

2007 No. 3205

EDUCATION, ENGLAND

The Harbour School Order 2007

Made - - - - *11th November 2007*

Laid before Parliament *19th November 2007*

Coming into force - - *17th December 2007*

The Council of the City of Portsmouth (“the authority”) being a qualifying body for the purposes of Chapter 1 of Part 1 of the Education Act 2002(a) (“the Act”) have, in accordance with section 4(2) of the Act, consulted such persons as appear to them to be appropriate before making their application for this order in relation to the New Harbour School (“the School”);

It is the opinion of the Secretary of State—

- (a) pursuant to section 1(1)(a) of the Act, having regard to the matters set out in section 1(2), that the implementation of the provisions of this Order may contribute to the raising of educational standards in England;
- (b) pursuant to section 2(1)(d) of the Act, that the modifications made by this Order in relation to the authority and other qualifying bodies are consequential upon the relaxation in article 3;
- (c) pursuant to section 2(5) of the Act, that this Order is not likely to have a detrimental effect on the education of children with special educational needs.

In exercise of the powers conferred upon the Secretary of State by section 2(1) of the Act(b), the Secretary of State for Children, Schools and Families, on the application of the authority, makes the following Order:

Citation and commencement

1. This Order may be cited as the Harbour School Order 2007 and comes into force on 17th December 2007.

Interpretation

2. In this Order—

“the 1996 Act” means the Education Act 1996(c);

“the 2001 Regulations” means the Education (Special Educational Needs) (England) (Consolidation) Regulations 2001(d);

(a) 2002 c. 32; Chapter 1 of Part 1 has been amended by Schedule 16 to the Education and Inspections Act 2006 (c. 40).

(b) Sections 2(7) and (8) of the Act (time limit for making orders under this section) were repealed by Schedule 16 to the Education and Inspections Act 2006 (c. 40).

(c) 1996 c. 56.

(d) S.I. 2001/3455 as amended by S.I. 2006/3446. There are other amendments not relevant to this Order.

“the 2006 Regulations” means the Education (Pupil Registration) (England) Regulations 2006(a);

“the authority” means the Council of the City of Portsmouth;

“the School” means the community special school known as The Harbour School and located at 151 Locksway Road, Milton, Portsmouth, Hampshire, PQ4 8LD.

Relaxation of requirements for admission to a special school

3. The requirements in the following provisions are, as respects the School, relaxed in relation to the authority—

- (a) in paragraph (c) of section 316A(2) of the 1996 Act, the requirement for there to be a change in the child’s circumstances before a child with special educational needs can be admitted to a special school with the agreement of the persons referred to in that paragraph thereby relaxing the requirement in section 316 of that Act for the child to be educated in a mainstream school;
- (b) in sub-paragraph (c) of regulation 12A(1) of the 2001 Regulations, the requirement for there to be a change in the child’s circumstances before a child can be admitted to a maintained special school with the agreement of the persons referred to in that sub-paragraph.

Modification

4. In consequence of the relaxation in article 3, the modifications in regulations 5 to 9 have effect.

5. In relation to the authority and the head teacher of the School, paragraph (c) of section 316A(2) of the 1996 Act and sub-paragraph (c) of regulation 12A(1) of the 2001 Regulations, as they apply to the admission of that pupil to the School, are modified so that they have effect as if the words “following a change in his circumstances,” were omitted.

6. In relation to any other local education authority that—

- (a) maintain in respect of a pupil a statement of special educational needs made under Part IV of the 1996 Act which either specifies the School, or specifies provision of a description provided at the School; or
- (b) have made arrangements for the provision of suitable education at school for a pupil under section 19 of the 1996 Act resulting in the attendance of such a pupil at the School,

paragraph (c) of section 316A(2) of the 1996 Act and sub-paragraph (c) of regulation 12A(1) of the 2001 Regulations, as they apply to the admission of that pupil to the School, are modified so that they have effect as if the words “following a change in his circumstances,” were omitted.

