

6.30 Where the ELB takes such an action, the school may, if it wishes, appeal to the Chief Executive or, if necessary, the appropriate committee of the Education and Library Board and may have the right to present their appeal in person, if so desired.

7. PROVISION OF INFORMATION

7.1 The Board of Governors shall provide the Education and Library Board, or where appropriate CCMS or the Department, with any information which is requested for the purpose of the exercise of its functions, duties or responsibilities. Information should be provided in such form and in accordance with such timescale as requested by the commissioning organisation. It should be noted that the Freedom of Information (FOI) Act, which came into force in January 2005 –places a statutory duty on public bodies covered by the Act to make certain information publicly available on request. Schools are public authorities in their own right and must conform to the requirements of the FOI Act. Boards provide support to schools in handling FOI requests and procedures. Any queries should be referred to the designated officer in the relevant ELB.

7.2 The Department, the Education and Library Board and, where appropriate CCMS, will act reasonably in making requests for information, paying due regard to the ongoing work of the school, the cost of providing information and, where appropriate, confidentiality.

7.3 If a school fails to return information by the specified deadline, or if the information is not of a satisfactory quality, the following action may be taken:

- a. the Education and Library Board, or an agent appointed by the ELB, may carry out such investigations as it deems necessary to collect the data. The cost of such investigations may, in whole or in part, be deducted from the school's delegated budget;
- b. the Education and Library Board may use its own estimates of the requested data.

7.4 If the school receives a financial allocation in excess to what it is entitled because of either of these actions the school's budget will be adjusted accordingly. However the ELB is not bound to adjust the budget should an allocation be below that to which the school was otherwise entitled.

8. STAFFING ISSUES

General

8.1 Decisions on staffing complements are a matter for each Board of Governors. In determining staff complements, including teaching and non-teaching staff the Board of Governors has a number of key issues to consider including, in particular, the effective delivery of the curriculum and affordability. These are critical considerations and the Board of Governors needs to give very careful consideration to any proposals in this area and provide opportunities for the Principal to offer advice. This should include information on

the implications of the proposal for pupil/teacher ratios, class sizes, teacher contact time and the organisational structure.

Employment Matters

8.2 Education and Library Boards continue to be the employers of teaching and non-teaching staff in controlled schools and non-teaching staff in Catholic maintained and other maintained schools, and the Council for Catholic Maintained Schools is still the employer of teachers in the Catholic maintained sector. In the case of maintained schools other than those in the Catholic maintained sector, the Board of Governors of the school will be the employer of teachers in the school.

Pay And Conditions of Teaching Staff

8.3 The pay and conditions of teachers remain subject to the provisions, determinations and regulations made under the 1986 Order, as amended.

8.4 The pay and conditions of non-teaching staff will continue to be for Education and Library Boards to determine following consultation with the relevant negotiating bodies.

8.5 Each school should have a School Salary policy and procedures covering all teaching staff and keep these under review. Current arrangements provide Boards of Governors with the flexibility to award a salary increase for Principals and Vice-Principals, provided there has been a review of performance in the light of performance objectives. In assessing any proposed increase under these arrangements, Boards of Governors must ensure that they comply with any guidance or advice issued by the Department, the Education and Library Board or, where appropriate, the Council for Catholic Maintained Schools.

Discipline, Grievance And Suspension

8.6 Legislation provides for responsibility for disciplinary and grievance procedures in schools to rest with the Board of Governors of each school. The Board of Governors is responsible for the application of the agreed disciplinary rules and procedures, and procedures for giving members of the staff opportunities for seeking redress of grievances relating to their employment, and making them known to staff at the school. The legislation requires that, before establishing such rules and procedures, Boards of Governors must consult the employing authority of the staff concerned.

8.7 In view of the importance of this area of industrial relations, employing authorities should continue to issue and maintain guidance to schools on good practice in the establishment and operation of rules and procedures. It is the duty of the employing authority to comply with requests from the Board of Governors for action arising out of the Board of Governors' control over the conduct and discipline of staff where such action lies within the employing authority's power.

