



# Education Act 1996

## 1996 CHAPTER 56

### PART V

#### THE CURRICULUM

#### CHAPTER III

##### RELIGIOUS EDUCATION AND WORSHIP

##### *Determinations by standing advisory councils*

#### **394 Determination of cases in which requirement for Christian collective worship is not to apply.**

- (1) The council constituted by a [<sup>F1</sup>local authority] under section 390 shall, on an application made by the head teacher of—
  - (a) any [<sup>F2</sup>community school] maintained by the authority, or
  - <sup>F3</sup>(b) any foundation school which has not been designated under section 69(3) of the School Standards and Framework Act 1998 by the Secretary of State as having a religious character,]consider whether it is appropriate for the requirement imposed by [<sup>F4</sup>paragraph 3(2) of Schedule 20 to the School Standards and Framework Act 1998 (requirement for Christian collective worship)] to apply in the case of the school or in the case of any class or description of pupils at the school.
- (2) In determining whether it is appropriate for that requirement to apply as mentioned in subsection (1), the council shall have regard to any circumstances relating to the family backgrounds of the pupils at the school, or of the pupils of the particular class or description in question, which are relevant for determining the character of the collective worship appropriate in their case.
- (3) The council shall give the head teacher written notification of their decision on the application.

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- (4) Where the council determine that it is not appropriate for the requirement to apply as mentioned in subsection (1), the determination shall take effect for the purposes of [F<sup>5</sup>paragraph 4 of Schedule 20 to the School Standards and Framework Act 1998 (disapplication of requirement for Christian collective worship)] on such date as may be specified in the notification of the council’s decision under subsection (3).
- (5) Before making an application under subsection (1), the head teacher of a school shall consult the governing body.
- (6) On being consulted by the head teacher, the governing body may if they think fit take such steps as they consider appropriate for consulting all persons appearing to them to be parents of registered pupils at the school.
- (7) An application under subsection (1) shall be made in such manner and form as the council may require.
- (8) Where an application is made under subsection (1)(a) in respect of [F<sup>6</sup>a community school which becomes a foundation school [F<sup>7</sup>(by virtue of the relevant enactments)]] before the application is determined, it shall, unless withdrawn by the head teacher, continue as if made under subsection (1)(b).
- [F<sup>8</sup>(9) In subsection (8) “the relevant enactments” means—
- (a) in relation to England, sections 18 to 24 of the Education and Inspections Act 2006;
  - (b) [F<sup>9</sup>in relation to Wales, section 35 of, and Schedule 8 to, the School Standards and Framework Act 1998.]]

#### Textual Amendments

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 7(2)** (with Sch. 2 para. 7(4)(5))
- F2** Words in s. 394(1)(a) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 97(2)(a)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F3** S. 394(1)(b) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 97(2)(b)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F4** Words in s. 394(1) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 97(2)(c)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F5** Words in s. 394(4) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 97(3)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F6** Words in s. 394(8) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 97(4)** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F7** Words in s. 394(8) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 3 para. 9(2)**; S.I. 2007/935, art. 7(o)
- F8** S. 394(9) inserted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), **Sch. 3 para. 9(3)**; S.I. 2007/935, art. 7(o)
- F9** S. 394(9)(b) omitted (1.10.2013) by virtue of [School Standards and Organisation \(Wales\) Act 2013 \(anaw 1\)](#), s. 100(4), **Sch. 5 para. 17(3)**; S.I. 2013/1800, art. 3(j)

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### **395 Review of determinations under section 394.**

