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WELSH STATUTORY INSTRUMENTS

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**2002 No. 152**

**The Education (Special Educational  
Needs) (Wales) Regulations 2002**

**PART III  
STATEMENTS**

**Notices accompanying a proposed statement, or proposed amended statement**

**14.** The notice which shall be served by an authority on a parent pursuant to paragraph 2B(2) of Schedule 27 to accompany

- (a) a copy of a proposed statement (served under paragraph 2(1) of Schedule 27), or
- (b) a copy of a proposed amended statement (served under paragraph 2A(2) of Schedule 27)

shall contain the information as specified in Part A of Schedule 1 to these Regulations.

**Notices accompanying amendment notices**

**15.** The notice which shall be served on a parent pursuant to paragraph 2B(2) of Schedule 27 to accompany an amendment notice (served under paragraph 2A (4) of Schedule 27) shall contain the information as specified in Part B of Schedule 1 to these Regulations.

**Statement of special educational needs**

**16.** A statement shall—

- (a) be in a form substantially corresponding to that set out in Schedule 2 to these Regulations;
- (b) contain the information therein specified;
- (c) be dated and authenticated by the signature of a duly authorised officer of the authority concerned;
- (d) set out whether it is the first statement made by the authority for the child or a subsequent statement;
- (e) indicate on the front page if it is—
  - (i) amended pursuant to an annual review and the date of any such annual review;
  - (ii) amended pursuant to a review other than an annual review, and the date of such review;
  - (iii) amended pursuant to an order of the Tribunal, and the date of such order; or
  - (iv) amended pursuant to a direction of the National Assembly, and the date of any such direction.

### **Time limits and prescribed information**

17.—(1) Where an authority have made an assessment of a child for whom no statement is maintained they shall within two weeks of the date on which the assessment was completed either—

- (a) serve a copy of a proposed statement and a notice on the child's parent under paragraphs 2(1) and 2B(2) of Schedule 27 respectively, or
- (b) give notice to the child's parent—
  - (i) under section 325(1) that they have decided not to make a statement;
  - (ii) of their reasons for that decision;
  - (iii) of the parent'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.

(2) Where an authority have made an assessment of a child for whom a statement is maintained they shall within two weeks of the date on which the assessment was completed—

- (a) serve on the child's parent a copy of a proposed amended statement and a notice under paragraphs 2A(2) and 2B(2) of Schedule 27 respectively; or
- (b) give notice to the child's parent—
  - (i) under paragraph 11(2) of Schedule 27 that they have determined to cease to maintain the statement;
  - (ii) of the parent's right of appeal against that determination to the Tribunal; and
  - (iii) of the time limit within which an appeal to the Tribunal must be made; or
- (c) serve on the child's parent a notice—
  - (i) under section 329(2) which informs the parent that they have determined not to amend the statement;
  - (ii) which informs the parent of their reasons for that determination;
  - (iii) which is accompanied by copies of the professional advice obtained during the assessment;
  - (iv) which informs the parent of the right of appeal under section 326(1)(c) to the Tribunal against the description in the statement of the authority's assessment of the child's special educational needs, the special educational provision specified in the statement (including the name of a school so specified) or, if no school is named in the statement, that fact; and
  - (v) which informs the parent of the time limit within which an appeal to the Tribunal must be made.

(3) Subject to paragraph (4), where an authority have served a copy of a proposed statement or proposed amended statement on the child's parent under paragraphs 2(1) or 2A(2) of Schedule 27 they shall within 8 weeks of the date on which the proposed statement or proposed amended statement was served serve a copy of the completed statement or completed amended statement and a written notice on the child's parent under paragraphs 6(1) and 6(2) respectively of Schedule 27.

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

- (a) exceptional personal circumstances affect the child or the child's parent during the 8 week period referred to in paragraph (3);
- (b) the child or the child's parent are absent from the area of the authority for a continuous period of not less than 4 weeks during the 8 week period referred to in paragraph (3);
- (c) the child's parent indicates that he or she wishes to make representations to the authority about the content of the statement under paragraph 4(1) of Schedule 27 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 child's parent and an officer of the authority has been held pursuant to paragraph 4(1) of Schedule 27 and the child's parent under paragraph 4(2) of that Schedule has either required that another such meeting be arranged or has required a meeting with the appropriate person be arranged; or
- (e) the authority have sent a written request to the National Assembly seeking its consent under section 347(5) to the child being educated at an independent school which is not approved by it and such consent has not been received by the authority within two weeks of the date on which the request was sent.

