

# SOUTHWARK DIOCESAN BOARD OF EDUCATION

## BRIEFING SHEET

**SUBJECT:** Appointment of staff and personnel procedures

**RECIPIENT(S):** Headteachers and Chairs of Governors of all C of E Schools

**SDBE CONTACT:** Sandra Routledge

**DATE:** 9 January 2004

### 1 INTRODUCTION

- 1.1 New staffing regulations have been published under the 2002 Education Act to provide greater flexibility for schools in staffing matters. The new regulations expect the headteacher to take a lead in:
- (i) making decisions on appointments outside the leadership group; and
  - (ii) making initial decisions on all staff dismissals.
- This briefing sheet summarises the changes and offers advice on how governing bodies should proceed.

### 2 KEY CHANGES

- 2.1 Under the School Staffing Regulations 2003\* the Governing Body may delegate their responsibilities, other than the hearing of appeals to
- (i) the headteacher
  - (ii) one or more governors
  - (iii) one or more governors and the headteacher
- The expectation is that governors will delegate the lead role to the headteacher.
- 2.2 **In certain circumstances the regulations do allow alternative arrangements**, which governing bodies of church schools will wish to consider, before finalising the terms of reference of the staffing committee and agreeing personnel procedures. The circumstances are as follows:
- (i) Existing headteachers have the option to retain the current arrangements where they have not traditionally performed such functions. Current arrangements would cease on the appointment of a new headteacher, who would be appointed with the expectation that they would take on these responsibilities.
  - (ii) The headteacher is directly involved in disciplinary procedures leading to dismissal, or has instigated a proposal to dismiss, or is a witness to conduct which gives grounds for dismissal. The decision to dismiss should be delegated to a discipline committee of governors.
  - (iii) A church school governing body has agreed staffing policies which provide for governor involvement in the interests of preserving the school's religious character.
  - (iv) Appointment of support staff who will be acting in a senior management capacity.
  - (v) The headteacher is subject to suspension, disciplinary procedures, or sanction.
  - (vi) The LEA has made representations to chair of governing body re serious concerns about the headteacher's performance.
  - (vii) The headteacher has failed to abide by financial limits agreed by governing body for any school purpose.
- 2.3 Governing bodies should keep under review the continuation of exceptions related to the headteacher's performance or conduct (v) to (vii) above. The headteacher should be given the opportunity to make representations on any decisions to discontinue delegated responsibility. The headteacher cannot delegate these responsibilities for staff appointments or dismissal to another person.
- 2.4 The new regulations do not prevent governors from using current staffing procedures, while they make the necessary changes to the delegated functions of the staffing committee and to their procedures, which should be in place by April 2004.

### 3. SDBE ADVICE

- 3.1 While the Diocesan Board endorses the view that in many cases headteachers can, and should, be expected to appoint and discipline staff, they strongly advise **governing bodies and headteachers to consider their procedures for governing body involvement for appointments above temporary and main scale, and for disciplinary measures beyond a final warning.**
- 3.2 It is the Diocesan Board's view that it will be extremely unlikely for a headteacher not to have had direct involvement in a discipline, capability or sickness absence case before the dismissal stage. We therefore recommend that governing bodies delegate the decision to dismiss to a committee of governors.
- 3.3 Where governors delegate authority for dismissal to the headteacher they will need to be assured that the headteacher has in turn delegated responsibility for the informal and formal stages of any staffing procedure, ie sickness absence, discipline, capability, grievance and redundancy, up to final written warning stage.
- 3.4 Headteachers are advised to seek advice from the SDBE as to whether they are tainted by procedures that they have carried out before exercising any delegated authority to dismiss.
- 3.5 The staffing committee of the governing body should continue to approve the staffing complement and staffing structure (both teaching and non-teaching) in consultation with the headteacher.

#### **4. SDBE GUIDANCE**

- 4.1 The Board's officers are currently working with the National Society to update personnel procedures and guidance in the light of the new regulations and these will be published in September.

***\*School Staffing (England) Regulations 2003, Statutory Instrument 1963, HMSO: Staffing Guidance under sections 35(8) of the Education Act 2002, DfES, August 2003.***