



Guidance on the School Governance (Collaboration) (England) Regulations 2003

Overview

1 September 2003 maintained schools will be able to have increased collaborative arrangements with other maintained schools, including joint meetings of governing bodies and joint committees. This guidance explains the arrangements for maintained schools to jointly discharge their functions and set up joint committees.

Further information

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Local Education Authorities, Diocesan Boards of Education and Governing Bodies

Status: Guidance

Date of Issue: September 2003

Ref: LEA/0313/2003

Related documents: The
School Governance

(Collaboration) (England)

Regulations 2003

GUIDANCE ON THE SCHOOL GOVERNANCE (COLLABORATION) (ENGLAND) REGULATIONS 2003 (SI 2003 No 1962)

1. Executive Summary

1.1 Introduction

From 1 September 2003 maintained schools will be able to have increased collaborative arrangements with other maintained schools, including joint meetings of governing bodies and joint committees.

1.1.1 This is part of Ministers' drive to raise standards by encouraging schools to work together to share ideas and good practice. Some schools may wish to share leadership across a number of schools, or see increased collaboration as a way of tackling inclusion issues. There is a wide range of possible collaborative relationships between schools, but some may wish to introduce a more structured framework within which to operate - a "harder" "federation" based on formal contracts.

1.1.2 This guidance deals only with the statutory collaboration of maintained schools under section 26 of the Education Act 2002 (including maintained nursery schools). It explains the arrangements for maintained schools to jointly discharge their functions and set up joint committees. As noted above, we would encourage other collaborative arrangements between schools, and also between maintained schools and other institutions (such as City Technology Colleges, Academies, independent schools, and further education institutions). But such arrangements may not include arrangements for the joint discharge of functions, or formal joint committees, between the governing bodies of maintained schools (which include special schools) and institutions not maintained by a local education authority.

1.2 Further information

This guidance is available on DfES GovernorNet at:

<http://www.governornet.co.uk>

More information about the range of federations is available on the DfES website at:

<http://www.standards.dfes.gov.uk/diversity>

1.3 Legislative basis

The School Governance (Collaboration) (England) Regulations 2003 are made under sections 19(3), 23, 26 and 210(7) of the Education Act 2002.

2. General principles

2.1 The following arrangements are based on the principle of allowing governing bodies and joint committees freedom to determine their own arrangements, within an agreed framework of common understanding that safeguards the interests of everyone concerned. The regulations parallel the arrangements for individual governing bodies setting up committees.

2.1.1 Joint committees do not exist to operate in their own right, but act under delegated powers from the collaborating governing bodies. Those individual governing bodies retain legal responsibility and corporate liability for all decisions taken on their behalf. Governing bodies will therefore need to ensure that they receive regular reports, including signed minutes, from any joint committees they agree to establish.

3. Collaboration between schools (regulation 3)

3.1 Two or more governing bodies may arrange for any of their functions to be discharged jointly.

3.2 They may also delegate any of their functions to a joint committee in the same way that they may delegate them to a committee of a single governing body.

3.3 This will allow a wide range of operational models, from an overarching committee delegated to take strategic decisions on behalf of two or more governing bodies, to setting up single-issue committees such as premises or curriculum committees. It will also allow the ad-hoc meeting of two or more full governing bodies to discuss and take decisions on matters of common interest.

3.4 Joint meetings of governing bodies are also meetings of individual governing bodies, and the provisions of the Procedures Regulations (SI 2003 No 1377) will apply, including those concerning quorums and majorities.

3.5 The Staffing Regulations (SI 2003 No 1963) apply to all staffing matters. For example, the governing bodies would be able to decide on the appointment of a head teacher on the recommendation of a special selection panel made up of governors of the collaborating governing bodies. The decision itself, however, could not be delegated to a joint committee, but must be made by the collaborating governing body.

3.6 As the guidance on the Staffing Regulations makes clear, most decisions on staff appointments are recommended to be delegated to the head teacher, as are decisions on dismissal, however these functions can also be delegated to several combinations of head teachers and governors.

4. Establishment of joint committees (regulation 4)

4.1 The governing bodies wishing to discharge their functions jointly must determine and review annually the constitution, membership, and terms of reference of any joint committees they decide to establish.

4.2 It is for a joint committee itself to decide the quorum for any of their meetings. In line with the 2003 Procedures Regulations, this must be at least three governors drawn from the collaborating schools.