(5) Where under paragraph 8(1) of Schedule 27 the child's parent asks the authority to substitute for the name of a school or institution specified in a statement the name of another school specified by the parent and where the conditions referred to in paragraph 8(1)(b) of Schedule 27 have been satisfied the authority shall within 8 weeks of the date on which the request was received either—

- (a) comply with the request; or
- (b) give notice to the child's parent under paragraph 8(3) of Schedule 27 that they have determined not to comply with the request, their reasons for that decision, and of the right to appeal against that determination to the Tribunal.

(6) Where under paragraph 2A(4) of Schedule 27 an authority serve an amendment notice on the child's parent informing the parent of their proposal to amend a statement they shall amend the statement before the expiry of 8 weeks from the date on which the notice was served.

(7) The authority need not comply with the time limit in paragraph (6) where—

- (a) the amendment notice contained an amendment about the type or name of a school or institution or the provision made for the child concerned under arrangements made under section 319, and
- (b) it is impractical to do so because any of the circumstances referred to in paragraph (4)(a) to (e) apply in relation to the eight week period referred to in paragraph (6).

(8) Where under paragraph 11(1) of Schedule 27 an authority give notice to the child's parent that they have determined to cease to maintain a statement they shall not cease to maintain the statement before the expiry of the prescribed period during which the parent may appeal to the Tribunal against the determination<sup>(1)</sup>.

(9) Any notice given in accordance with this regulation shall inform the parent on whom it is served of—

- (a) the availability to the parent of arrangements for the prevention and resolution of disagreements between parents and authorities made by the authority under section 332B, and
- (b) the fact that the arrangements made under section 332B cannot affect any right the parent has to appeal to the Tribunal and that the parent may appeal to the Tribunal and take up the arrangements made under section 332B.

## Reviews of statements

**18.—**(1) Not less than two weeks before the first day of every school term an authority shall serve a notice on the head teacher of every school listing those pupils registered at that school—

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(1) The Special Educational Needs Tribunal Regulations 2001 (S.I.2001/600) provide that an appeal must be made no later than the first working day after the expiry of two months from when the authority notify a parent of the right of appeal. Under paragraph 11(5) of Schedule 27 to the Education Act 1996 a local authority may not cease to maintain a statement if a parent has appealed against the authority's determination to cease to maintain a statement and that appeal has not been determined by the tribunal or withdrawn.

- (a) for whom the authority is responsible, and
  - (b) whose annual reviews fall to be carried out before the commencement of the second term after the notice is given.
- (2) In this regulation “school” means
- (a) a community, voluntary, foundation, community or foundation special school,
  - (b) a maintained nursery school,
  - (c) a pupil referral unit,
  - (d) a school approved by the National Assembly under section 342, or
  - (e) a City College for Technology and the Arts, a City Technology College or City Academy,
- at which a pupil for whom the authority is responsible is a registered pupil.
- (3) The notice served in accordance with paragraph (1) shall—
- (a) require the head teacher to submit a report to the authority in respect of each child mentioned in it which shall be prepared by the head teacher and reviewed by the authority in accordance with—
    - (i) paragraphs (4) to (15) of regulation 21 in respect of a child other than a child in the tenth year of compulsory education, or
    - (ii) paragraphs (4) to (15) of regulation 22 in respect of a child in the tenth year of compulsory education, and
  - (b) specify for each child any person from whom the authority consider advice should be sought for the purpose of arriving at a satisfactory report.
- (4) The report referred to in paragraph (3) shall be prepared by the head teacher—
- (a) by the end of the term which follows service of the notice, or if earlier
  - (b) within ten school days of the review meeting referred to in regulation 20(6), or in the case of a child in the tenth year of compulsory education, regulation 21(6).
- (5) Not less than two weeks before the first day of a school year an authority shall serve on the Careers Service for their area, a notice—
- (a) listing all the children for whom the authority is responsible and who will be in the tenth year of compulsory education in that school year, and
  - (b) indicating the school attended by each of those children or the educational provision made in respect of them.
- (6) Not less than two weeks before the first day of every school term an authority shall serve a notice on the health authority and on the social services authority—
- (a) listing—
    - (i) those children living in the area of the health authority or social services authority;
    - (ii) for whom the authority is responsible; and
    - (iii) whose annual reviews fall to be carried out before the commencement of the second term after the notice is given; and
  - (b) indicating the school attended by those children or the educational provision made in respect of them.

