



Education Act 2002

2002 CHAPTER 32

PART 4

POWERS OF INTERVENTION

Schools causing concern

54 Duty to notify where inspection shows school causing concern

After section 16 of the School Inspections Act 1996 (c. 57) there is inserted—

“16A Duty to notify where inspection shows school causing concern

- (1) Subsection (2) applies in relation to a school falling within section 11(2) where—
 - (a) following an inspection of the school under Part 1 by a member of the Inspectorate, that member has informed the Chief Inspector of his opinion—
 - (i) that the school has serious weaknesses, or
 - (ii) that special measures are required to be taken in relation to the school,
 - (b) following an inspection of the school under Part 1 by a registered inspector, the Chief Inspector has been notified in writing by the inspector of the inspector’s opinion that the school has serious weaknesses, or
 - (c) the Chief Inspector agrees with the opinion of a registered inspector, expressed in a draft report submitted to the Chief Inspector under section 13(2), that special measures are required to be taken in relation to the school.
- (2) Where this subsection applies, the Chief Inspector shall without delay give the Secretary of State a notice in writing stating that the case falls within paragraph (a), (b) or (c) of subsection (1).

Status: This is the original version (as it was originally enacted).

- (3) On receiving a notice under subsection (2), the Secretary of State shall without delay give the local education authority a notice in writing stating that he has been informed by the Chief Inspector that the case falls within paragraph (a), (b) or (c) of subsection (1).
- (4) For the purposes of this section a school has serious weaknesses if, although giving its pupils in general an acceptable standard of education, it has significant weaknesses in one or more areas of its activities.”

55 Cases in which powers of intervention exercisable

- (1) In section 15 of the School Standards and Framework Act 1998 (c. 31) (cases in which LEA may exercise powers of intervention) for subsection (4) there is substituted—

- “(4) This section applies to a maintained school by virtue of this subsection if—
- (a) following an inspection of the school under Part 1 of the School Inspections Act 1996, the Chief Inspector has given the Secretary of State a notice under subsection (2) of section 16A of that Act in a case falling within subsection (1)(a) or (b) of that section (schools having serious weaknesses), and
 - (b) where any subsequent inspection of the school has been made under Part 1 of that Act, the notice has not been superseded by—
 - (i) the person making the subsequent inspection making a report stating that in his opinion the school no longer has serious weaknesses, or
 - (ii) the Chief Inspector giving the Secretary of State a notice under subsection (2) of section 16A of that Act in a case falling within subsection (1)(c) of that section (schools requiring special measures).”

- (2) For subsection (6) of that section there is substituted—

- “(6) This section applies to a maintained school by virtue of this subsection if—
- (a) following an inspection of the school under Part 1 of the School Inspections Act 1996, the Chief Inspector has given the Secretary of State a notice under subsection (2) of section 16A of that Act in a case falling within subsection (1)(c) of that section (schools requiring special measures), and
 - (b) where any subsequent report of an inspection of the school has been made under Part 1 of that Act, the person making it did not state that in his opinion special measures were not required to be taken in relation to the school.”

56 Power of Secretary of State to appoint additional governors or direct closure

- (1) In section 18 of the School Standards and Framework Act 1998 (c. 31) (power of Secretary of State to appoint additional governors) for subsection (1) there is substituted—

- “(1) If at any time section 15 applies to a maintained school by virtue of either of the following provisions of that section, namely—
- (a) subsection (4) (school with serious weaknesses), or

- (b) subsection (6) (school requiring special measures),
the Secretary of State may appoint such number of additional governors as he thinks fit; and he may nominate one of those governors to be the chairman of the governing body in place of any person who has been elected as chairman of that body.”
- (2) In section 19 of that Act (power of Secretary of State to direct closure of school) for subsection (1) there is substituted—
- “(1) If at any time section 15 applies to a maintained school by virtue of either of the following provisions of that section, namely—
- (a) subsection (4) (school with serious weaknesses), or
- (b) subsection (6) (school requiring special measures),
- the Secretary of State may give a direction to the local education authority requiring the school to be discontinued on a date specified in the direction.”
- (3) Schedule 5 (which contains amendments consequential on the provisions of section 55 and this section) shall have effect.

57 Power of LEA to provide for governing body to consist of interim executive members

- (1) In section 14(2) of the School Standards and Framework Act 1998 (which lists the intervention powers of local education authorities), before the “and” at the end of paragraph (a) there is inserted—
- “(aa) section 16A (power to provide for governing body to consist of interim executive members);”.
- (2) After section 16 of that Act there is inserted—

“16A Power of LEA to provide for governing body to consist of interim executive members

- (1) If at any time this section applies to a maintained school in accordance with section 14(1), then (subject to subsections (2) and (3)) the local education authority may, with the consent of the Secretary of State, give the governing body a notice in writing stating that, as from a date specified in the notice, the governing body are to be constituted in accordance with Schedule 1A (governing bodies consisting of interim executive members).
- (2) Where this section so applies in the case of a school falling within section 15(4) (school with serious weaknesses) or section 15(6) (school requiring special measures), the power conferred by subsection (1) above is exercisable only if the following conditions are satisfied, namely—
- (a) the Secretary of State has given the local education authority a notice under section 16A(3) of the School Inspections Act 1996, and
- (b) a period of not less than ten days has elapsed since the date of the notice.
- (3) The Secretary of State may in respect of any particular school determine that subsection (2)(b) shall have effect as if the reference to ten days were to such shorter period as he may determine.

