
STATUTORY INSTRUMENTS

2018 No. 1135

The Education Administration Rules 2018

PART 3

PROCESS OF EDUCATION ADMINISTRATION

CHAPTER 1

Notice of education administrator's appointment

Notification and advertisement of education administrator's appointment

3.1.—(1) A notice of appointment, to be published by the education administrator as soon as reasonably practicable under paragraph 46(2)(b) of Schedule B1, must be gazetted and may be advertised in such other manner as the education administrator thinks fit.

(2) The notice under paragraph (1) must state—

- (a) that an education administrator has been appointed; and
- (b) the date of the appointment.

(3) The education administrator must, as soon as reasonably practicable after the date of the education administration order deliver a notice of the appointment—

- (a) to the appropriate national authority;
- (b) to the registrar of companies;
- (c) to the local authority in whose area the further education body is situated;
- (d) to the combined authority, if the further education body is situated in the area of a combined authority;
- (e) if a receiver or administrative receiver has been appointed, to that person;
- (f) if a petition is pending for the winding up of the further education body, to the petitioner (and also to the provisional liquidator, if any);
- (g) to any enforcement officer, enforcement agent or other officer who, to the education administrator's knowledge, is charged with distress or other legal process against the further education body or its property; and
- (h) any supervisor of a voluntary arrangement under Part 1 of the Act.

(4) Where, under Schedule B1 or these Rules, the education administrator is required to deliver a notice of appointment to the registrar of companies, or any other person, it must be headed "Notice of education administrator's appointment" and must contain—

- (a) the education administrator's name, address and IP number;
- (b) identification details for the proceedings; and
- (c) a statement that the education administrator has been appointed as education administrator of the further education body.

(5) The notice must be authenticated and dated by the education administrator.

CHAPTER 2

Statement of affairs

Notice requiring statement of affairs and delivery to the education administrator

3.2.—(1) A requirement under paragraph 47(1) of Schedule B1 for one or more relevant persons to provide the education administrator with a statement of the affairs of the further education body must be made by a notice delivered to such persons.

(2) A relevant person who is required to provide a statement of affairs is called a nominated person in this Chapter.

(3) The notice must be headed “Notice requiring statement of affairs” and must—

- (a) require each nominated person to whom the notice is delivered to prepare and submit to the education administrator a statement of the affairs of the further education body; and
- (b) inform each nominated person of—
 - (i) the names and addresses of all others (if any) to whom the same notice has been delivered,
 - (ii) the requirement to deliver the statement of affairs to the education administrator no later than eleven days after receipt of the notice requiring the statement of affairs, and
 - (iii) the effect of paragraph 48(4) of Schedule B1 and section 235 of the Act, if applicable.

(4) The education administrator must inform each nominated person to whom notice is delivered that a document for the preparation of the statement of affairs capable of completion in compliance with rule 3.3 will be supplied if requested.

(5) The nominated person (or one of them, if more than one) must deliver the statement of affairs to the education administrator with the statement of truth required by paragraph 47(2)(a) of Schedule B1 and a copy of each statement.

Content of statement of affairs

3.3.—(1) The statement of the further education body’s affairs must be headed “Statement of affairs” and must—

- (a) identify the further education body immediately below the heading; and
- (b) state that it is a statement of affairs of the further education body on a specified date, being the date on which it entered education administration.

(2) The statement of affairs must contain (in addition to the matters required by paragraph 47(2) of Schedule B1)—

- (a) a summary of the assets of the further education body, setting out the book value and the estimated realisable value of—
 - (i) any assets subject to a fixed charge,
 - (ii) any assets subject to a floating charge,
 - (iii) any uncharged assets,
 - (iv) the total value of all the assets;
- (b) a summary of the liabilities of the further education body, setting out—
 - (i) the amount of preferential debts,
 - (ii) an estimate of the deficiency with respect to preferential debts or the surplus available after paying the preferential debts,
 - (iii) an estimate of the prescribed part, if applicable,

- (iv) the amount of debt secured by floating charges,
 - (v) an estimate of the total assets available to pay debts secured by floating charges,
 - (vi) an estimate of the deficiency with respect of debts secured by floating charges or the surplus available after paying the debts secured by fixed or floating charges,
 - (vii) the amount of unsecured debts (excluding preferential debts),
 - (viii) an estimate of the deficiency with respect to unsecured debts or the surplus available after paying unsecured debts,
 - (ix) any issued and called-up capital, where appropriate,
 - (x) an estimate of the deficiency with respect to, or surplus available to, members of the further education body;
- (c) a list of the further education body's creditors with the further particulars required by paragraph (3) indicating—
- (i) any creditors under hire-purchase, chattel leasing or conditional sales agreements,
 - (ii) any creditors who are consumers claiming amounts paid in advance for the supply of goods or services,
 - (iii) any creditors claiming retention of title over property in the further education body's possession; and
- (d) the name and address of each member of the further education body and full details of their interest in the further education body.
- (3) The particulars required relating to each creditor are as follows—
- (a) the name and postal address of each creditor;
 - (b) the amount of the debt owed to the creditor;
 - (c) details of any security held by the creditor;
 - (d) the date on which the security was given;
 - (e) the value of any such security.
- (4) Paragraph (5) applies where the particulars required by paragraph (3) relate to creditors who are either—
- (a) employees or former employees of the further education body; or
 - (b) consumers claiming amounts paid in advance for the supply of goods or services.
- (5) Where this paragraph applies—
- (a) the statement of affairs itself must state separately for each of paragraph (4)(a) and (b) the number of such creditors and the total of the debts owed to each of them;
 - (b) the particulars required by paragraph (3) must be set out in separate schedules to the statement of affairs for each of paragraphs (4)(a) and (b).

