SCHEDULES

SCHEDULE 2

Section 13

CONDITIONS TO BE MET BY STUDENT COMPLAINTS SCHEME

Introduction.

1 This Schedule sets out the conditions referred to in section 13(3)(b) (and other provisions of Part 2 of this Act).

Qualifying institutions

2 Condition A is that at any given time the scheme relates (as the case may be)—

(a) to every institution in England,

(b) to every institution in Wales, or

(c) to every institution in England and Wales,

that is a qualifying institution at that time.

Referral of qualifying complaints

3 (1) Condition B is that the scheme provides that every qualifying complaint made about the qualifying institutions to which it relates is capable of being referred under the scheme.

(2) A scheme does not fail to meet condition B only because it contains some or all of the following—

(a) provision that qualifying complaints are to be referred under the scheme within a time limit specified in, or determined in accordance with, the scheme;

(b) provision that, where a qualifying complaint is made about a qualifying institution which provides an internal procedure for the review of complaints, the complaint is not to be referred under the scheme until the complainant has exhausted the internal procedure;

(c) provision that a qualifying complaint is not to be referred under the scheme if—

(i) relevant proceedings have been concluded, or

(ii) relevant proceedings that have not been concluded have not been stayed.

(3) In sub-paragraph (2)(c) "relevant proceedings" means proceedings relating to the subject matter of the qualifying complaint that have been brought at first instance before a court or tribunal.

Individuals to review complaints

4 Condition C is that the scheme requires every qualifying complaint referred under the scheme to be reviewed by an individual who—

(a) is independent of the parties, and

(b) is suitable to review that complaint.

Review of complaint

5 (1) Condition D is that the scheme requires a reviewer—

(a) to make a decision as to the extent to which a qualifying complaint is justified; and

(b) to make that decision as soon as reasonably practicable.

(2) A scheme does not fail to meet condition D only because it contains provision that a reviewer may dismiss a qualifying complaint without consideration of the merits if the reviewer considers the complaint to be frivolous or vexatious.

Recommendation of reviewer if complaint justified

6 Condition E is that the scheme provides that, in a case where a reviewer decides that a qualifying complaint is to any extent justified, the reviewer—

(a) may recommend the governing body of the institution to which the complaint relates—

(i) to do anything specified in the recommendation (which may include the payment of sums so specified), and

(ii) to refrain from doing anything so specified, but

(b) may not require any person to do, or refrain from doing, anything.

Reviewers to notify parties of decisions, recommendations etc.

7 Condition F is that the scheme requires a reviewer to notify the parties to a qualifying complaint in writing of—

(a) the decision the reviewer has made,

(b) the reviewer's reasons for making that decision, and

(c) if the reviewer makes a recommendation—

(i) that recommendation, and

(ii) the reviewer's reasons for making that recommendation.

Fees

8 Condition G is that the scheme does not require complainants to pay any fees in connection with the operation of the scheme.

9 Condition H is that any fees payable under the scheme by the qualifying institutions to which it relates do not exceed the amount incurred by the operator, taking one year with another, in providing the scheme in relation to those institutions.

Scheme also applying to bodies that are not qualifying institutions

10 (1) A scheme does not fail to meet the conditions in this Schedule only because it also relates to bodies that are not qualifying institutions.

(2) A scheme which relates to such bodies does not fail to meet the conditions in this Schedule only because the provisions of the scheme that apply to such bodies do not meet those conditions.

Interpretation

11 In this Schedule—

"complainant" means the person making a qualifying complaint;

"parties", in relation to a qualifying complaint, means—

(a) the complainant, and

(b) the governing body of the institution about which the complaint is made;

"reviewer", in relation to the review of a qualifying complaint under a scheme, means the individual who is reviewing the complaint.

Power to amend this Schedule

12 (1) Regulations may amend the preceding provisions of this Schedule.

(2) In sub-paragraph (1) "regulations" means regulations made—

(a) in relation to schemes relating to qualifying institutions in England, by the Secretary of State, or

(b) in relation to schemes relating to qualifying institutions in Wales, by the Assembly.

(3) No regulations may be made by the Secretary of State under this paragraph unless a draft of the regulations has been laid before, and approved by a resolution of, each House of Parliament.