### **Phase transfers**

**19.—**(1) This regulation applies where—

- (a) a statement is maintained for a child, and

- (b) the child is within twelve calendar months of a transfer between phases of his or her schooling.
- (2) In this regulation a transfer between phases of schooling means a transfer from—
  - (a) primary school to middle school;
  - (b) primary school to secondary school;
  - (c) middle school to secondary school;
  - (d) secondary school to an institution specified in section 2A of the Act.
- (3) Where this regulation applies an authority must ensure that the child's statement is amended so that before 15th February in the calendar year of the child's transfer the statement names the school or other institution which the child will be attending following that transfer.

**Review of statement of child attending school (other than a review in respect of a child in tenth year of compulsory education)**

- 20.—(1) This regulation applies where—
- (a) an authority carry out an annual review of a child's statement;
  - (b) the child concerned attends a school; and
  - (c) the child is not in the tenth year of compulsory education.
- (2) Subject to paragraph (3) the authority shall by notice in writing require the head teacher of the child's school to submit a report to them under this regulation by a specified date not less than two months from the date the notice is given.
- (3) If the name of the child is included in the notice served under paragraph (1) of regulation 18 no further notice need be served on the head teacher in respect of that child under paragraph (2) of this regulation.
- (4) The head teacher shall for the purpose of preparing the report referred to in paragraph (2) of this regulation or paragraph (3) of regulation 18 seek the advice referred to in paragraph (5) from—
- (a) the child's parent (in relation to all the matters referred to in paragraph (5));
  - (b) any person whose advice the authority consider appropriate for the purpose of arriving at a satisfactory report and whom they specify in the notice referred to in paragraph (2) of this regulation or in paragraph (1) of regulation 18 in relation to the particular child (in relation to such of the matters referred to in paragraph (5) as the head teacher considers are within that person's knowledge or expertise); and
  - (c) any person whose advice the head teacher considers appropriate for the purpose of arriving at a satisfactory report (in relation to such of the matters referred to in paragraph (5) as the head teacher considers are within that person's knowledge or expertise).
- (5) The advice referred to in paragraph (4) shall be written advice as to—
- (a) the child's progress towards meeting the objectives specified in the statement;
  - (b) the child's progress towards attaining any targets established in furtherance of the objectives specified in the statement;
  - (c) where the school is a community, foundation or voluntary school or a community or foundation special school other than a special school established in a hospital, the application of the provisions of the National Curriculum to the child, and the progress made in relation to those provisions by the child since the statement was made or the last review under section 328;
  - (d) the application of any provisions substituted for the provisions of the National Curriculum in order to maintain a balanced and broadly based curriculum and the progress made in

relation to those provisions by the child since the statement was made or the last review under section 328;

- (e) the progress made by the child since the statement was made or the last review under section 328 in the child's behaviour and attitude to learning;
- (f) where appropriate, and in any case where a transition plan exists, any matters which are the appropriate subject of such a plan;
- (g) whether the statement continues to be appropriate;
- (h) any amendments to the statement which would be appropriate; and
- (i) whether the authority should cease to maintain the statement.

(6) The notice referred to in paragraph (2) of this regulation or paragraph (1) of regulation 18 shall require the head teacher to invite the following persons to attend a meeting to be held on a date before the report referred to in that paragraph is submitted—

- (a) the representative of the authority specified in the notice;
- (b) the child's parent;
- (c) a member or members of the staff of the school who teach the child or who are otherwise responsible for the provision of education for the child whose attendance the head teacher considers appropriate;
- (d) any other person whose attendance the head teacher considers appropriate; and
- (e) any person whose attendance the authority consider appropriate and who is specified in the notice.