Statement of concurrence

3.4.—(1) The education administrator may require a relevant person, as defined by paragraph 47(3) of Schedule B1, to deliver to the education administrator a statement of concurrence.

(2) A statement of concurrence is a statement, verified by a statement of truth in accordance with the CPR, that that person concurs in the statement of affairs by a nominated person.

(3) The education administrator must inform the nominated person who has been required to submit a statement of affairs that the relevant person has been required to deliver a statement of concurrence.

(4) The nominated person must deliver a copy of the statement of affairs to every relevant person who has been required to submit a statement of concurrence.

(5) A statement of concurrence—

(a) must identify the further education body; and

(b) may be qualified in relation to matters dealt with in the statement of affairs where the relevant person—

(i) is not in agreement with the statement of affairs,

(ii) considers the statement of affairs to be erroneous or misleading, or

(iii) is without the direct knowledge necessary to concur with it.

(6) The relevant person must deliver the required statement of concurrence to the education administrator before the end of the period of five business days or such other period as the education administrator may agree beginning with the day on which the relevant person receives the statement of affairs.

Filing of statement of affairs

3.5.—(1) The education administrator must as soon as is reasonably practicable deliver to the registrar of companies a copy of—

(a) any statement of affairs; and

(b) any statement of concurrence.

(2) However, the education administrator must not deliver to the registrar of companies with the statement of affairs any schedule required by rule 3.3(5)(b).

(3) The requirement to deliver the statement of affairs is subject to any order of the court made under rule 3.31(2).

Release from requirement to provide statement of affairs and extension of time

3.6.—(1) The power of the education administrator under paragraph 48(2) of Schedule B1 to revoke a requirement to provide a statement of affairs or to extend the period within which it must be submitted may be exercised upon the education administrator's own initiative or at the request of the relevant person who has been required to provide it.

(2) A relevant person may apply to the court if the education administrator refuses that person's request for a revocation or extension.

(3) On receipt of an application, the court may, if it is satisfied that no sufficient cause is shown for it, dismiss it without giving notice to any party other than the applicant.

(4) Unless the application is dismissed, the court must fix a venue for it to be heard.

(5) The applicant must, at least 14 days before any hearing, deliver to the education administrator a notice stating the venue with a copy of the application and of any evidence on which the applicant intends to rely.

(6) The education administrator may do either or both of the following—

(a) file a report of any matters which the education administrator thinks ought to be drawn to the court's attention; or

(b) appear and be heard on the application.

(7) If a report is filed, the education administrator must deliver a copy of it to the applicant not later than five business days before the hearing.

(8) Sealed copies of any order made on the application must be delivered by the court to the applicant and the education administrator.

(9) On an application under this rule, the applicant's costs must be paid by the applicant in any event; but the court may order that an allowance of all or part of them may be payable as an expense of the education administration.

Expenses of statement of affairs

3.7.—(1) The expenses of a relevant person which the education administrator considers to have been reasonably incurred in the making of a statement of affairs or a statement of concurrence must be paid by the education administrator as an expense of the education administration.

(2) A decision by the education administrator that expenses were not reasonably incurred (and are therefore not payable as an expense of the education administration) may be appealed to the court.

CHAPTER 3

Education administrator's proposals

Education administrator's proposals - additional content

3.8.—(1) The education administrator's statement of proposals made under paragraph 49 of Schedule B1(1) must identify the proceedings and, in addition to the matters set out in paragraph 49, contain—

- (a) any other trading names of the further education body;
- (b) details of the education administrator's appointment, including—
 - (i) the date of the appointment, and
 - (ii) the person who made the application for the appointment;
- (c) the names of the relevant officers of the further education body and details of any interest in the further education body they may have;
- (d) an account of the circumstances giving rise to the appointment of the education administrator;
- (e) the date on which the proposals were sent to the creditors;
- (f) if a statement of the further education body's affairs has been submitted—
 - (i) a copy or summary of it, except so far as an order under rule 3.31 or 3.32 limits disclosure of it, and excluding any schedule referred to in rule 3.3(5), or the particulars relating to individual creditors contained in any such schedule,
 - (ii) details of who provided the statement of affairs, and
 - (iii) any comments which the education administrator may have on the statement of affairs;
- (g) if an order under rule 3.31 or 3.32 has been made—
 - (i) a statement of that fact, and
 - (ii) the date of the order;
- (h) if no statement of affairs has been submitted—

(1) Paragraph 49(4) is amended by paragraph 10(2) of Schedule 9 to the Small Business, Enterprise and Employment Act 2015 (c. 26).