- (1) Any determination by a council under section 394 by virtue of which the requirement imposed by [F10 paragraph 3(2) of Schedule 20 to the School Standards and Framework Act 1998] does not for the time being apply in the case of a school or a class or description of pupils at a school shall be reviewed by the council—
  - (a) at any time on an application made by the head teacher, and
  - (b) in any event not later than the end of the period of five years beginning with the date on which the determination first took effect or (where it has since been reviewed under this section) with the effective date of the decision on the last review.
- (2) On any review under subsection (1)(b) the council shall give the head teacher an opportunity of making representations as to the determination under review.
- (3) On a review under this section, the council may—
  - (a) confirm the determination, with or without variation, or
  - (b) revoke it (without prejudice to any further determination under section 394).
- (4) The council shall give the head teacher written notification of their decision, specifying the effective date of that decision for the purposes of subsection (1)(b).
- (5) Any determination which is required to be reviewed under subsection (1)(b) shall cease to have effect, if not confirmed on such a review, at the end of the period there mentioned.
- (6) The head teacher of a school shall consult the governing body before making an application under subsection (1)(a) or any representations under subsection (2).
- (7) On being consulted by the head teacher, the governing body may if they think fit take such steps as they consider appropriate for consulting all persons appearing to them to be parents of registered pupils at the school.
- (8) An application under subsection (1)(a) shall be made in such manner and form as the council may require.

#### **Textual Amendments**

**F10** Words in s. 395(1) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para.98** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

### **396 Power of Secretary of State to direct advisory council to revoke determination or discharge duty.**

- (1) Where the Secretary of State is satisfied, either on complaint by any person or otherwise, that any standing advisory council on religious education constituted by a [F11 local authority] under section 390—
  - (a) have acted, or are proposing to act, unreasonably in determining for the purposes of section 394 or 395 whether it is appropriate for the requirement imposed by [F11 paragraph 3(2) of Schedule 20 to the School Standards and Framework Act 1998] to apply in the case of any school or any class or description of pupils at a school, or
  - (b) have failed to discharge any duty imposed under section 394 or 395,

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he may give the council such directions as to the revocation of the determination, or the withdrawal of the proposed determination or (as the case may be) the discharge of the duty as appear to him to be expedient; and the council shall comply with the directions.

- (2) Directions under subsection (1) may provide for the making by the council of a new determination to take effect in place of the determination or proposed determination to be revoked or withdrawn by them.

#### Textual Amendments

- F1** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **Sch. 2 para. 7(2)** (with Sch. 2 para. 7(4)(5))
- F11** Words in s. 396(1)(a) substituted (1.9.1999) by [1998 c. 31, s. 140\(1\)](#), **Sch. 30 para.99** (with ss. 138(9), 144(6)); [S.I. 1999/2323, art. 2\(1\)](#), **Sch. 1**

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 13(2)(ba) substituted for s. 13(2)(aa)(b) by [2022 asc 1 Sch. 4 para. 8\(2\)](#)
- s. 15A(3A) inserted by [2022 asc 1 Sch. 4 para. 8\(3\)](#)
- s. 15B(3)(c) inserted by [2022 asc 1 Sch. 4 para. 8\(4\)](#)
- s. 17A functions made exercisable concurrently by [S.I. 2014/1012 art. 12\(1\)Sch. 2 para. 3](#)
- s. 17A functions made exercisable concurrently by [S.I. 2014/863 Sch. 2 para. 4](#)
- s. 17A functions made exercisable concurrently by [S.I. 2014/865 Sch. 2 para. 3](#)
- s. 17A functions made exercisable concurrently by [S.I. 2016/653 Sch. 3 para. 3](#)
- s. 17A-17D inserted by [2009 c. 22 s. 45](#)
- s. 17B-17D applied by [2009 c. 22 s. 86\(8\)](#)
- s. 457(4)(i)-(iia) repealed by [2012 c. 5 Sch. 14 Pt. 1](#)
- s. 457(4)(iii) words repealed by [2012 c. 5 Sch. 14 Pt. 1](#)
- s. 508(4) inserted by [2022 asc 1 Sch. 4 para. 8\(7\)](#)
- s. 537AA inserted by [2008 c. 25 Sch. 1 para. 8](#)
- s. 548(7A)(7B) inserted by [2008 c. 25 Sch. 1 para. 9\(5\)](#)
- s. 578(1) words repealed by [2005 c. 18 Sch. 19 Pt. 1](#)