8.8 Either the Board of Governors or the Principal may suspend on full pay anyone who works at the school where his or her exclusion is deemed necessary, in which case they must

inform the other party and the employing authority. Only the Board of Governors may end a suspension, and must inform the employing authority and Principal immediately on doing so.

8.9 The above provisions do not apply in relation to:-

- a. teaching staff in non-Catholic maintained schools, as Boards of Governors are the employing authorities of teachers in these schools and are therefore responsible for making the relevant arrangements; or to
- b. staff employed to work solely in connection with the school meals service, where meals service expenditure is not a delegated item.

Dismissals

8.10 The Board of Governors (where it is not the employing authority) is responsible for deciding that a person employed to work at the school (excluding a person employed solely in connection with the school meals service, where meals service expenditure is not a delegated item) should cease to work at the school. If a person is employed to work at a school under more than one contract of employment - for example for cleaning and for lunch-time duties - the Board of Governors must consider work under each contract separately.

8.11 Different arrangements apply depending on whether a person is employed solely at the school or is employed at other locations:

- a. where a Board of Governors takes a decision in relation to a person employed under the contract in question to work **solely** at the school, it must notify the relevant employing authority of its decision and the reasons for it, and the employing authority must, within one month from the date of the notification, give the person notice of termination of his or her contract (or terminate the contract without notice if the circumstances are such that it is entitled to do so by reason of his or her conduct).
- b. where the person is **not** employed under the contract in question solely to work at the school, the employing authority must withdraw the person from work at the school.

8.12 In either case, the Board of Governors is required under Schedule 2 of the Education (NI) Order 1998 to make arrangements to afford the person an opportunity to make representations, including oral representations, to whichever person or persons the Board of Governors appoints for the purpose, before finalising a decision on his or her employment in the school. The Board of Governors must also give the person an opportunity to appeal that decision before it is notified to the employing authority. The Disciplinary Procedure for Teachers and the Disciplinary Procedure for Non-Teaching Staff in Grant-Aided Schools with Fully Delegated Budgets both provide for appeals against dismissal to be heard by an independent appeal panel set up under the auspices of the Labour Relations Agency.

8.13 The legislation provides that an officer of the relevant employing authority is entitled to attend, for the purpose of giving advice, all proceedings of the Board of Governors relating to a dismissal, and that the Board of Governors must consider any advice given before taking a decision.

8.14 Where a Board of Governors decides that a person NOT employed to work solely at the school should cease to work there, the school will not be responsible for any salary etc costs of the person under the contract in question after the end of a period equivalent to the period of notice that would have been required under the contract if notice had been given on the date the Board of Governors notified the employing authority of the decision.

Payments/Costs In Respect of Dismissals, Resignations etc.

8.15 Costs incurred by an Education and Library Board arising from the dismissal, resignation, or premature retirement of any member of the staff of a school with a fully delegated budget must be met outside the school's budget share. The Board of Governors may determine the size of any payment to the departing member of staff in excess of statutory or contractual obligations. However, if an Education and Library Board has good reason, it may deduct, from a school's budget share, the whole or part of the costs incurred in relation to a dismissal, resignation or premature retirement. The fact that the employing authority has a no-redundancy policy will not in itself be good reason to deduct the costs of dismissal from a school's budget share. With this exception, it will be for the Education and Library Board to determine what is a good reason and to consider the issue of appropriate guidance to Boards of Governors. Examples might be where the ELB considers that a dismissal is likely to be found unfair before an Industrial Tribunal, or that payments which the Board of Governors has decided should be made are excessive in relation to the Education and Library Board's practice.

8.16 Where there is a contract with a private contractor under terms which give the Board of Governors the right to require the removal from work at the school of individual workers employed by the contractor, that right should be exercised at the discretion of the Board of Governors rather than the employing authority.

8.17 Costs arising from Industrial Tribunal or other tribunals not involving dismissal, resignation or premature retirement are to be treated in the same way as the costs of dismissals etc, i.e. they should be borne by the Education and Library Board unless there is good reason for charging the school (e.g. if the Board of Governors, through action or inaction, disregarded advice received from the ELB).