- (i) details of the financial position of the further education body at the latest practicable date (which must, unless the court otherwise orders, be a date not earlier than that on which the further education body entered into education administration), and
 - (ii) an explanation as to why there is no statement of affairs;
 - (i) a full list of the further education body's creditors if either—
 - (i) no statement of affairs has been submitted, or
 - (ii) a statement of affairs has been submitted but does not include such a list, or the education administrator believes the list included is less than full;
 - (j) a statement (which must comply with paragraph (4) of this rule where that paragraph applies) of how it is envisaged that the purpose of the education administration will be achieved and how it is proposed that the education administration will end;
 - (k) the manner in which the affairs and business of the further education body—
 - (i) have, since the date of the education administrator's appointment, been managed and financed, including, where any assets have been disposed of, the reasons for the disposals and the terms upon which the disposals were made, and
 - (ii) will continue to be managed and financed.
- (2) The list of creditors required by paragraph (1)(i) must contain the details set out in paragraph (3) except where paragraphs (5) and (6) apply.
- (3) The particulars required by paragraph (2) are as follows and must be given in this order—
- (a) the name and postal address of each creditor;
 - (b) the amount of the debt owed to the creditor;
 - (c) details of any security held by the creditor;
 - (d) the date on which any such security was given; and
 - (e) the value of any such security.
- (4) This paragraph applies where it is proposed that the education administration will end by the further education body moving to a creditors' voluntary liquidation, and, in that case, the statement required by paragraph (1)(j) of this rule must include—
- (a) details of the proposed liquidator;
 - (b) where applicable, the declaration required by section 231 of the Act; and
 - (c) a statement that creditors may nominate a different person as liquidator in accordance with paragraph 83(7)(a) of Schedule B1 and rule 3.40(6).
- (5) This paragraph applies where the particulars required by paragraph (3) relate to creditors who are either—
- (a) employees or former employees of the further education body; or
 - (b) consumers claiming amounts paid in advance for the supply of goods or services.
- (6) Where paragraph (5) applies—
- (a) the list of creditors required by paragraph (1)(i) must state separately for each of paragraphs (5)(a) and (b) the number of creditors and the total of the debt owed to them; and
 - (b) the particulars required by paragraph (3) in respect of such creditors must be set out in separate schedules to the list of creditors for each of paragraphs (5)(a) and (b); and
 - (c) the education administrator must not deliver any such schedule to the registrar of companies with the statement of proposals.

- (7) The statement made by the education administrator must also include—
- (a) to the best of the education administrator’s knowledge and belief, an estimate of the value of—
 - (i) the prescribed part (whether or not the education administrator might be required under section 176A to make the prescribed part available for the satisfaction of unsecured debts), and
 - (ii) the further education body’s net property (as defined by section 176A(6)); and
 - (b) a statement whether the education administrator proposes to make an application to the court under section 176A(5) and, if so, the reason for the application.
- (8) The education administrator may exclude from an estimate under paragraph (7)(a) information the disclosure of which could seriously prejudice the commercial interests of the further education body.
- (9) If the exclusion of such information affects the calculation of an estimate, the report must say so.
- (10) Where applicable, the statement of proposals must also include—
- (a) a statement of any pre-administration costs charged or incurred by the education administrator or, to the education administrator’s knowledge, by any other person qualified to act as an insolvency practitioner;
 - (b) a statement that the payment of any unpaid pre-administration costs as an expense of the education administration is subject to approval by the court under rule 6.11.

Statement of pre-administration costs

- 3.9.** A statement of pre-administration costs under rule 3.8(10)(a) must include—
- (a) details of any agreement under which the fees were charged and expenses incurred including the parties to the agreement and the date on which the agreement was made;
 - (b) details of the work done for which the fees were charged and expenses incurred;
 - (c) an explanation of why the work was done before the further education body entered education administration and how it had been intended to further the achievement of the objective in section 16 of the Technical and Further Education Act;
 - (d) a statement of the amount of the pre-administration costs, setting out separately—
 - (i) the fees charged by the education administrator,
 - (ii) the expenses incurred by the education administrator,
 - (iii) any fees charged (to the education administrator’s knowledge) by any other person qualified to act as an insolvency practitioner (and if more than one, by each separately), and
 - (iv) any expenses incurred (to the education administrator’s knowledge) by any other person qualified to act as an insolvency practitioner (and if more than one, by each separately);
 - (e) a statement of the amounts of pre-administration costs which have already been paid (set out separately as under sub-paragraph (d));
 - (f) the identity of the person who made the payment or, if more than one person made the payment, the identity of each such person and of the amounts paid by each such person (set out separately as under sub-paragraph (d));
 - (g) a statement of the amount of unpaid pre-administration costs (set out separately as under sub-paragraph (d)).