(7) The head teacher shall not later than two weeks before the date on which a meeting referred to in paragraph (6) is to be held send to all the persons invited to that meeting and who have not informed the head teacher that they will not be attending it copies of the advice received pursuant to the request under paragraph (4) and by written notice accompanying the copies shall request the recipients to submit to him or her before or at the meeting written comments on that advice and any other advice which they think appropriate.

(8) The meeting referred to in paragraph (6) shall consider—

- (a) the matters referred to in paragraph (5); and
- (b) any significant changes in the child's circumstances since the date on which the statement was made or last reviewed.

(9) The meeting shall recommend—

- (a) any steps which it concludes ought to be taken, including whether the authority should amend or cease to maintain the statement,
- (b) any targets to be established in furtherance of the objectives specified in the statement which it concludes the child ought to meet during the period until the next review, and
- (c) where a transition plan exists, the matters which it concludes ought to be included in that plan.

(10) If the meeting cannot agree the recommendations to be made under paragraph (9) the persons who attended the meeting shall make differing recommendations as appears necessary to each of them.

(11) The report to be submitted under paragraph (2) of this regulation or paragraph (3) of regulation 18 shall be completed after the meeting is held and shall include the head teacher's assessment of the matters referred to in paragraph (8) and the head teacher's recommendations as to the matters referred to in paragraph (9), and shall refer to any difference between the head teacher's assessment and recommendations and those of the meeting.

(12) When the head teacher submits a report to the authority under paragraph (2) of this regulation or paragraph (3) of regulation 18 the head teacher shall at the same time send copies to—

- (a) the child’s parent,
- (b) any other person who submitted advice under paragraph (4) or paragraph (7),
- (c) any other person to whom the authority consider it appropriate that a copy be sent and to whom they direct the head teacher to send a copy, and
- (d) any other person to whom the head teacher considers it appropriate that a copy be sent.

(13) The authority shall review the statement under section 328 in light of the report and any other information or advice which they consider relevant, record in writing their decisions on the matters referred to in paragraph (9)(a) and (b) and, where a transition plan exists, shall make written recommendations for amendments to the plan as they consider appropriate.

(14) The authority shall within one week of completing the review under section 328 send copies of their decisions and recommendations to—

- (a) the child’s parent;
- (b) the head teacher;
- (c) any other person to whom the authority consider it appropriate that a copy be sent.

(15) The head teacher shall be responsible for ensuring that any necessary amendments to any transition plan are made.

(16) In this regulation “school” has the same meaning as in regulation 18.

### **Review of statements where child in tenth year of compulsory education attends school**

**21.**—(1) This regulation applies where—

- (a) an authority carry out an annual review of a child’s statement;
- (b) the child concerned attends a school; and
- (c) the review is the first review after the child has commenced the tenth year of compulsory education.

(2) Subject to paragraph (3) the authority shall by notice in writing require the head teacher of the child’s school to submit a report to them under this regulation by a specified date not less than two months from the date when the notice is given.

(3) If the name of the child is included in the notice served under paragraph (1) of regulation 18 no further notice need be served on the head teacher in respect of that child under paragraph (2) of this regulation.

(4) The head teacher shall for the purposes of the report referred to in paragraph (2) of this regulation or paragraph (3) of regulation 18 seek the advice referred to in paragraph (5) from—

- (a) the child’s parent (in relation to all matters referred to in paragraph (5));
- (b) any person whose advice the authority consider appropriate for the purpose of arriving at a satisfactory report and whom they specify in the notice referred to in paragraph (2) or in paragraph (1) of regulation 18 in relation to a particular child (in relation to such of the matters referred to in paragraph (5) as the head teacher considers are within that person’s knowledge or expertise);
- (c) a representative of the Careers Service (in relation to the matters referred to in sub-paragraph (5)(f) and such other matters referred to in paragraph (5) as the head teacher considers are within that person’s knowledge or expertise); and

