
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe matters in relation to the arrangements for complaints established by Chapter 2 of Part 10 of the Apprenticeships, Skills, Children and Learning Act 2009 (“the 2009 Act”). The 2009 Act extends the jurisdiction of Local Commissioners (often known as “the Local Government Ombudsman”). The Local Commissioners can now consider complaints from a parent or pupil at a qualifying school, that they have sustained injustice in consequence of an act of the governing body of the school or an exercise, or failure to exercise, prescribed functions of the head teacher of the school.

A qualifying school is a community, foundation, or voluntary school, community or foundation special school, a maintained nursery school or a pupil referral unit (to be known as a short stay school from 1st September 2010).

Regulation 2 prescribes the head teacher functions which can be the subject of a complaint to the Local Commissioner, for the purposes of section 206(2)(b). These include functions in relation to discipline and behaviour, fixed term exclusions, curriculum and careers education. References to a head teacher are to the teacher in charge, where the school is a pupil referral unit.

Section 206(3) of the 2009 Act provides that a complaint against a school does not include a complaint that relates to a decision about admission to a school or a matter in respect of which the complainant has or had a prescribed right of appeal. Regulation 3 excludes complaints where the complainant has a right of appeal to the Independent Appeals Panel regarding a permanent exclusion, or to the First Tier Tribunal regarding a disability discrimination claim or in relation to Special Educational Needs.

In general, where pupils or parents wish to make a complaint the pupil must be a “registered pupil” (i.e. on the roll of the school about which they want to make a complaint). The effect of regulation 4 is to permit a formerly registered pupil (or their parent) to make a complaint for up to 12 months after coming off the roll of the school.

Regulation 5 prescribes the circumstances in which a person who is not a registered pupil, and has not been in the 12 months prior to the complaint, may still make a complaint to the Service. The circumstances are they are returning to the school for the purpose of taking a public examination, or coming to the school to take a public examination, for example after having been home educated, or having been on the roll at a different institution.