Ancillary provisions about delivery of education administrator’s proposals

3.10.—(1) Where the court orders, upon an application by the education administrator under paragraph 107 of Schedule B1, an extension of the period for providing the education administrator’s proposals, the education administrator must as soon as reasonably practicable after the making of the order deliver a notice of the extension to—

- (a) every creditor of the further education body;
 - (b) every member of the further education body of whose address the education administrator is aware;
 - (c) the registrar of companies; and
 - (d) the appropriate national authority.
- (2) The notice must—
- (a) identify the proceedings;
 - (b) identify the registered office of the further education body; and
 - (c) state the date to which the court has ordered the extension.
- (3) The education administrator is taken to comply with paragraph (1)(b) if the education administrator publishes a notice complying with paragraph (4).
- (4) A notice under paragraph (3) must—
- (a) be advertised in such manner as the education administrator thinks fit;
 - (b) state that members of the further education body may request in writing a copy of the statement of proposals or notice of the extension, and state the address to which to write; and
 - (c) be published as soon as reasonably practicable after the education administrator has delivered the statement of proposals or notice of the extension to the further education body’s creditors.

Revision of education administrator’s proposals

3.11.—(1) Where paragraph 54(1) of Schedule B1(2) applies, the education administrator’s revised proposals must identify the proceedings and include—

- (a) any other trading names of the further education body;
- (b) details of the education administrator’s appointment, including—
 - (i) the date of the appointment, and
 - (ii) the person who made the application for the appointment;
- (c) details of the relevant officers and details of any interest in the further education body which they may have;
- (d) a summary of the original proposals and the reason or reasons for the revised proposals;
- (e) details of the revised proposals, including details of the education administrator’s assessment of the likely impact of the revised proposal upon creditors generally or upon each class of creditor;
- (f) where the revised proposals relate to the ending of the education administration by a creditors’ voluntary winding up and the nomination of a person to be the liquidator of the further education body—

(2) Paragraph 54 is modified by paragraph 14 of Schedule 3 and paragraph 13 of Schedule 4 to the Technical and Further Education Act 2017.

- (i) details of the proposed liquidator,
 - (ii) where applicable, the declaration required by section 231 of the Act, and
 - (iii) a statement that the creditors may nominate a different person as liquidator in accordance with paragraph 83(7)(a) of Schedule B1 and rule 3.40(6); and
- (g) any other information that the education administrator thinks necessary.
- (2) In accordance with paragraph 54(2) of Schedule B1, the education administrator must send a copy of the revised proposals to the persons set out in that paragraph of Schedule B1 within 14 days after the education administrator’s revision of those proposals.
- (3) A notice under paragraph 54(4) of Schedule B1, where the further education body is a company, must—
- (a) be advertised in such manner as the education administrator thinks fit; and
 - (b) state that members may request in writing a copy of the revised proposals, and state the address to which to write.
- (4) As soon as reasonably practicable after sending the copy of the revised proposals, the education administrator must deliver a copy to the registrar of companies accompanied by a notice which must contain—
- (a) identification details for the proceedings; and
 - (b) the date of the revised proposals.

CHAPTER 4

Education Administrator’s reports

Reporting by the education administrator

3.12. The education administrator must prepare and deliver reports in accordance with this Chapter.

Progress reports

- 3.13.—**(1) The education administrator must prepare a progress report covering the periods of—
- (a) six months starting on the date the further education body entered education administration; and
 - (b) thereafter each subsequent period of six months.
- (2) The periods for which progress reports are required under paragraph (1) are unaffected by any change in the education administrator.
- (3) However where an education administrator ceases to act, the succeeding education administrator must, as soon as reasonably practicable after being appointed, deliver a notice to the creditors of any matters about which the succeeding education administrator thinks the creditors should be informed.
- (4) The education administrator must deliver a copy of each progress report to the registrar of companies and the creditors within one month of the end of the period covered by the report unless the report is a final progress report under rule 3.15.
- (5) An education administrator who makes default in delivering a progress report within the time limit in paragraph (4) is guilty of an offence and liable to a fine and, for continued contravention, to a daily default fine as set out in Schedule 1.

Contents of progress reports

3.14.—(1) The education administrator’s progress reports must contain the following—

- (a) identification details for the proceedings;
- (b) identification details for the further education body;
- (c) identification and contact details for the education administrator;
- (d) the date of appointment of the education administrator and any changes in the education administrator in accordance with paragraphs (2) and (3);
- (e) details of progress during the period of the report, including a summary account of receipts and payments during the period of the report;
- (f) the information relating to distributions required by rule 5.43, if there has been a distribution;
- (g) details of what remains to be done to bring the education administration to an end; and
- (h) any other information of relevance to the creditors.

(2) A change in the education administrator is only required to be shown in the next report after the change.

(3) However if the current education administrator is seeking the repayment of pre-administration expenses from a former education administrator the change in the education administrator must continue to be shown until the next report after the claim is settled.

Final progress report

3.15. “Final progress report” means a progress report which must contain an account of the education administrator’s administration including—

- (a) a summary of the education administrator’s proposals;
- (b) any major amendments to, or deviations from, those proposals;
- (c) the steps taken during the education administration;
- (d) a statement as to the amount paid to unsecured creditors by virtue of section 176A of the Act; and
- (e) the outcome of the education administration.

Information about pre-administration costs

3.16.—(1) Where the education administrator has made a statement of pre-administration costs under rule 3.8(10)(a)—

- (a) if they are approved under rule 6.11, the first progress report after the approval must include a statement setting out the date of approval and the amounts approved;
- (b) while any of the costs remain unapproved each successive report must include a statement of any steps taken to obtain approval.

