

## SCHEDULES

### SCHEDULE 27

Section 324.

#### MAKING AND MAINTENANCE OF STATEMENTS UNDER SECTION 324

##### *Introductory*

- 1 In this Schedule “statement” means a statement of a child’s special educational needs under section 324.

##### *Copy of proposed statement*

- 2 Before making a statement, a local education authority shall serve on the parent of the child concerned—
- (a) a copy of the proposed statement, and
  - (b) a written notice explaining the arrangements under paragraph 3, the effect of paragraph 4 and the right to appeal under section 326 and containing such other information as may be prescribed,
- but the copy of the proposed statement shall not specify any matter in pursuance of section 324(4) or any prescribed matter.

##### *Choice of school*

- 3 (1) Every local education authority shall make arrangements for enabling a parent on whom a copy of a proposed statement has been served under paragraph 2 to express a preference as to the maintained, grant-maintained or grant-maintained special school at which he wishes education to be provided for his child and to give reasons for his preference.
- (2) Any such preference must be expressed or made within the period of 15 days beginning—
- (a) with the date on which the written notice mentioned in paragraph 2(b) was served on the parent, or
  - (b) if a meeting has (or meetings have) been arranged under paragraph 4(1)(b) or (2), with the date fixed for that meeting (or the last of those meetings).
- (3) Where a local education authority make a statement in a case where the parent of the child concerned has expressed a preference in pursuance of such arrangements as to the school at which he wishes education to be provided for his child, they shall specify the name of that school in the statement unless—
- (a) the school is unsuitable to the child’s age, ability or aptitude or to his special educational needs, or
  - (b) the attendance of the child at the school would be incompatible with the provision of efficient education for the children with whom he would be educated or the efficient use of resources.

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- (4) A local education authority shall, before specifying the name of any maintained, grant-maintained or grant-maintained special school in a statement, consult the governing body of the school and, if the school is maintained by another local education authority, that authority.

#### *Representations*

- 4 (1) A parent on whom a copy of a proposed statement has been served under paragraph 2 may—
- (a) make representations (or further representations) to the local education authority about the content of the statement, and
  - (b) require the authority to arrange a meeting between him and an officer of the authority at which the statement can be discussed.
- (2) Where a parent, having attended a meeting arranged by a local education authority under sub-paragraph (1)(b), disagrees with any part of the assessment in question, he may require the authority to arrange such meeting or meetings as they consider will enable him to discuss the relevant advice with the appropriate person or persons.
- (3) In this paragraph—
- “relevant advice” means such of the advice given to the authority in connection with the assessment as they consider to be relevant to that part of the assessment with which the parent disagrees, and
- “appropriate person” means the person who gave the relevant advice or any other person who, in the opinion of the authority, is the appropriate person to discuss it with the parent.
- (4) Any representations under sub-paragraph (1)(a) must be made within the period of 15 days beginning—
- (a) with the date on which the written notice mentioned in paragraph 2(b) was served on the parent, or
  - (b) if a meeting has (or meetings have) been arranged under sub-paragraph (1)(b) or (2), with the date fixed for that meeting (or the last of those meetings).
- (5) A requirement under sub-paragraph (1)(b) must be made within the period of 15 days beginning with the date on which the written notice mentioned in paragraph 2(b) was served on the parent.
- (6) A requirement under sub-paragraph (2) must be made within the period of 15 days beginning with the date fixed for the meeting arranged under sub-paragraph (1)(b).

#### *Making the statement*

- 5 (1) Where representations are made to a local education authority under paragraph 4(1)(a), the authority shall not make the statement until they have considered the representations and the period or the last of the periods allowed by paragraph 4 for making requirements or further representations has expired.
- (2) The statement may be in the form originally proposed (except as to the matters required to be excluded from the copy of the proposed statement) or in a form modified in the light of the representations.

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- (3) Regulations may provide that, where a local education authority are under a duty (subject to compliance with the preceding requirements of this Schedule) to make a statement, the duty, or any step required to be taken for performance of the duty, must, subject to prescribed exceptions, be performed within the prescribed period.
- (4) Such provision shall not relieve the authority of the duty to make a statement, or take any step, which has not been performed or taken within that period.

#### *Service of statement*

- 6 Where a local education authority make a statement they shall serve a copy of the statement on the parent of the child concerned and shall give notice in writing to him—
  - (a) of his right under section 326(1) to appeal against—
    - (i) the description in the statement of the authority’s assessment of the child’s special educational needs,
    - (ii) the special educational provision specified in the statement, or
    - (iii) if no school is named in the statement, that fact, and
  - (b) of the name of the person to whom he may apply for information and advice about the child’s special educational needs.

