



Education Act 2005

2005 CHAPTER 18

PART 1

SCHOOL INSPECTIONS AND OTHER INSPECTIONS BY SCHOOL INSPECTORS

CHAPTER 4

PROCEDURE FOR INSPECTIONS UNDER CHAPTER 3

Destination of reports and measures required: maintained schools

37 Duty to notify where inspection shows maintained school causing concern

- (1) Subsection (2) applies in relation to a maintained school where—
 - (a) following an inspection of the school under Chapter 3 by a member of the Inspectorate, that member has informed the Chief Inspector of his opinion—
 - (i) that special measures are required to be taken in relation to the school,
or
 - (ii) that the school requires significant improvement, or
 - (b) the Chief Inspector agrees with the opinion of a registered inspector, expressed in a draft report submitted to the Chief Inspector under section 34(1)—
 - (i) that special measures are required to be taken in relation to the school,
or
 - (ii) that the school requires significant improvement.
- (2) Where this subsection applies, the Chief Inspector must without delay give the Assembly and the ^[F1]local authority notice in writing stating that the case falls within paragraph (a) or (b) of subsection (1).

*Changes to legislation: There are currently no known outstanding effects for the Education Act 2005, Cross
Heading: Destination of reports and measures required: maintained schools. (See end of Document for details)*

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. 13(2)**

38 Destination of reports: maintained schools

- (1) In the case of a report of a section 28 inspection of a maintained school, the person making the report must without delay send a copy of the report together with a summary of it to the appropriate authority for the school.
- (2) In a case where—
 - (a) a report of an inspection of a maintained school is made by a member of the Inspectorate, and
 - (b) he is required by section 35 to state in the report that he is of the opinion that special measures are required to be taken in relation to the school or that the school requires significant improvement,

the member of the Inspectorate must send a copy of the report together with the summary of it to the appropriate authority for the school.
- (3) In any case, copies of the report and summary referred to in subsection (1) or (2) must be sent by the person who made the report—
 - (a) to the Chief Inspector (unless the report was made by a member of the Inspectorate),
 - (b) to the head teacher of the school,
 - (c) to whichever of the [^{F1}local authority] and the governing body are not the appropriate authority,
 - (d) in the case of a school having foundation governors, to the person who appoints them and (if different) to the appropriate appointing authority, and
 - (e) in such circumstances as may be prescribed, to such other persons (if any) as may be prescribed.
- (4) The appropriate authority must—
 - (a) make a copy of any report and summary sent to the authority under subsection (1) or (2) available for inspection by members of the public at such times and at such place as may be reasonable,
 - (b) provide a copy of the report and summary, free of charge or in prescribed cases on payment of such fee as they think fit (not exceeding the cost of supply), to any person who asks for one, and
 - (c) take such steps as are reasonably practicable to secure that every registered parent of a registered pupil at the school receives a copy of the summary within such period following receipt of the report by the authority as may be prescribed.
- (5) Subsection (6) applies to a report of an inspection of a maintained school if—
 - (a) the inspection was a section 28 inspection or was carried out by a member of the Inspectorate, and
 - (b) the school provides full-time education suitable to the requirements of pupils over compulsory school age.

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- (6) The person making the report must send a copy (together with a copy of the summary, if there is one) to the [F2 Assembly] .

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. 13(2)**
- F2** Word in s. 38(6) substituted (W.) (1.4.2006) by [The National Council for Education and Training for Wales \(Transfer of Functions to the National Assembly for Wales and Abolition\) Order 2005 \(S.I. 2005/3238\)](#), art. 9(1), **Sch. 1 para. 97** (with art. 7)

Modifications etc. (not altering text)