(2) However if either the education administrator has decided not to seek approval under rule 6.11, or another insolvency practitioner entitled to seek approval has told the education administrator of that practitioner’s decision not to seek approval under that rule then—

- (a) the report next due after the decision or notification must include a statement that the education administrator or insolvency practitioner (as the case may be) has decided not to seek approval to pay those costs; and
- (b) no statement under paragraph (1)(b) is required in subsequent reports.

CHAPTER 5

Further education body: meetings of members

Application of this Chapter

3.17. This Chapter applies where the education administrator calls a meeting of members of the further education body under paragraph 62 of Schedule B1(3).

Meetings of the further education body

3.18.—(1) Unless the Act or these Rules provide otherwise, where the education administrator calls a meeting of the further education body, that meeting must be called and conducted, and records of the meeting must be kept, in accordance with the law of England and Wales.

(2) But, where a further education body is a company incorporated in an EEA state other than the United Kingdom, a meeting must be called and conducted, and records of the meeting must be kept, in accordance with the law of the state applicable to meetings of that further education body.

(3) In calling a meeting of the further education body, the education administrator must have regard to the convenience of the members when fixing the venue.

Nature of meetings

3.19.—(1) Meetings called by the education administrator may be physical meetings or virtual meetings.

(2) Where the meeting is to be a virtual meeting, notification of that meeting must contain—

- (a) any necessary information as to how to access the virtual meeting including any telephone number, access code or password required; and
- (b) a statement that the meeting may be suspended or adjourned by the chair of the meeting (and must be adjourned if it is so resolved at the meeting).

Remote attendance: notification requirements

3.20. When a meeting is to be summoned and held in accordance with section 246A(3) of the Act, the education administrator must notify all those to whom notice of the meeting is being given of—

- (a) the ability of a person claiming to be an excluded person to request an indication in accordance with rule 3.24;
- (b) the ability of a person within rule 3.25(1) to make a complaint in accordance with that rule; and
- (c) the period within which such a request or complaint must be made.

Location of meetings

3.21.—(1) This rule applies to a request made under section 246A(9) to specify a place for the meeting.

(2) The request must be accompanied by—

- (a) a list of the members making or concurring with the request and their voting rights; and
- (b) from each person concurring, confirmation of that person's concurrence.

(3) Paragraph 62 was amended by paragraph 10 of Schedule 9 to the Small Business, Enterprise and Employment Act 2015.

(3) The request must be delivered to the education administrator within seven business days of the date on which the education administrator delivered the notice of the meeting in question.

(4) Where the education administrator considers that the request has been properly made in accordance with the Act and this rule, the education administrator must—

- (a) deliver notice to all those previously given notice of the meeting—
 - (i) that it is to be held at a specified place, and
 - (ii) as to whether the date and time are to remain the same or not;
- (b) set a venue (including specification of a place) for the meeting, the date of which must not be later than 28 days after the original date for the meeting; and
- (c) deliver at least 14 days' notice of that venue to all those previously given notice of the meeting;

and the notices required by sub-paragraphs (a) and (c) may be delivered at the same or different times.

(5) Where the education administrator has specified a place for the meeting in response to a request to which this rule applies, the education administrator, or a person appointed by the education administrator to act as chair of the meeting, must attend the meeting by being present in person at that place.

Chair of the meeting

3.22. The chair of a meeting of the members of the further education body must be either the education administrator or a person nominated by the education administrator to act as chair.

Action where person is excluded

3.23.—(1) In this rule and rules 3.24 and 3.25, “excluded person” means a person who has taken all steps necessary to attend a meeting of the members of the further education body under arrangements which—

- (a) have been put in place by the education administrator under section 246A(6); but
- (b) do not enable that person to attend the whole or part of that meeting.

(2) Where the chair becomes aware during the course of the meeting that there is an excluded person, the chair may—

- (a) continue the meeting;
- (b) declare the meeting void and convene the meeting again; or
- (c) declare the meeting valid up to the point where the person was excluded and adjourn the meeting.

(3) Where the chair continues the meeting, the meeting is valid unless—

- (a) the chair decides in consequence of a complaint under rule 3.25 to declare the meeting void and convene the meeting again; or
- (b) the court directs otherwise.

(4) Without prejudice to paragraph (2), where the chair becomes aware during the course of the meeting that there is an excluded person, the chair may, in the chair's discretion and without an adjournment, declare the meeting suspended for any period of up to 1 hour.

Indication to excluded person

3.24.—(1) A person who claims to be an excluded person may request an indication of what occurred during the period of that person's claimed exclusion.

(2) A request under paragraph (1) must be made in accordance with paragraph (3) as soon as reasonably practicable, and in any event not later than 4pm on the business day following the day on which the exclusion is claimed to have occurred.

(3) A request under paragraph (1) must be made to—

- (a) the chair, where it is made during the course of the business of the meeting; or
- (b) the education administrator, where it is made after the conclusion of the business of the meeting.

(4) Where satisfied that the person making the request is an excluded person, the person to whom the request is made in accordance with paragraph (3) must deliver the requested indication to the excluded person as soon as reasonably practicable, and in any event not later than 4pm on the business day following the day on which the request was made under paragraph (1).