7. In its application to the governing body of the School and the proprietor of any other school which is a qualifying body at which a registered pupil at the School is also a registered pupil, regulation 8 of the 2006 Regulations is modified so that it has effect as if—

- (a) at the beginning of each of sub-paragraphs (b) and (c) of paragraph (1), there were inserted “subject to paragraph (1A)”; and
- (b) after paragraph (1) there were inserted the following paragraph—

“(1A) Nothing in sub-paragraphs (b) and (c) of paragraph (1) permits the deletion of the name of a pupil from the admission register of a school (other than The Harbour School) which is a qualifying body within the meaning of Part 1 of the Education Act 2002, on the ground that the pupil has been or is registered as a pupil at The Harbour School, unless the proprietors of that school and The Harbour School, the local education authority

(a) S.I. 2006/1751, to which there are amendments not relevant to this Order.

responsible for the pupil and the pupil's parent have agreed that the pupil's name should be so deleted.”.

8. In its application to the governing body of the School, regulation 8(1) of the 2006 Regulations is modified so that it has effect as if after sub-paragraph (c) there were inserted the following sub-paragraph—

“(ca) that 12 months have elapsed since the admission of the pupil to The Harbour School, where the pupil has been admitted pursuant to sub-paragraph (1)(c) of regulation 12A of the Education (Special Educational Needs) (England) (Consolidation) Regulations 2001 as modified by The Harbour School Order 2008, that is to say, without there being a change in his circumstances;”.

9. In relation to the authority, or any other local education authority that—

- (a) maintain a statement of special educational needs made under Part IV of the 1996 Act which either specifies the School, or specifies provision of a description provided at the School; or
- (b) have made arrangements for the provision of suitable education at school for a pupil under section 19 of the 1996 Act resulting in the attendance of such a pupil at the School,

paragraph (3) (review of admission to a maintained special school) of regulation 12A of the 2001 Regulations is modified, as it applies to registered pupils at the School, so that it has effect as if for “at the end of every term” there were substituted “within the period of 12 months beginning with the date of admission and at least once within each subsequent 12 month period.”.

Time period

10. This Order ceases to have effect on 16th December 2010.

11th November 2007

Jim Knight
Minister of State
Department for Children, Schools and Families

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made under section 2 of the Education Act 2002 (“the Act”).

Article 3(a) (in relation to School, and the local authority in arranging admission to the School) relaxes the requirement in section 316A(2)(c) of the Education Act 1996 for there to be a change in a child’s circumstances before a child with a special educational need can be admitted to the School, and so relaxes the requirement to be educated in a mainstream school to the case where he is admitted to a special school but without there being a change in his circumstances.

Article 3((b) similarly relaxes the requirement in regulation 12A(1) of the Education (Special Educational Needs) (England) (Consolidation) Regulations 2001 that only children with a statement of special needs can be permanently admitted to a maintained special school.

Article 5 modifies those provisions (section 316A(2)(c) and regulation 12A(1)) in relation to the head teacher of the School so that the requirement for there to be a change in circumstances does not apply.

Article 6 modifies those provisions (section 316A(2)(c) and regulation 12A(1)) in relation to other local education authorities arranging admission of a child to the School so that the requirement for there to be a change in circumstances does not apply.

Article 7 modifies the application of regulation 8 of the Education (Pupil Registration) (England) Regulations 2006 (S.I. 2006/1751) to allow a pupil at the School to remain on the register of another school where the proprietors of both schools, the local authority and the parent agree.

Article 8 modifies the application of regulation 8 of the Education (Pupil Registration) (England) Regulations 2006 (S.I. 2006/1751) so that where a pupil is admitted to the School under Article 3(b) he is automatically deleted from the register after 12 months.

Article 9 is a modification to regulation 12A of the Education (Special Educational Needs) (England) (Consolidation) Regulations 2001 (S.I. 2001/3455 as amended) as a result of articles 3(2) and 4(2) such that the local authority’s obligation to review the admission to a maintained school of a child without a statement of special educational needs is changed from termly to annually.

This Order remains in force until 16th December 2010, in accordance with the requirement in section 2(2) of the Act that the period must not exceed three years. It may be renewed once for a further period not exceeding three years pursuant to section 3(2).

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