

Status: Point in time view as at 01/09/1998.

Changes to legislation: Education Act 1996, SCHEDULE 16 is up to date with all changes known to be in force on or before 14 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 16 **E+W**

Section 159.

APPEALS AGAINST EXCLUSION OR REINSTATEMENT OF PUPILS

Duty to inform parent or pupil of right of appeal

- 1 (1) The articles of government for a county, controlled or maintained special school shall require the local education authority, where by virtue of paragraph 2(3) of Schedule 15 they inform the relevant person of their decision that a pupil should not be reinstated, to give him notice in writing—
 - (a) of his right to appeal against the decision;
 - (b) of the last date on which an appeal may be made (calculated in accordance with paragraph 3(1) below);
 - (c) of his right to give notice under paragraph 3(2) below stating that he does not intend to appeal;
 - (d) that no appeal may be made after notice under that provision is given.
- (2) The articles of government for an aided or a special agreement school shall require the governing body, where by virtue of paragraph 9(3) of Schedule 15 they inform the relevant person of their decision that a pupil should not be reinstated, to give him notice in writing—
 - (a) of his right to appeal against the decision;
 - (b) of the last date on which an appeal may be made (calculated in accordance with paragraph 3(1) below);
 - (c) of his right to give notice under paragraph 3(2) below stating that he does not intend to appeal;
 - (d) that no appeal may be made after notice under that provision is given.

Suspension of direction for reinstatement pending appeal etc.

- 2 (1) A direction for the reinstatement of a pupil given by virtue of paragraph 2 of Schedule 15 shall not have effect for a period ending with the fifth school day ending after the governing body are informed of the direction by the local education authority unless, within that period, the governing body inform the authority that they do not intend to appeal against the direction.
- (2) Where, within that period, the governing body lodge an appeal against the direction in accordance with the arrangements made by the local education authority under section 159(1)—
 - (a) the authority shall, before the end of the fourth school day after the day on which the appeal is lodged, inform the relevant person of his right to make representations to the appeal committee, and

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- (b) the direction shall not have effect unless it is confirmed by the appeal committee or the appeal is withdrawn.
- (3) No appeal against such a direction may be made by the governing body after the direction has taken effect.

Time limits and notices waiving right to appeal

- 3 (1) No appeal under section 159(1)(a) or (2) against a decision not to reinstate a pupil may be made after the 15th school day after the day on which the relevant person is given notice in writing under paragraph 1(1) or (2).
- (2) Any notice in writing given by the relevant person to the body responsible for making any arrangements under section 159(1) or (2) which states that he does not intend to appeal against a decision not to reinstate the pupil shall be final.
- (3) The time limit for appealing under section 159 shall be treated as having expired on the day on which notice is given under sub-paragraph (2) (if earlier than the last day on which an appeal may be made in accordance with sub-paragraph (1)).

Appeal committees

- 4 (1) Part I of Schedule 33 (school admission appeals) shall have effect in relation to appeals under section 159 with the necessary modifications.
- (2) Accordingly, in the application of that Part of that Schedule in relation to any such appeals—
 - (a) any reference to section 423(1) shall be read as a reference to section 159(1);
 - (b) any reference to section 423(2) shall be read as a reference to section 159(2); and
 - (c) any reference to section 423(3) shall be read as a reference to section 159(3).

Procedure on an appeal

- 5 In the following provisions of this Schedule—
 - “appeal” means an appeal under section 159;
 - “appeal committee” means an appeal committee constituted in accordance with Part I of Schedule 33, as it applies in accordance with paragraph 4 above.
- 6 An appeal shall be by notice in writing setting out the grounds on which it is made.
- 7 The appeal committee shall meet to consider an appeal—
 - (a) within the period ending with the 15th school day after the day on which the appeal is lodged, or

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- (b) if the body responsible for making any arrangements under section 159 has determined a shorter period, within that period.

[^{F1}7A (1) For the purpose of fixing the time (falling within the period mentioned in paragraph 7) at which the hearing of an appeal is to take place, the body mentioned in that paragraph shall take reasonable steps to ascertain any times falling within that period when—

- (a) the relevant person, or
(b) any other person who wishes, and would be entitled, to appear and make oral representations in accordance with paragraph 8 or 9,

would be able to attend.

- (2) Where in accordance with sub-paragraph (1) that body have ascertained any such times in the case of any such person, they shall, when fixing the time at which the hearing is to take place, take those times into account with a view to ensuring, so far as it is reasonably practicable to do so, that that person is able to appear and make such representations at the hearing.]

Textual Amendments

F1 Sch. 16 para. 7A inserted (1.9.1998) by 1997 c. 44, s. 7(2) (with s. 57(3)); S.I. 1998/386, art. 2(4), **Sch. 1 Pt.IV** (which s. 7 is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 208(b), **Sch.31** (with ss. 138(9), 144(6)))

[^{F2}8 (1) On an appeal by a pupil or parent the appeal committee shall give the appellant an opportunity of appearing and making oral representations, and shall allow him to be represented or to be accompanied by a friend.

(2) On such an appeal the committee shall allow—

- (a) the head teacher to make written representations and to appear and make oral representations,
(b) the local education authority and the governing body to make written representations,
(c) an officer of the authority nominated by the authority, and a governor nominated by the governing body, to appear and make oral representations, and
(d) the governing body to be represented.]