- C1** S. 38(2) applied (with modifications) (1.9.2006 for W.) by 2000 c. 21, Sch. 7 para. 13(3)(b)(i) (as substituted by [Education Act 2005 \(c. 18\)](#), ss. 46, 125, **Sch. 5 para. 3(14)(c)**); S.I. 2006/1338, **art. 3**, Sch. 1
- C2** S. 38(2) applied (with modifications) (1.9.2006 for W.) by 2000 c. 21, Sch. 7 para. 6(3)(b)(i) (as substituted by [Education Act 2005 \(c. 18\)](#), ss. 46, 125, **Sch. 5 para. 3(8)(c)**); S.I. 2006/1338, **art. 3**, Sch. 1
- C3** S. 38(4) applied (with modifications) (1.9.2006 for W.) by 2000 c. 21, Sch. 7 para. 13(3)(b)(ii) (as substituted by [Education Act 2005 \(c. 18\)](#), ss. 46, 125, **Sch. 5 para. 3(14)(c)**); S.I. 2006/1338, **art. 3**, Sch. 1
- C4** S. 38(4) applied (with modifications) (1.9.2006 for W.) by 2000 c. 21, Sch. 7 para. 6(3)(b)(ii) (as substituted by [Education Act 2005 \(c. 18\)](#), ss. 46, 125, **Sch. 5 para. 3(8)(c)**); S.I. 2006/1338, **art. 3**, Sch. 1

39 Statement to be prepared by appropriate authority for school

- (1) Where there is sent to the appropriate authority for a maintained school either—
- a report of a section 28 inspection of the school, or
 - a report of an inspection of the school by a member of the Inspectorate in which that person is required by section 35(1)(b) to state that he is of the opinion that special measures are required to be taken in relation to the school or that the school requires significant improvement,
- the appropriate authority must prepare a written statement of the action which they propose to take in the light of the report and the period within which they propose to take it.
- (2) It is the duty of the appropriate authority to prepare the statement within the period allowed by this subsection, that is—
- such period as may be prescribed, or
 - if—
 - the report states that the person making it is of the opinion that special measures are required to be taken in relation to the school or that the school requires significant improvement, and
 - either that person is a member of the Inspectorate or the report states that the Chief Inspector agrees with his opinion, and
 - the Assembly is of the opinion that the urgency of the case requires a shorter period,such shorter period as the Assembly may direct;

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but this subsection does not relieve the appropriate authority of any duty to prepare a statement which has not been performed within that period.

- (3) Subject to subsection (4), where such a statement has been prepared by the appropriate authority, they must, before the end of the prescribed period, send copies of it—
- (a) to the Chief Inspector,
 - (b) to whichever of the governing body and the [F¹local authority] are not the appropriate authority, and
 - (c) in such circumstances as may be prescribed, to such other persons (if any) as may be prescribed.
- (4) Where the report in question is a report of a section 28 inspection of a school, subsection (3)(a) does not require a copy of the statement to be sent to the Chief Inspector unless the report states that the person making it is of the opinion—
- (a) that special measures are required to be taken in relation to the school, or
 - (b) that the school requires significant improvement.
- (5) If in the case of a maintained school—
- (a) the statement is prepared in response to a report of an inspection of the school in which the person who made the report states that in his opinion special measures are required to be taken in relation to the school or that the school requires significant improvement, and
 - (b) either that person is a member of the Inspectorate or the report states that the Chief Inspector agrees with his opinion,
- the appropriate authority must, before the end of the prescribed period, send a copy of the statement to the Assembly.
- (6) In the case of a school having foundation governors, the appropriate authority must also send a copy of the statement to the person who appoints them and (if different) to the appropriate appointing authority.
- (7) The appropriate authority must—
- (a) make any statement prepared by them under this section available for inspection by members of the public, at such times and at such place as may be reasonable,
 - (b) provide a copy of the statement, free of charge or in prescribed cases on payment of such fee as they think fit (not exceeding the cost of supply), to any person who asks for one, and
 - (c) take such steps as are reasonably practicable to secure that every registered parent of a registered pupil at the school receives a copy of the statement as soon as is reasonably practicable.
- (8) The duty under subsection (7)(c) is to be taken to be satisfied by the appropriate authority if they—
- (a) take such steps as are reasonably practicable to secure that every registered parent of a pupil at the school receives, as soon as is reasonably practicable, a copy of a document prepared by them which—
 - (i) summarises the statement, and
 - (ii) contains a statement of the right to request a copy of it under paragraph (b), and
 - (b) provide a copy of the statement to every registered parent of a registered pupil at the school who asks for one.