Complaint

3.25.—(1) A person may make a complaint who—

- (a) is, or claims to be, an excluded person; or
- (b) attends the meeting and claims to have been adversely affected by the actual, apparent or claimed exclusion of another person.

(2) The complaint must be made to the appropriate person who is—

- (a) the chair, where the complaint is made during the course of the meeting; or
- (b) the education administrator where it is made after the meeting.

(3) The complaint must be made as soon as reasonably practicable and, in any event, no later than 4pm on the business day following—

- (a) the day on which the person was, appeared or claimed to be excluded; or
- (b) where an indication is requested under rule 3.24, the day on which the complainant received the indication.

(4) The appropriate person must, as soon as reasonably practicable following receipt of the complaint—

- (a) consider whether there is an excluded person;
- (b) where satisfied that there is an excluded person, consider the complaint; and
- (c) where satisfied that there has been prejudice, take such action as the appropriate person considers fit to remedy the prejudice.

(5) Paragraph (6) applies where the appropriate person is satisfied that the complainant is an excluded person and—

- (a) a resolution was voted on at the meeting during the period of the person's exclusion; and
- (b) the excluded person asserts how the excluded person intended to vote on the resolution.

(6) Where the appropriate person is satisfied that, if the excluded person had voted as that person intended, it would have changed the result of the resolution then the appropriate person must, as soon as reasonably practicable—

- (a) count the intended vote as having been cast in that way;
- (b) amend the record of the result of the resolution; and
- (c) where notice of the result of the resolution has been delivered to those entitled to attend the meeting, deliver notice to them of the change and the reason for it; or
- (d) where notice of the result of the resolution has yet to be delivered to those entitled to attend the meeting, the notice must include details of the change and the reason for it.

(7) Where satisfied that more than one complainant is an excluded person, the appropriate person must have regard to the combined effect of the intended votes.

(8) The appropriate person must deliver notice to the complainant of any decision as soon as reasonably practicable.

(9) A complainant who is not satisfied by the action of the appropriate person may apply to the court for directions and any application must be made no more than two business days from the date of receiving the decision of the appropriate person.

CHAPTER 6

Creditors' decisions

Application of this Chapter 6

3.26. This Chapter applies where the education administrator seeks a decision from the creditors of the further education body in accordance with paragraph 62 of Schedule B1.

Creditors' decisions

3.27. The education administrator may, and in the circumstances set out in rule 3.28 must, seek a decision from the further education body's creditors under paragraph 62 of Schedule B1.

Creditors' decisions for the nomination of alternative liquidator

3.28.—(1) Where, under rule 3.8(4)(c) or rule 3.11(1)(f)(iii) the education administrator has proposed that the education administration will end by the further education body entering creditors' voluntary liquidation, the education administrator must, in the circumstances detailed in paragraph (2), seek a decision from the further education body's creditors for the purpose of nominating a person other than the person named as the proposed liquidator in the education administrator's proposals or revised proposals.

(2) The education administrator must seek a decision from the further education body's creditors where such decision is requested by creditors of the further education body whose debts amount to at least 10 per cent of the total debts of the further education body.

(3) The request for a decision from the further education body's creditors for the purpose set out in paragraph (1) must be made within 8 days of the date on which the education administrator's statement of proposals is delivered, or, where revised proposals have been sent out relating to the ending of the education administration by a creditors' voluntary liquidation, within 8 days from the date on which the revised proposals are delivered.

(4) A request under this rule must include—

- (a) a list of the creditors concurring with the request, showing the amounts of their respective debts in the education administration; and
- (b) from each creditor concurring, written confirmation of that creditor's concurrence,

but sub-paragraph (a) does not apply if the requesting creditor's debt is alone sufficient without the concurrence of other creditors.

(5) Where a decision has been requested under this rule, the provisions of rule 15.19, as modified by rule 3.29, of the Insolvency (England and Wales) Rules 2016(4) apply in relation to the expenses of the decision.

(6) A decision requested under this rule must be reached within 21 days of the education administrator's receipt of the notice requesting the decision procedure.

Decision making

3.29.—(1) Where the education administrator seeks a decision from the creditors on any issue and subject to paragraph (3), Chapters 2, 3, 6, 7, 8, 9 and 11 of Part 15 and Part 16 of the Insolvency (England and Wales) Rules 2016 apply to that decision, as they apply to administration, but with the modifications set out in paragraph (2).

(2) The provisions applied by paragraph (1) are subject to the following modifications—

- (a) for “administration”, in each place, substitute “education administration”;
- (b) for “administrator”, in each place, substitute “education administrator”;
- (c) for “company”, in each place, substitute “further education body”;
- (d) for “convener”, in each place, substitute “education administrator”;
- (e) the following is substituted for rule 15.21—

“**15.21.** The chair of the meeting must be either the education administrator or a person nominated by the education administrator to act as chair.”;

- (f) in rule 15.8, the reference to rule 14.31(1) is a reference to rule 5.28(1) of these Rules;
- (g) in rule 15.31, the reference to rule 14.24 is a reference to rule 5.24 of these Rules; and
- (h) in rule 16.6 the reference to rule 1.58 is a reference to rule 7.37 of these Rules.