Textual Amendments

F2 Sch. 16 para. 8 substituted (1.9.1998) by 1997 c. 44, s. 7(3) (with s. 57(3)); S.I. 1998/386, art. 2(4), **Sch. 1 Pt.IV** (which s. 7 is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 208(b), **Sch.31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

9 (1) On an appeal by a governing body the appeal committee shall give a governor nominated by the governing body an opportunity of appearing and making oral representations, and shall allow the governing body to be represented.

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- (2) On such an appeal the committee shall allow—
- (a) the relevant person to make written representations and to appear and make oral representations,
 - (b) the local education authority to make written representations, and
 - (c) an officer of the authority nominated by the authority to appear and make oral representations.
- 10 (1) The body responsible for making any arrangements under section 159 shall, in setting any time limits in connection with appeals, have regard to the desirability of securing that appeals are disposed of without delay.
- (2) If the relevant person making an appeal under section 159(1)(a) or (2) requests that body to do so, it may in exceptional circumstances extend the period in which an appeal committee is to hear the appeal and communicate its decision.
- 11 (1) Appeals shall be heard in private except when the local education authority or governing body by whom the arrangements under section 159 are made direct otherwise.
- (2) Without prejudice to any of the provisions of this Schedule—
- (a) a member of the local education authority may attend, as an observer, any hearing of an appeal by an appeal committee; and
 - (b) any member of the Council on Tribunals may attend, as an observer, any meeting of an appeal committee at which an appeal is considered.
- 12 Two or more appeals may be combined and dealt with in the same proceedings if the appeal committee consider that it is expedient to do so because the issues raised by the appeals are the same or connected.
- [^{F3}12A(1) In deciding—
- (a) whether the pupil in question should be reinstated (and, if so, the time when this should take place), or
 - (b) whether any direction for the reinstatement of the pupil in question should be confirmed,
- an appeal committee shall have regard to both the interests of that pupil and the interests of other pupils at his school and members of its staff.
- (2) In making any such decision an appeal committee shall also have regard to the measures publicised by the head teacher under section 154(7).
- (3) Sub-paragraphs (1) and (2) do not apply where an appeal committee decides that the pupil in question was not guilty of the conduct which the head teacher relied on as grounds for his permanent exclusion.
- (4) Sub-paragraphs (1) and (2) shall not be read as precluding an appeal committee from having regard to any other relevant matters.]

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Textual Amendments

- F3** Sch. 16 para. 12A inserted (1.9.1998) by 1997 c. 44, s. 7(4) (with s. 57(3)); S.I. 1998/386, art. 2(4), **Sch. 1 Pt. IV** (which s. 7 is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 208(b), **Sch.31** (with ss. 138(9), 144(6))); S.I. 1999/2323, art. 2(1), SAch. 1

- 13 In the event of a disagreement between the members of an appeal committee, the appeal under consideration shall be decided by a simple majority of the votes cast and, in the case of an equality of votes, the chairman of the committee shall have a second or casting vote.
- 14 The decision of an appeal committee and the grounds on which it is made shall be communicated by the committee in writing to the relevant person, [^{F4}the head teacher,] the local education authority and the governing body, and shall be so communicated—
- (a) within the period ending with the 17th school day after the day on which the appeal is lodged, or
 - (b) if the body responsible for making any arrangements under section 159 has determined a shorter period, within that period.

Textual Amendments

- F4** Words in Sch. 16 para. 14 inserted (1.9.1998) by 1997 c. 44, s. 57(1), **Sch. 7 para. 47(a)**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt. IV** (which Sch. 7 para. 47 is repealed (1.9.1999) by 1998 c. 31, ss. 140(1)(3), 145(3), Sch. 30 para. 223, **Sch.31** (with ss. 138(9), 144(6))); S.I. 1999/2323, art. 2(1), **Sch. 1**

- 15 (1) Subject to paragraphs 6 to 14, all matters relating to the procedure on appeals ^{F5}. . . shall be determined by the local education authority or governing body by whom the arrangements under section 159 are made.
- (2) Neither section 106 of the ^{M1}Local Government Act 1972 nor paragraph 44 of Schedule 12 to that Act (procedure of committees of local authorities) shall apply to an appeal committee.

Textual Amendments

- F5** Words in Sch. 16 para. 15(1) repealed (1.9.1998) by 1997 c. 44, s. 57(1)(4), Sch. 7 para. 47(b), **Sch.8**; S.I. 1998/386, art. 2(4), **Sch. 1 Pt. IV** (which Sch. 7 para. 47 is repealed (1.9.1999) by 1998 c. 31, s. 140(1)(3), Sch. 30 para. 223, **Sch.31** (with ss. 138(9), 144(6))); S./I. 1999/2323, art. 2(1), SCh. 1

Marginal Citations

- M1** 1972 c. 70.

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Notices

- 16 (1) Where in accordance with paragraph 1(1) or (2) notice in writing is required to be given to a person, the notice may be given either—
- (a) by delivering it to the person’s last-known address, or
 - (b) by properly addressing, pre-paying and sending by first class post to the person’s last-known address a letter containing the notice.
- (2) For the purposes of calculating the period referred to in paragraph 3(1), a notice shall be taken to have been given—
- (a) where first class post is used, on the second school day after the date of posting, or
 - (b) where the notice is delivered, on the date of delivery,
- unless (in either case) the contrary is shown.

Meaning of “the relevant person”

- 17 In this Schedule “the relevant person” means—
- (a) in relation to a pupil under the age of 18, a parent of his;
 - (b) in relation to a pupil who has attained that age, the pupil himself.

Power of Secretary of State to make amendments

- 18 The Secretary of State may by order amend the preceding provisions of this Schedule.

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