

SCHEDULES

SCHEDULE 2

Article 16.

MAKING AND MAINTENANCE OF STATEMENTS UNDER ARTICLE 16

Introductory

1. In this Schedule, “statement” means a statement of a child’s special educational needs under Article 16.

Copy of proposed statement

2. Before making a statement, a board shall serve on the parent of the child concerned—
- (a) a copy of the proposed statement, and
 - (b) a written notice explaining the arrangements under paragraph 3, the effect of paragraph 4 and the right to appeal under Article 18 and containing such other information as may be prescribed,

but the copy of the proposed statement shall not specify any matter in pursuance of Article 16(4) or any prescribed matter.

Preference as to school

3.—(1) Every board shall make arrangements for enabling a parent on whom a copy of a proposed statement has been served under paragraph 2 to express a preference as to the grant-aided school at which he wishes education to be provided for his child and to give reasons for his preference.

- (2) Any such preference must be expressed or made within the period of fifteen days beginning—
- (a) with the date on which the written notice mentioned in paragraph 2(b) was served on the parent, or
 - (b) if a meeting has (or meetings have) been arranged under paragraph 4(1)(b) or (2), with the date fixed for that meeting (or the last of those meetings).

(3) Where a board makes a statement in a case where the parent of the child concerned has expressed a preference in pursuance of such arrangements as to the grant-aided school at which he wishes education to be provided for his child, the board shall specify the name of that school in the statement unless—

- (a) the school is unsuitable to the child’s age, ability or aptitude or to his special educational needs, or
- (b) the attendance of the child at the school would be incompatible with the provision of efficient education for the children with whom he would be educated or the efficient use of resources.

(4) A board shall, before specifying the name of any grant-aided school in a statement, consult the Board of Governors of the school and, if the school is in the area of another board, that board.

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Representations

4.—(1) A parent on whom a copy of a proposed statement has been served under paragraph 2 may—

- (a) make representations (or further representations) to the board about the content of the statement, and
- (b) require the board to arrange a meeting between him and an officer of the board at which the statement can be discussed.

(2) Where a parent, having attended a meeting arranged by a board under sub-paragraph (1)(b), disagrees with any part of the assessment in question, he may require the board to arrange such meeting or meetings as it considers will enable him to discuss the relevant advice with the appropriate person or persons.

(3) In this paragraph—

“relevant advice” means such of the advice given to the board in connection with the assessment as it considers to be relevant to that part of the assessment with which the parent disagrees, and

“appropriate person” means the person who gave the relevant advice or any other person who, in the opinion of the board, is the appropriate person to discuss it with the parent.

(4) Any representations under sub-paragraph (1)(a) must be made within the period of fifteen days beginning—

- (a) with the date on which the written notice mentioned in paragraph 2(b) was served on the parent, or
- (b) if a meeting has (or meetings have) been arranged under sub-paragraph (1)(b) or (2), with the date fixed for that meeting (or the last of those meetings).

(5) A requirement under sub-paragraph (1)(b) must be made within the period of fifteen days beginning with the date on which the written notice mentioned in paragraph 2(b) was served on the parent,

(6) A requirement under sub-paragraph (2) must be made within the period of fifteen days beginning with the date fixed for the meeting arranged under sub-paragraph (1)(b).

Making the statement

5.—(1) Where representations are made to a board under paragraph 4(1)(a), the board shall not make the statement until it has considered the representations and the period or the last of the periods allowed by paragraph 4 for making requirements or further representations has expired.

(2) The statement may be in the form originally proposed (except as to the matters required to be excluded from the copy of the proposed statement) or in a form modified in the light of the representations.

(3) Regulations may provide that, where a board is under a duty (subject to compliance with the preceding requirements of this Schedule) to make a statement, the duty, or any step required to be taken for performance of the duty, must, subject to prescribed exceptions, be performed within the prescribed period.

(4) Such provision shall not relieve the board of the duty to make a statement, or take any step, which has not been performed or taken within that period.

Service of statement

6. Where a board makes a statement it shall serve a copy of the statement on the parent of the child concerned and shall give notice in writing to him—
- (a) of his right under Article 18(1) to appeal against the description in the statement of the board's assessment of the child's special educational needs, the special educational provision specified in the statement or, if no school is named in the statement, that fact, and
 - (b) of the name of the person to whom he may apply for information and advice about the child's special educational needs.