(3) In the application of Part 15 of the Insolvency (England and Wales) Rules 2016 to a decision sought by the education administrator in an education administration, rules 15.16, 15.24, 15.28(6), 15.29 and 15.30 do not apply.

CHAPTER 7

Limited disclosure of statements of affairs and proposals

Application of Chapter 7

3.30. This Chapter applies to the disclosure of information which would be likely to prejudice the conduct of the education administration or might reasonably be expected to lead to violence against any person.

Orders limiting disclosure of statement of affairs etc

3.31.—(1) If the education administrator thinks that the circumstances in rule 3.30 apply in relation to the disclosure of—

- (a) the whole or part of the statement of the further education body’s affairs;
- (b) the education administrator’s statement of proposals or any of the matters specified in rule 3.8; or
- (c) a statement of concurrence provided in accordance with rule 3.4,

the education administrator may apply to the court for an order in relation to the particular document or a specified part of it.

(2) The court may order that the whole of, or a specified part of, a document referred to in paragraph (1) must not be delivered to the registrar of companies or, in the case of the statement of proposals, to creditors or members of the further education body.

(3) If the court makes an order under paragraph (2), the education administrator must as soon as reasonably practicable deliver to the registrar of companies—

- (a) a copy of the order;
- (b) the statement of affairs or the statement of proposals to the extent provided by the order;

- (c) any statement of concurrence to the extent provided by the order; and
 - (d) if the order relates to the statement of proposals, an indication of the nature of the matter in relation to which the order was made.
- (4) If the order relates to the statement of proposals, the education administrator must as soon as reasonably practicable also deliver to the creditors and members of the further education body—
- (a) the statement of proposals to the extent provided by the order; and
 - (b) an indication of the nature of the matter in relation to which the order was made.

Order for disclosure

3.32.—(1) A creditor may apply to the court for an order that the education administrator disclose the following in relation to which an order has been made under rule 3.31(2)—

- (a) a statement of affairs;
 - (b) a specified part of it; or
 - (c) a part of a statement of proposals.
- (2) The application must be supported by a witness statement.
- (3) The applicant must deliver to the education administrator notice of the application at least three business days before the hearing.
- (4) In an order for disclosure, the court may include conditions as to confidentiality, duration, and the scope of the order in the event of any change of circumstances or such other matters as it thinks just.

Rescission or amendment of order for limited disclosure

3.33.—(1) If there is a material change in circumstances rendering an order for limited disclosure under rule 3.31(2) wholly or partly unnecessary, the education administrator must, as soon as reasonably practicable after the change, apply to the court for the order to be rescinded or amended.

- (2) If the court makes such an order, the education administrator must as soon as reasonably practicable deliver to the registrar of companies—
- (a) a copy of the order; and
 - (b) the statement of affairs or the statement of proposals to the extent provided by the order;
- (3) If the order relates to the statement of proposals, the education administrator must as soon as reasonably practicable also deliver to the creditors and members the statement of proposals to the extent allowed by the order.

Publication etc. of statement of affairs and statement of proposals

3.34.—(1) Part 31 of the CPR does not apply to an application under rule 3.31, 3.32 or 3.33.

(2) If, after the education administrator has sent a statement of proposals under paragraph 49(4) of Schedule B1, a statement of affairs is delivered to the registrar of companies in accordance with rule 3.33(2) as the result of the rescission or amendment of an order, the education administrator must deliver to the creditors a copy or summary of the statement of affairs as delivered to the registrar of companies.

(3) The education administrator is taken to comply with the requirements for delivery to members of the further education body in rule 3.31(4) or 3.33(3) if the education administrator publishes the required notice.

(4) The required notice must—

- (a) be advertised in such manner as the education administrator thinks fit;
- (b) state that members can request in writing—
 - (i) a copy of the statement of proposals to the extent provided by the order, and
 - (ii) an indication of the nature of the matter in relation to which the order was made; and
- (c) state the address to which such a written request is to be made;
- (d) be published as soon as reasonably practicable after the education administrator has delivered the statement of proposals to the extent provided by the order to the further education body's creditors.

CHAPTER 8

Disposal of Charged Property

Disposal of charged property

3.35.—(1) This rule applies where the education administrator applies to the court under paragraph 71 or 72 of Schedule B1 for authority to dispose of—

- (a) property which is subject to a security other than a floating charge; or
- (b) goods in the possession of the further education body under a hire-purchase agreement.

(2) The court must fix a venue for the hearing of the application.

(3) As soon as reasonably practicable after the court has done so, the education administrator must deliver notice of the venue to the holder of the security or the owner of the goods.

(4) If an order is made under paragraph 71 or 72 of Schedule B1, the court must deliver two sealed copies to the education administrator.

(5) The education administrator must deliver—

- (a) one of the sealed copies to the holder of the security or the owner of the goods; and
- (b) a copy of the sealed order to the registrar of companies.

CHAPTER 9

Expenses of the Education Administration

Expenses

3.36.—(1) All fees, costs, charges and other expenses incurred in the course of the education administration are to be treated as expenses of the education administration.

(2) The expenses associated with the prescribed part must be paid out of the prescribed part.