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- (9) Where the governing body of a school have prepared a statement under this section, they must in the report under section 30 of the Education Act 2002 (c. 32) (governors' reports) state the extent to which the proposals set out in the statement (or, if there is more than one, the most recent statement) have been carried into effect.

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. 13(2)**

Modifications etc. (not altering text)

- C5** S. 39 applied (with modifications) (1.9.2006 for W.) by [2000 c. 21 Sch. 7 para. 13\(3\)\(b\)\(iii\)](#) (as substituted by [Education Act 2005 \(c. 18\)](#), ss. 46, 125, **Sch. 5 para. 3(14)(c)**); [S.I. 2006/1338](#), **art. 3**, [Sch. 1](#)
- C6** S. 39 applied (with modifications) (1.9.2006 for W.) by [2000 c. 21 Sch. 7 para. 6\(3\)\(b\)\(iii\)](#) (as substituted by [Education Act 2005 \(c. 18\)](#), ss. 46, 125, **Sch. 5 para. 3(8)(c)**); [S.I. 2006/1338](#), **art. 3**, [Sch. 1](#)

40 Statement to be prepared by ^{F1}local authority

- (1) This section applies in circumstances where—
- (a) in a report of an inspection of a maintained school the governing body of which have a delegated budget, the person who made the report stated that in his opinion—
 - (i) special measures were required to be taken in relation to the school, or
 - (ii) the school required significant improvement, and
 - (b) either that person was a member of the Inspectorate or the report stated that the Chief Inspector agreed with his opinion, and
 - (c) either—
 - (i) the ^{F1}local authority have received a copy of a statement prepared under section 39 in response to the report, or
 - (ii) the period prescribed for the purposes of subsection (3) of that section has expired.
- (2) The ^{F1}local authority must—
- (a) prepare a written statement of any action they propose to take in the light of the report, and the period within which they propose to take such action, or, if they do not propose to take any such action, of their reasons for not doing so, and
 - (b) send a copy of the statement prepared under paragraph (a), together with their comments on any statement prepared under section 39 of which they have received a copy, to the Assembly and the Chief Inspector and, in the case of a voluntary aided school—
 - (i) to the person who appoints the foundation governors, and
 - (ii) (if different) to the appropriate appointing authority.
- (3) It is the duty of the ^{F1}local authority to prepare the statement within the period allowed by this subsection, that is—
- (a) such period as may be prescribed, or

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- (b) if the Assembly is of the opinion that the urgency of the case requires a shorter period, such shorter period as the Assembly may direct;
 but this subsection does not relieve the [F1]local authority] of any duty to prepare a statement which has not been performed within that period.

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. 13(2)**

Modifications etc. (not altering text)

- C7** S. 40(2)(3) applied (with modifications) (1.9.2006 for W.) by [2000 c. 21 Sch. 7 para. 13\(3\)\(b\)\(iv\)](#) (as substituted by [Education Act 2005 \(c. 18\)](#), ss. 46, 125, **Sch. 5 para. 3(14)(c)**); [S.I. 2006/1338](#), **art. 3**, [Sch. 1](#)
- C8** S. 40(2)(3) applied (with modifications) (1.9.2006 for W.) by [2000 c. 21 Sch. 7 para. 6\(3\)\(b\)\(iv\)](#) (as substituted by [Education Act 2005 \(c. 18\)](#), ss. 46, 125, **Sch. 5 para. 3(8)(c)**); [S.I. 2006/1338](#), **art. 3**, [Sch. 1](#)
- C9** S. 40(2)(3) applied (with modifications) (1.9.2006 for W.) by [2000 c. 21 Sch. 7 para. 13\(3\)\(b\)\(iv\)](#) (as substituted by [Education Act 2005 \(c. 18\)](#), ss. 46, 125, **Sch. 5 para. 3(14)(c)**); [S.I. 2006/1338](#), **art. 3**, [Sch. 1](#)
- C10** S. 40(2)(3) applied (with modifications) (1.9.2006 for W.) by [2000 c. 21 Sch. 7 para. 6\(3\)\(b\)\(iv\)](#) (as substituted by [Education Act 2005 \(c. 18\)](#), ss. 46, 125, **Sch. 5 para. 3(8)(c)**); [S.I. 2006/1338](#), **art. 3**, [Sch. 1](#)

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