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- (4) Before exercising the power conferred by subsection (1), the local education authority shall consult—
- (a) the governing body of the school,
 - (b) in the case of a foundation or voluntary school which is a Church of England school, a Church in Wales school or a Roman Catholic Church school, the appropriate diocesan authority, and
 - (c) in the case of any other foundation or voluntary school, the person or persons by whom the foundation governors are appointed.”

58 Power of Secretary of State to provide for governing body to consist of interim executive members

After section 18 of the School Standards and Framework Act 1998 (c. 31) there is inserted—

“18A Power of Secretary of State to provide for governing body to consist of interim executive members

- (1) If at any time section 15 applies to a maintained school by virtue of either of the following provisions of that section, namely—
- (a) subsection (4) (school with serious weaknesses), or
 - (b) subsection (6) (school requiring special measures),
- the Secretary of State may give the governing body a notice in writing stating that, as from the date specified in the notice, the governing body are to be constituted in accordance with Schedule 1A (governing bodies consisting of interim executive members).
- (2) Before exercising the power conferred by subsection (1), the Secretary of State shall consult—
- (a) the local education authority,
 - (b) the governing body of the school,
 - (c) in the case of a foundation or voluntary school which is a Church of England school, a Church in Wales school or a Roman Catholic Church school, the appropriate diocesan authority, and
 - (d) in the case of any other foundation or voluntary school, the person or persons by whom the foundation governors are appointed.
- (3) The Secretary of State is not obliged to consult the persons mentioned in subsection (2)(b), (c) and (d) if the local education authority have consulted them under subsection (4) of section 16A in relation to a proposed notice under subsection (1) of that section.”

59 Governing bodies consisting of interim executive members

- (1) After section 19 of the School Standards and Framework Act 1998 (c. 31) there is inserted—

“Governing bodies consisting of interim executive members

19A Governing bodies consisting of interim executive members

The provisions of Schedule 1A shall have effect in relation to any school in respect of which a notice has been given—

- (a) under section 16A(1), by the local education authority, or
- (b) under section 18A(1), by the Secretary of State.”

- (2) After Schedule 1 to that Act there is inserted, as Schedule 1A, the Schedule set out as Schedule 6 to this Act.

Local education authorities

60 Powers of Secretary of State to secure proper performance of LEA’s functions

- (1) Section 497A of the Education Act 1996 (c. 56) (power to secure proper performance of functions of local education authority) is amended as follows.

- (2) For subsection (1) there is substituted—

“(1) This section applies to a local education authority’s functions under this Act and to other functions (of whatever nature) which are conferred on them in their capacity as a local education authority.”

- (3) In subsection (2), for “(3) or (4)” there is substituted “(4), (4A) or (4B)”.

- (4) After subsection (2) there is inserted—

“(2A) The Secretary of State may also exercise his powers under subsection (4), (4A) or (4B) where—

- (a) he has given a previous direction under subsection (4), (4A) or (4B) in relation to a local education authority in respect of any function to which this section applies, and
- (b) he is satisfied that it is likely that if no further direction were given under subsection (4), (4A) or (4B) on the expiry or revocation of the previous direction the authority would fail in any respect to perform that function to an adequate standard (or at all).”

- (5) Subsection (3) is omitted.

- (6) For subsection (4) there is substituted—

“(4) The Secretary of State may under this subsection give the authority or an officer of the authority such directions as the Secretary of State thinks expedient for the purpose of securing that the function is performed on behalf of the authority by such person as is specified in the direction; and such directions may require that any contract or other arrangement made by the authority with that person contains such terms and conditions as may be so specified.”

- (7) After subsection (4) there is inserted—

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“(4A) The Secretary of State may under this subsection direct that the function shall be exercised by the Secretary of State or a person nominated by him and that the authority shall comply with any instructions of the Secretary of State or his nominee in relation to the exercise of the function.

(4B) The Secretary of State may under this subsection (whether or not he exercises the power conferred by subsection (4) or (4A) in relation to any function) give the authority or an officer of the authority such other directions as the Secretary of State thinks expedient for the purpose of securing that the function is performed to an adequate standard.”

(8) For subsection (5) there is substituted—

“(5) Where the Secretary of State considers it expedient that—

(a) in the case of directions given under subsection (4), the person specified in the directions, or

(b) in the case of directions given under subsection (4A), the Secretary of State or a person nominated by him,

should perform other functions to which this section applies in addition to the function to which subsection (2) or (2A) applies, the directions under subsection (4) or (4A) may relate to the performance of those other functions as well; and in considering whether it is expedient that that person should perform any such additional functions, the Secretary of State may have regard to financial considerations.”

