

APPRENTICESHIPS, SKILLS, CHILDREN AND LEARNING ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 10: Schools

Chapter 2: Complaints: England

Section 221: Disapplication of certain powers of Secretary of State

707. This section amends sections 496 and 497 of the Education Act 1996. Currently, complainants may approach the Secretary of State asking him to consider the complaint. But for the Secretary of State to intervene the governing body has to be acting unreasonably or unlawfully and it must be expedient to intervene. In practice there are few occasions where the Secretary of State may issue a direction where the head teacher or school has failed in its statutory duty.
708. The effect of the amendments is that the Secretary of State can no longer make a direction in relation to complaints against governing bodies of schools that have or could have been made to a Local Commissioner. Instead, the complainant may approach a Local Commissioner if they are not satisfied with the governing body's response. After investigation into the complaint, a Local Commissioner will be able to recommend that the school undertake a course of action to remedy an injustice suffered by a particular individual.
709. A Local Commissioner will offer a scrutiny that is independent of central Government and will be able not only to consider if a school has been acting unreasonably or unlawfully (which is the scope of the Secretary of State's current practice) but also to recommend that a governing body provide a remedy.
710. Regulations may prescribe that the Secretary of State may make a direction in relation to a matter that could have been referred to the new scheme where the complaint is from a "prescribed person". The Government envisages that such prescribed persons might include the local education authority or governing bodies of other schools.