

## SCHEDULE 2

### CHILDREN AND YOUNG PERSONS WITH ADDITIONAL SUPPORT NEEDS: PLACING REQUESTS

#### *Appeal to sheriff from appeal committee*

- 7 (1) A parent who has made a reference to an appeal committee under paragraph 5 may appeal to the sheriff against the decision of the appeal committee on that reference.
- (2) The education authority may, but the appeal committee may not, be a party to an appeal under this paragraph.
- (3) An appeal under this paragraph—
- (a) is to be made by way of summary application,
  - (b) must be lodged with the sheriff clerk within 28 days from the date of receipt of the decision of the appeal committee, and
  - (c) is to be heard in chambers.
- (4) For the purposes of sub-paragraph (3)(b), a decision which is posted is to be presumed to have been received (unless the contrary is proved)—
- (a) on the day after the date on which it was posted, or
  - (b) if posted on a Friday or Saturday, on the Monday next following.
- (5) On good cause being shown, the sheriff may hear an appeal under this paragraph notwithstanding that it was not lodged within the time mentioned in sub-paragraph (3)(b).
- (6) The sheriff may, on an appeal made under this paragraph, confirm the education authority's decision if satisfied that—
- (a) in relation to the placing request, one or more of the grounds of refusal specified in paragraph 3(1) or (3) exists or exist, and
  - (b) in all the circumstances, it is appropriate to do,
- but otherwise must refuse to confirm the authority's decision.
- (7) Where the sheriff so refuses, the sheriff must require the education authority—
- (a) in the case of a placing request made under paragraph 2(1), to place the child in the specified school,
  - (b) in the case of a placing request made under paragraph 2(2), to meet the fees and other necessary costs of the child's attendance at the specified school, and the authority must comply with that requirement.
- (8) Sub-paragraph (9) applies where—
- (a) after an appeal is made to the sheriff under this paragraph, but
  - (b) before the sheriff has disposed of the appeal,
- there is referred to a Tribunal under section 18(1) a decision of the education authority that the child to whom the appeal relates does not require a co-ordinated support plan.
- (9) Where this sub-paragraph applies—
- (a) the sheriff must transfer the appeal to the Tribunal, and
  - (b) on being so transferred, the appeal is to be treated as if it were a reference made to the Tribunal under section 18(1).
- (10) The sheriff may make such order as to the expenses of an appeal under this paragraph as the sheriff thinks fit.

(11) The judgment of the sheriff on an appeal under this paragraph is final.