

# **APPRENTICESHIPS, SKILLS, CHILDREN AND LEARNING ACT 2009**

---

## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 10: Schools**

#### ***Chapter 2: Complaints: England***

#### ***Section 206: Complaints to which this Chapter applies***

676. The section specifies who may approach a Local Commissioner under the new independent service. “The Commission for Local Administration” and “The Local Commissioner” are statutory names for the body generally known as the Local Government Ombudsman.
677. A “qualifying school” is a community, foundation, or voluntary aided school, community special or foundation special school, maintained nursery school or a short stay school. The Secretary of State may add to or amend this definition by order (made under section 222) which would be subject to the affirmative resolution procedure.
678. The section provides that a complaint against a school may be made where a pupil or parent claims to have suffered injustice because of the actions, or omissions, of the governing body or by the head teacher exercising, or failing to exercise, functions of a kind specified in regulations under this section. Where the head teacher delegates authority to another member of staff, the head teacher remains legally accountable for the member of staff complying with that action.
679. Where a governing body makes arrangements for another individual or body to carry out functions on its behalf, this will also be capable of referral to a Local Commissioner. For example, where a school contracts out services for an “after school club”, a parent or pupil could make a complaint about an act that occurred whilst a pupil was attending this provision, despite the fact that it was not run directly by the governing body.
680. Where a pupil is educated off the site of the school this will also be included within the remit of Local Commissioners. For example, a pupil might be on the roll at one school but may attend some lessons at another school. This can happen in cases where a pupil is on roll at a short stay school but attends a mainstream school as part of their education.
681. People acting on the governing body’s behalf can also be complained about. This includes a person employed by a local education authority or outside agency as they will be carrying out actions with the governing body’s permission.
682. Complaints and appeals relating to school admissions dealt with by the local education authority or governing body, permanent school exclusions and special educational needs will not be capable of referral to a Local Commissioner as they have their own independent appeals processes. This also applies to cases that are currently within the

*These notes refer to the Apprenticeships, Skills, Children and Learning Act 2009 (c.22) which received Royal Assent on 12 November 2009*

remit of the First-Tier Tribunal (Special Educational Needs and Disability) (previously known as the Special Educational Needs and Disability Tribunal (SENDIST)).

683. A parent or pupil may approach a Local Commissioner asking them to investigate their complaint. "Parent" includes anyone who has parental responsibility for a child or who has care of him or her. A Local Commissioner will be able to consider complaints from carers as well as parents and young people.