
WELSH STATUTORY INSTRUMENTS

2012 No. 322

**The Special Educational Needs
Tribunal for Wales Regulations 2012**

PART B

SPECIAL EDUCATIONAL NEEDS APPEALS AND DISABILITY CLAIMS

Case preparation before the hearing

Compliance

Compliance with tribunal panel orders — appeals

61.—(1) Subject to paragraph (5), if the tribunal panel, following its decision in relation to an appeal, makes an order requiring a local authority to perform an action referred to in paragraph (2) the local authority must perform that action within the time period specified in paragraph (2).

(2) In the case of an order—

- (a) to make an assessment, the local authority must notify—
 - (i) the parent that it must make an assessment under section 323(4) or 329A(7) of the 1996 Act as the case may be within 5 weeks; and
 - (ii) where the child was the appellant, the child that it must make an assessment under section 329A(7) of the 1996 Act within 5 weeks;
- (b) to make and maintain a statement, the local authority must make a statement within 5 weeks;
- (c) remitting a case back to the local authority under section 325(3)(c) of the 1996 Act, the local authority must within 2 weeks serve a copy of a proposed statement and a notice on the parent and the child under paragraphs 2(1) and 2B(2) of Schedule 27 to the 1996 Act respectively, or give notice to the parent and the child—
 - (i) under section 325(1) of the 1996 Act that they have decided not to make a statement;
 - (ii) of their reasons for that decision;
 - (iii) of the parent and the child's right of appeal against that decision to the Tribunal; and
 - (iv) of the time limit within which an appeal to the Tribunal must be made;
- (d) to amend a statement, the local authority must serve an amendment notice on the parent and the child under paragraph 2A of Schedule 27 to the 1996 Act within 5 weeks;
- (e) to continue to maintain a statement, the local authority must continue to maintain the statement with immediate effect;
- (f) to continue to maintain and to amend a statement, the local authority must continue to maintain the statement with immediate effect and must serve an amendment notice on the parent and the child under paragraph 2A of Schedule 27 to the 1996 Act within 5 weeks;

- (g) to substitute the name of the school or other institution specified in a child's statement with the name of a school specified by the parent or child, the local authority must, subject to paragraph (3), specify the school specified by the parent or child within 2 weeks; and
- (h) dismissing an appeal against a determination to cease to maintain a statement, the local authority must cease to maintain that statement immediately or on a date proposed by the local authority, whichever is the later.

(3) If an order requires a local authority to comply with both sub-paragraphs (d) and (g) of paragraph (2), or both sub-paragraphs (f) and (g) of paragraph (2), the local authority must specify the school specified by the parent or child within 5 weeks.

(4) In each case in paragraphs (2) and (3), the period begins on the first working day after the order was made.

(5) The local authority need not comply with the time periods referred to in paragraphs (2) and (3) if it is impractical to do so because—

- (a) exceptional personal circumstances affect the parent or, where the appellant was the child, the child during the time period;
- (b) the parent or, where the appellant was the child, the child is absent from the area of the local authority for a continuous period of no less than 2 weeks, or where paragraph (3) applies no less than 5 weeks, during the time period;
- (c) the parent has indicated that the parent wishes to make representations to the local authority about the content of the statement under paragraph 4(1) of Schedule 27 to the 1996 Act after the expiry of the 15 day period for making such representations provided for in paragraph 4(4) of that Schedule;
- (d) a meeting between the parent and an officer of the local authority has been held under paragraph 4(1) of Schedule 27 to the 1996 Act and the parent under paragraph 4(2) of that Schedule has either required that another such meeting is arranged or has required that a meeting with the appropriate person is arranged; or
- (e) the local authority have sent a written request to the Welsh Ministers seeking their consent under section 347(5) of the 1996 Act to the child being educated at an independent school which is not approved by them and such consent has not been received by the local authority within 3 weeks of the day on which the request was sent.

Compliance with appellant's request when a local authority concedes an appeal

62.—(1) Subject to paragraph (3) if, under section 326A(2) of the 1996 Act, an appeal to the Tribunal is treated as having been determined in favour of the appellant, the local authority must—

- (a) in the case of an appeal under section 325 of the 1996 Act, make a statement within 5 weeks;
- (b) in the case of an appeal under section 328, 329 or 329A of the 1996 Act, make an assessment within 5 weeks; and
- (c) in the case of an appeal under paragraph 8(3) of Schedule 27 to the 1996 Act against a determination not to comply with the appellant's request to substitute the name of a maintained school for the name of the school or institution specified in the statement, comply with that request within 2 weeks.

(2) In each case in paragraph (1), the period begins on the first working day after the local authority notifies the Tribunal that it does not oppose the appeal.

(3) The local authority need not comply with the time limits referred to in paragraph (1) if it is impractical to do so because—

- (a) exceptional personal circumstances affect the parent or, where the appellant is the child, the child during the relevant time period;
- (b) the parent or, where the appellant is the child, the child is absent from the area of the local authority for a continuous period of no less than 2 weeks during the relevant time period;
- (c) the parent has indicated that the parent wishes to make representations to the local authority about the content of the statement under paragraph 4(1) of Schedule 27 to the 1996 Act after the expiry of the 15 day period for making such representations provided for in paragraph 4(4) of that Schedule;
- (d) a meeting between the parent and an officer of the local authority has been held under paragraph 4(1) of Schedule 27 to the 1996 Act and the parent under paragraph 4(2) of that Schedule has either required that another such meeting is arranged or has required that a meeting with the appropriate person is arranged, or
- (e) the local authority have sent a written request to the Welsh Ministers seeking their consent under section 347(5) of the 1996 Act to the child being educated at an independent school which is not approved by them and such consent has not been received by the local authority within 3 weeks of the day on which the request was sent.