(3) The cost of the security required by section 390(3) of the Act for the proper performance of an education administrator's functions is an expense of the education administration.

(4) For the purposes of paragraph 99(3) of Schedule B1, the former education administrator's remuneration and expenses comprise all the items in rule 3.37.

Order of priority

3.37.—(1) The expenses of the education administration are payable in the following order of priority, subject to an order of the court under paragraph (2)—

- (a) expenses properly incurred by the education administrator in performing the education administrator's functions;

- (b) the cost of any security provided by the education administrator in accordance with the Act or these Rules;
- (c) the costs of the applicant and any other person appearing at the hearing of the application for an education administration order whose costs were allowed by the court;
- (d) any amount payable to a person in respect of assistance in the preparation of a statement of affairs or statement of concurrence;
- (e) any allowance made by order of the court in respect of the costs on an application for release from the obligation to submit a statement of affairs or deliver a statement of concurrence;
- (f) any necessary disbursements by the education administrator incurred in the course of the administration;
- (g) the remuneration or emoluments of any person who has been employed by the education administrator to perform any services for the further education body, as required or authorised under the Act or these Rules;
- (h) the education administrator's remuneration the basis of which has been fixed under Part 6 and unpaid pre-administration costs approved under rule 6.11;
- (i) the amount of any tax payable on chargeable gains accruing on the realisation of any asset of the further education body (irrespective of the person by whom the realisation is effected).

(2) If the assets are insufficient to satisfy the liabilities, the court may make an order as to the payment out of the assets of the expenses incurred in the education administration in such order of priority as it thinks just.

CHAPTER 10

Ending of education administration

Application for an order ending education administration

3.38. An application to the court under paragraph 79 of Schedule B1 for an order ending an education administration must be accompanied by—

- (a) a progress report for the period since—
 - (i) the last progress report (if any), or
 - (ii) if there has been no previous progress report, the date on which the further education body entered education administration; and
- (b) a statement indicating what the education administrator thinks should be the next steps for the further education body (if applicable).

Notification of application for an order ending education administration

3.39. Where an application to the court is made—

- (a) the applicant must, at least five days before the application is filed, deliver notice of the applicant's intention to apply to court to all the creditors; and
- (b) the application must be accompanied by—
 - (i) a statement that notice has been delivered to the creditors, and
 - (ii) copies of any response from the creditors to that notice.

Notice of court order ending education administration

3.40. Where the court makes an order ending the education administration, the applicant must, as soon as reasonably practicable, deliver a copy of the order and of the final progress report to—

- (a) the appropriate national authority, unless the appropriate national authority is the applicant;
- (b) the education administrator, unless the education administrator is the applicant;
- (c) the registrar of companies;
- (d) the relevant officers of the further education body; and
- (e) all other persons to whom notice of the education administrator’s appointment was delivered.

Moving from education administration to creditors’ voluntary winding up

3.41.—(1) This rule applies where the education administrator delivers to the registrar of companies a notice under paragraph 83(3) of Schedule B1 of moving from education administration to creditors’ voluntary winding up.

(2) The notice must contain—

- (a) identification details for the proceedings;
- (b) the name of the person who made the education administration application; and
- (c) the name and IP number of the proposed liquidator.

(3) The notice to the registrar of companies must be accompanied by a copy of the education administrator’s final progress report.

(4) A copy of the notice and the final progress report must be sent, as soon as reasonably practicable after delivery of the notice, to all those persons to whom notice of the education administrator’s appointment was delivered in addition to the creditors (as required by paragraph 83(5)(b) of Schedule B1).

(5) The person who ceases to be education administrator on the registration of the notice must inform the person who becomes liquidator of anything which happens after the date of the final progress report and before the registration of the notice which the education administrator would have included in the final report had it happened before the date of the report.

(6) For the purposes of paragraph 83(7)(a) of Schedule B1, a person is nominated as liquidator in accordance with rule 3.8(4) or 3.11(1)(f)(iii) and that person’s appointment takes effect following registration under paragraph (1) of this rule—

- (a) by virtue of the education administrator’s proposals or revised proposals; or
- (b) following a decision sought by the education administrator under rule 3.28(2).

(7) Where the creditors nominate a different person in accordance with rule 3.11(1)(f)(iii), the nomination must, where applicable, include the declaration required by section 231 of the Act.

Moving from education administration to dissolution

3.42.—(1) This rule applies where the education administrator delivers to the registrar of companies a notice under paragraph 84(1) of Schedule B1 of moving from education administration to dissolution.

(2) The notice must identify the proceedings.

(3) As soon as reasonably practicable after sending the notice, the education administrator must deliver a copy of the notice to all persons to whom notice of the education administrator’s appointment was delivered (in addition to the creditors mentioned in paragraph 84(5)(b)).

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(4) A final progress report must accompany the notice to the registrar of companies and also every other copy of the notice which is filed or otherwise delivered.

(5) Where a court makes an order under paragraph 84(7) of Schedule B1 it must, where the applicant is not the education administrator, deliver a copy of the order to the education administrator.

(6) The education administrator must deliver a copy of the order to the registrar of companies with the notice required by paragraph 84(8).