Keeping, disclosure and transfer of statements

- 7.—(1) Regulations may make provision as to the keeping and disclosure of statements.
- (2) Regulations may make provision, where a board becomes responsible for a child for whom a statement is maintained by another board, for the transfer of the statement to it and for Part II of this Order to have effect as if the duty to maintain the transferred statement were its duty.

Change of named school

- 8.—(1) Sub-paragraph (2) applies where—
- (a) the parent of a child for whom a statement is maintained which specifies the name of a school or institution asks the board to substitute for that name the name of a grant-aided school specified by the parent, and
 - (b) the request is not made less than twelve months after—
 - (i) a request under this paragraph,
 - (ii) the service of a copy of the statement under paragraph 6,
 - (iii) if the statement has been amended, the date when notice of the amendment is given under paragraph 10(3)(b), or
 - (iv) if the parent has appealed to the Tribunal under Article 18 or this paragraph, the date when the appeal is concluded,whichever is the later.
- (2) The board shall comply with the request unless—
- (a) the school is unsuitable to the child's age, ability or aptitude or to his special educational needs, or
 - (b) the attendance of the child at the school would be incompatible with the provision of efficient education for the children with whom he would be educated or the efficient use of resources.
- (3) A board shall, before substituting the name of any grant-aided school in a statement, consult the Board of Governors of the school and, if the school is in the area of another board, that board.
- (4) Where the board decides not to comply with the request—
- (a) it shall give notice to the child's parent of that decision, the reasons for making it and the effect of head (b), and
 - (b) the parent of the child may appeal to the Tribunal against the decision.
- (5) On the appeal the Tribunal may—
- (a) dismiss the appeal, or

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- (b) order the board to substitute for the name of the school or other institution specified in the statement the name of the grant-aided school specified by the parent.
- (6) Regulations may provide that, where a board is under a duty to comply with a request under this paragraph, the duty must, subject to prescribed exceptions, be performed within the prescribed period.
- (7) Such provision shall not relieve the board of the duty to comply with such a request which has not been complied with within that period.

Procedure for amending or ceasing to maintain a statement

9.—(1) A board may not amend, or cease to maintain, a statement except in accordance with paragraph 10 or 11.

- (2) Sub-paragraph (1) does not apply where the board—
 - (a) ceases to maintain a statement for a child who has ceased to be a child for whom it is responsible,
 - (b) amends a statement in pursuance of paragraph 8,
 - (c) is ordered to cease to maintain a statement under Article 18(3)(c), or
 - (d) amends a statement in pursuance of directions under paragraph 2 of Schedule 13 to the 1986 Order.

10.—(1) Before amending a statement, a board shall serve on the parent of the child concerned a notice informing him—

- (a) of its proposal, and
- (b) of his right to make representations under sub-paragraph (2).

(2) A parent on whom a notice has been served under sub-paragraph (1) may, within the period of fifteen days beginning with the date on which the notice is served, make representations to the board about the proposal.

- (3) The board—
 - (a) shall consider any representations made to it under sub-paragraph (2), and
 - (b) on taking a decision on the proposal to which the representations relate, shall give notice in writing to the parent of its decision.

(4) Where a board makes an amendment under this paragraph to the description in a statement of the board's assessment of a child's special educational needs or to the special educational provision specified in a statement, it shall give notice in writing to the parent of his right under Article 18 to appeal against the description in the statement of the board's assessment of the child's special educational needs, the special educational provision specified in the statement or, if no school is named in the statement, that fact.

(5) A board may only amend a statement under this paragraph within the prescribed period beginning with the service of the notice under sub-paragraph (1).

11.—(1) A board may cease to maintain a statement only if it is no longer necessary to maintain it.

- (2) Where the board decides to cease to maintain a statement—
 - (a) it shall give notice to the child's parent of that decision, the reasons for making it and the effect of head (b), and
 - (b) the parent of the child may appeal to the Tribunal against the decision.
- (3) On an appeal under this paragraph the Tribunal may—

- (a) dismiss the appeal, or
 - (b) order the board to continue to maintain the statement in its existing form or with such amendments of the description in the statement of the board's assessment of the child's special educational needs or the special educational provision specified in the statement, and such other consequential amendments, as the Tribunal may determine.
- (4) Except where the parent of the child appeals to the Tribunal under this paragraph, a board may only cease to maintain a statement under this paragraph within the prescribed period beginning with the service of the notice under sub-paragraph (2).