

EDUCATION AND INSPECTIONS ACT 2006

EXPLANATORY NOTES

COMMENTARY

Part 2: Establishment, Discontinuance Or Alteration of Schools in England

Section 23: Rights of interested bodies in relation to proposals under section 21

108. This section provides that regulations made under section 21 must make provision in connection with the referral of certain proposals to the adjudicator in certain circumstances.
109. *Subsection (1)* provides that if regulations made under section 21 provide for the governing body of a school to determine proposals falling within *subsection (2)*, the regulations must provide for the local education authority to be able refer the proposals to the adjudicator for determination.
110. *Subsection (2)* specifies the proposals that may be referred to the adjudicator as envisaged in *subsection (1)*. These are proposals to acquire a foundation, and proposals for a foundation to appoint a majority of the governing body of a school.
111. *Subsection (3)* provides that regulations may restrict the matters to which the local education authority may have regard in deciding whether to require such proposals to be referred to the adjudicator.
112. *Subsection (4)* provides that if regulations made under section 21 provide for proposals to be determined by a person other than the adjudicator (for example by the governing body of the school concerned), the regulations must provide for specified bodies to be able to refer the proposals to the adjudicator after the initial determination. The specified bodies are Church of England and Roman Catholic diocesan authorities and, in the case of proposals relating to 14-19 provision, the Learning and Skills Council for England. This does not apply where section 22 restricts or excludes the possibility of a reference to the adjudicator.
113. *Subsection (5)* provides that, if regulations made under section 21 provide for a local education authority to determine proposals which they have published in relation to a foundation, voluntary or foundation special school, the regulations must provide for the governing body and trustees of the school to be able to refer the proposals to the adjudicator after the initial determination.