#### *Keeping, disclosure and transfer of statements*

- 7 (1) Regulations may make provision as to the keeping and disclosure of statements.
- (2) Regulations may make provision, where a local education authority become responsible for a child for whom a statement is maintained by another authority, for the transfer of the statement to them and for Part IV to have effect as if the duty to maintain the transferred statement were their duty.

#### *Change of named school*

- 8 (1) Sub-paragraph (2) applies where—
  - (a) the parent of a child for whom a statement is maintained which specifies the name of a school or institution asks the local education authority to substitute for that name the name of a maintained, grant-maintained or grant-maintained special school specified by the parent, and
  - (b) the request is not made less than 12 months after—
    - (i) an earlier request under this paragraph,
    - (ii) the service of a copy of the statement under paragraph 6,
    - (iii) if the statement has been amended, the date when notice of the amendment is given under paragraph 10(3)(b), or
    - (iv) if the parent has appealed to the Tribunal under section 326 or this paragraph, the date when the appeal is concluded,whichever is the later.
- (2) The local education authority shall comply with the request unless—
  - (a) the school is unsuitable to the child’s age, ability or aptitude or to his special educational needs, or

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- (b) the attendance of the child at the school would be incompatible with the provision of efficient education for the children with whom he would be educated or the efficient use of resources.
- (3) Where the local education authority determine not to comply with the request—
  - (a) they shall give notice of that fact and of the effect of paragraph (b) below to the parent of the child, and
  - (b) the parent of the child may appeal to the Tribunal against the determination.
- (4) On the appeal the Tribunal may—
  - (a) dismiss the appeal, or
  - (b) order the local education authority to substitute for the name of the school or other institution specified in the statement the name of the school specified by the parent.
- (5) Regulations may provide that, where a local education authority are under a duty to comply with a request under this paragraph, the duty must, subject to prescribed exceptions, be performed within the prescribed period.
- (6) Such provision shall not relieve the authority of the duty to comply with such a request which has not been complied with within that period.

*Procedure for amending or ceasing to maintain a statement*

- 9 (1) A local education authority may not amend, or cease to maintain, a statement except in accordance with paragraph 10 or 11.
- (2) Sub-paragraph (1) does not apply where the local education authority—
  - (a) cease to maintain a statement for a child who has ceased to be a child for whom they are responsible,
  - (b) amend a statement in pursuance of paragraph 8,
  - (c) are ordered to cease to maintain a statement under section 326(3)(c), or
  - (d) amend a statement in pursuance of directions under section 442 (revocation of school attendance order).
- 10 (1) Before amending a statement, a local education authority shall serve on the parent of the child concerned a notice informing him—
  - (a) of their proposal, and
  - (b) of his right to make representations under sub-paragraph (2).
- (2) A parent on whom a notice has been served under sub-paragraph (1) may, within the period of 15 days beginning with the date on which the notice is served, make representations to the local education authority about their proposal.
- (3) The local education authority—
  - (a) shall consider any representations made to them under sub-paragraph (2), and
  - (b) on taking a decision on the proposal to which the representations relate, shall give notice in writing to the parent of their decision.
- (4) Where a local education authority make an amendment under this paragraph to the description in a statement of the authority's assessment of a child's special educational needs or to the special educational provision specified in a statement,

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they shall give notice in writing to the parent of his right under section 326(1) to appeal against—

- (a) the description in the statement of the authority's assessment of the child's special educational needs,
- (b) the special educational provision specified in the statement, or
- (c) if no school is named in the statement, that fact.

(5) A local education authority may only amend a statement under this paragraph within the prescribed period beginning with the service of the notice under subparagraph (1).

11 (1) A local education authority may cease to maintain a statement only if it is no longer necessary to maintain it.

(2) Where the local education authority determine to cease to maintain a statement—

- (a) they shall give notice of that fact and of the effect of paragraph (b) below to the parent of the child, and
- (b) the parent of the child may appeal to the Tribunal against the determination.

(3) On an appeal under this paragraph the Tribunal may—

- (a) dismiss the appeal, or
- (b) order the local education authority to continue to maintain the statement in its existing form or with such amendments of—
  - (i) the description in the statement of the authority's assessment of the child's special educational needs, or
  - (ii) the special educational provision specified in the statement,and such other consequential amendments, as the Tribunal may determine.

(4) Except where the parent of the child appeals to the Tribunal under this paragraph, a local education authority may only cease to maintain a statement under this paragraph within the prescribed period beginning with the service of the notice under subparagraph (2).