4.3 A joint committee must appoint a chair annually, and may remove its chair from office at any time.

5. Clerks to joint committees (regulation 5)

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

5.1.1 In the absence of the clerk from a meeting, a joint committee may appoint any one of their number (except a head teacher) to act as clerk for the purposes of that meeting.

5.2 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.

6. Associate members (regulation 6)

6.1 Associate members can play a valuable role in providing additional knowledge and experience to governing bodies. In these Regulations "associate member" means a person who is appointed by a joint committee as a member of that committee but who is not a member of one of the collaborating governing bodies.

6.2 The maximum term of office of an associate member is four years, but the committee may decide to appoint an associate member for a shorter period (but not less than a year).

6.3 An associate member may be reappointed at the expiration of his or her term of office.

6.4 Any person who is disqualified from holding office as a governor of a school is disqualified from holding, or continuing to hold, office as an associate member of a joint committee.

6.5 It is for the collaborating governing bodies (not the joint committees) to determine the voting rights of associate members, except that an associate member must not vote on any resolution concerning:

- (a) admissions;
- (b) pupil discipline;
- (c) an individual pupil or member of staff if the associate member was excluded from that part of the meeting at which they were discussed, as described in paragraph 7.2 below; or
- (d) the budget and financial commitments of one of the collaborating governing bodies.

6.5.1 An associate member must not vote on any other business transacted by a joint committee unless he or she was aged 18 or over on the date of their appointment.

6.5.2 A joint committee may remove an associate member from office at any time.

7. Right of persons to attend meetings of joint committees (regulation 7)

7.1 Except as specified in paragraph 9 below, or if they have a pecuniary interest in a matter, the following may attend a meeting of a joint committee:

- (a) any member of the joint committee, including associate members, provided they have not been suspended by one of the collaborating governing bodies;
- (b) the head teachers, whether or not they are members of the joint committee;
- (c) the clerk to the joint committee; and
- (d) such other persons as the joint committee may determine.

7.2 A joint committee may exclude an associate member from any part of its meeting which they are otherwise entitled to attend when the business under consideration concerns an individual pupil or member of staff.

8. Proceedings of joint committees (regulation 8)

8.1 The clerk must convene meetings of the joint committee and, when exercising this function, must comply with any direction given by the joint committee or its chair.

8.1.1 Subject to any direction given under paragraph 8.1, at least seven clear days in advance of a meeting, the clerk must provide the following to each member of the joint committee and to the head teachers of the collaborating schools (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.

A shorter notice period may be given if the chair of the joint committee believes that matters need more urgent consideration.

8.2 The proceedings of a joint committee are not invalidated by any vacancy in the membership of the committee or any defect in the appointment of any member of the committee.

8.3 No vote on any matter may be taken at a meeting of a committee unless the majority of members of the committee present are members of one of the collaborating governing bodies.

8.4 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 committee present and voting on the question.

8.5 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.

9. Restrictions on persons taking part in proceedings (regulation 9)

9.1 Members of the committee and head teachers must disclose their interest, withdraw from the meeting, and not vote on a matter, if:

- (a) there is a conflict between their interests and the interests of a collaborating governing body, or
- (b) there is reasonable doubt about their ability to act impartially in relation to a matter where a fair hearing is required, or
- (c) they have a pecuniary interest in a matter.

9.2 A joint committee may allow anyone who they think can give helpful evidence to attend any hearing conducted by them into any matter and to present their evidence. This includes members of the committee, head teachers and the clerk to the committee, if they are acting in a private capacity.

9.3 A person who is acting as the clerk to a meeting of the joint committee is not required to withdraw from a meeting unless his appointment to office, his remuneration, or disciplinary action against him is the subject of consideration.

9.4 Where there is any dispute as to whether someone is required to withdraw from a meeting of the joint committee and not vote, it is for the other members of the joint committee present at the meeting to decide the question.

10. Minutes (regulation 10)

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 (if the committee agrees the minutes) by the chair of the next meeting of the joint committee.

10.2 The joint committee must, as soon as reasonably practicable, make available for inspection by any interested person, a copy of the agenda and signed minutes for every joint committee meeting, and any report or other paper considered at the meeting. This does not include, however, 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.

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Please quote ref. no. LEA/0313/2003

Produced by the Department for Education and Skills