(9) In subsection (6), for paragraph (b) there is substituted—

“(b) have effect for a period specified in the direction unless revoked earlier by the Secretary of State.”

(10) In subsection (7), for “(3) or (4)” there is substituted “(4), (4A) or (4B)”.

61 Power to secure proper performance: duty of authority where directions contemplated

After section 497A of the Education Act 1996 (c. 56) there is inserted—

“497AA Power to secure proper performance: duty of authority where directions contemplated

Where, in relation to any function to which section 497A applies, the Secretary of State—

(a) is satisfied as mentioned in subsection (2) or (2A)(b) of that section, and

(b) has notified the local education authority that he is so satisfied and that he is contemplating the giving of directions under subsection (4) or (4A) of that section,

the authority shall give the Secretary of State, and any person authorised by him for the purposes of this section, all such assistance, in connection with the proposed exercise of the function by the Secretary of State or another person in pursuance of directions, as they are reasonably able to give.”

62 Power to secure proper performance: further provisions

- (1) Section 497B of the Education Act 1996 is amended as follows.
- (2) In subsection (1), for the words from “section 497A(4)” to “those directions” there is substituted “section 497A(4) or (4A) to a local education authority or to an officer of such an authority, the specified person”.
- (3) After that subsection there is inserted—
 - “(1A) In this section “the specified person” means—
 - (a) in relation to directions under section 497A(4), the person specified in the directions, and
 - (b) in relation to directions under section 497A(4A), the Secretary of State or the person nominated by him.”

63 Power to require LEA to obtain advisory services

- (1) This section applies where—
 - (a) in relation to one or more schools maintained by a local education authority, section 15 of the School Standards and Framework Act 1998 (c. 31) (cases where local education authority may exercise powers of intervention) applies by virtue of either of the following provisions of that section—
 - (i) subsection (4) (school with serious weaknesses), or
 - (ii) subsection (6) (school requiring special measures), and
 - (b) it appears to the Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales) that the local education authority—
 - (i) have not been effective or are unlikely to be effective in eliminating deficiencies in the conduct of that school or those schools,
 - (ii) are unlikely to be effective in eliminating deficiencies in the conduct of other schools which may in the future fall within paragraph (a), or
 - (iii) maintain a disproportionate number of schools falling within that paragraph.
- (2) The Secretary of State (in relation to England) or the National Assembly for Wales (in relation to Wales) may direct the local education authority to enter into a contract or other arrangement with a person specified in the direction, or a person falling within a class so specified, for the provision to the authority or the governing body of any school maintained by them (or both), of specified services of an advisory nature.
- (3) The direction may require the contract or other arrangement to contain specified terms and conditions.
- (4) In this section “school” means a maintained school within the meaning of Chapter 2 of Part 1 of the School Standards and Framework Act 1998 (c. 31).
- (5) Any direction given under this section shall be enforceable, on an application made on behalf of the Secretary of State or, as the case may be, of the National Assembly for Wales, by a mandatory order.

64 Provisions supplementary to section 63

- (1) Where section 63 applies in relation to a local education authority and the Secretary of State or the National Assembly for Wales has notified the authority that he or it is

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contemplating the giving of a direction under that section, the authority shall give the Secretary of State or the Assembly, and any person authorised by the Secretary of State or the Assembly for the purposes of this subsection, such assistance, in connection with the proposed contract or other arrangement, as the authority are reasonably able to give.

- (2) Where a direction under section 63 is given to a local education authority, the relevant person shall be entitled, for the purposes of providing the advisory services, to exercise the powers conferred by subsections (3) to (6).
- (3) The relevant person shall have at all reasonable times—
 - (a) a right of entry to the premises of the authority, and
 - (b) a right to inspect, and take copies of, any records or other documents kept by the authority, and any other documents containing information relating to the authority, which he considers relevant to the provision of the advisory services.
- (4) Section 497B(3) of the Education Act 1996 (c. 56) (right of access to computers etc) applies in relation to the exercise by the relevant person of the right conferred by subsection (3) as it applies to the exercise by the specified person (within the meaning of that section) of the right conferred by section 497B(2) of that Act.
- (5) Without prejudice to subsection (3), the authority shall give the relevant person all assistance in connection with the provision of the advisory services which they are reasonably able to give.
- (6) Subsection (3) applies in relation to any school maintained by the authority as it applies in relation to the authority; and without prejudice to that subsection (as it so applies)—
 - (a) the governing body of any such school shall give the relevant person all assistance in connection with the provision of the advisory services which they are reasonably able to give, and
 - (b) the governing body of any such school and the authority shall secure that all such assistance is also given by persons who work at the school.
- (7) In this section—

“the advisory services” means the services to be provided in pursuance of the direction under section 63;

“documents” and “records” each include information recorded in any form;

“the relevant person” means—

 - (a) the person specified under section 63(2), or
 - (b) where the direction specifies a class of persons, the person with whom the local education authority enter into the contract or other arrangement required by the direction,

and includes any person assisting that person in the provision of the advisory services.