financial interest in any securities of that corporation or other body.

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

⁽¹⁾ 2004 c.33.

of the pecuniary interest of its members, be prevented from obtaining such insurance and paying the premiums.

(4) Members of the joint committee are not prevented from considering or voting upon any proposal regarding allowances to be paid in accordance with the Governor Allowances (Wales) Regulations 2005⁽¹⁾ by reason that they have an interest in the payment of such allowances to members of the joint committee generally but a member of a joint committee must withdraw from a meeting during a consideration or discussion of, and must not vote on, whether he or she should receive a particular allowance, the amount of any payment or any question about an allowance that has been paid to him or her.

Appointment as member of the joint committee, chair or clerk

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

- (a) his or her own appointment, reappointment, suspension or removal as a member of the joint committee;
- (b) his or her own appointment or removal from office as clerk to, or chair or vice chair of, the joint committee;
- (c) if he or she is a sponsor governor, any determination under paragraph 2 of Schedule 4 to the Government of Maintained Schools Regulations as to the provision in the instrument of government for sponsor governors.

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

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

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

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

⁽¹⁾ S.I. 2005/2915 (W.212).

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

Appointment of staff

4. Where a relevant person who is employed to work at a school is present at a meeting of the joint committee at which a subject of consideration is the appointment of a successor to that person, he or she must withdraw from the meeting during the consideration or discussion of the matter in question and must not vote on any question with respect to that matter.

Persons who are members of more than one collaborating governing body

5. The fact that a person is a member of a joint committee of a collaborating governing body at more than one school is not under any circumstances to be considered a conflict of interest for the purpose of these Regulations.