- (d) any person whose advice the head teacher considers appropriate for the purpose of arriving at a satisfactory report (in relation to such of the matters referred to in paragraph (5) as the head teacher considers are within that person's knowledge or expertise).
- (5) The advice referred to in paragraph (4) shall be written advice as to—
- (a) the child's progress towards meeting the objectives specified in the statement;
  - (b) the child's progress towards attaining any targets established in furtherance of the objectives specified in the statement;
  - (c) where the school is a community, foundation or voluntary school or a community or foundation special school other than a special school established in a hospital, the application of the provisions of the National Curriculum to the child, and the progress made in relation to those provisions by the child since the statement was made or the last review under section 328;
  - (d) the application of any provisions substituted for the provisions of the National Curriculum in order to maintain a balanced and broadly based curriculum and the progress made in relation to the provisions by the child since the statement was made or the last review under section 328;
  - (e) the progress made by the child since the statement was made or the last review under section 328 in his or her behaviour and attitude to learning;
  - (f) any matters which are the appropriate subject of a transition plan;
  - (g) whether the statement continues to be appropriate;
  - (h) any amendments to the statement which would be appropriate; and
  - (i) whether the authority should cease to maintain the statement.
- (6) The notice referred to in paragraph (2) of this regulation or paragraph (1) of regulation 18 shall require the head teacher to invite the following persons to attend a meeting to be held on a date before the report referred to in that paragraph is required to be submitted—
- (a) the child's parent;
  - (b) a member or members of the staff of the school who teach the child or who are otherwise responsible for the provision of education for the child whose attendance the head teacher considers appropriate;
  - (c) a representative of the social services authority;
  - (d) a representative of the Careers Service;
  - (e) any person whose attendance the head teacher considers appropriate;
  - (f) any person whose attendance the authority consider appropriate and who is specified in the notice; and
  - (g) a representative of the authority.
- (7) The head teacher shall not later than two weeks before the date on which the meeting referred to in paragraph (6) is to be held serve on all the persons invited to attend that meeting and who have not informed the head teacher that they will not be attending it copies of the advice received pursuant to the request under paragraph (4) and shall by written notice request the recipients to submit to him or her before or at the meeting written comments on that advice and any other advice which they think appropriate.
- (8) The meeting referred to in paragraph (6) shall consider—
- (a) the matters referred to in paragraph (5), in all cases including the matters referred to in 5(f), and



- (b) any significant changes in the child’s circumstances since the date on which the statement was made or last reviewed under section 328.
- (9) The meeting shall recommend—
  - (a) any steps which it concludes ought to be taken, including whether the authority should amend or cease to maintain the statement,
  - (b) any targets to be established in furtherance of the objectives specified in the statement which it concludes the child ought to meet during the period until the next review, and
  - (c) the matters which it concludes ought to be included in a transition plan.
- (10) If the meeting cannot agree the recommendations to be made under paragraph (9) the persons who attended the meeting shall make differing recommendations as appears necessary to each of them.
- (11) The report to be submitted under paragraph (2) of this regulation or paragraph (3) of regulation 18 shall be completed after the meeting is held, shall include the head teacher’s assessment of the matters referred to in paragraph (8) and the head teacher’s recommendations as to the matters referred to in paragraph (9), and shall refer to any difference between head teacher’s assessment and recommendations and those of the meeting.
- (12) When the head teacher submits a report to the authority under paragraph (2) of this regulation or paragraph (3) of regulation 18 the head teacher shall at the same time send copies to—
  - (a) the child’s parent;
  - (b) any other person to whom the authority considers it appropriate that a copy be sent and to whom they direct the head teacher to send a copy, and
  - (c) any other person to whom the head teacher considers it appropriate that a copy be sent.
- (13) The authority shall review the statement under section 328 in light of the report and any other information or advice which they consider relevant, shall make written recommendations as to the matters referred to in paragraphs 9(a), (b) and (c).
- (14) The authority shall within one week of completing the review under section 328 send copies of the recommendations and the transition plan to—
  - (a) the child’s parent;
  - (b) the head teacher;
  - (c) any other person to whom they consider it appropriate to send a copy.
- (15) The head teacher shall be responsible for ensuring that a transition plan is drawn up.
- (16) In this regulation “school” has the same meaning as in regulation 18.

### **Review of statement where child does not attend school**

**22.—**(1) This regulation applies where an authority review a statement under section 328 and the child concerned does not attend a school.

(2) The authority shall prepare a report addressing the matters referred to in regulation 20(5), including the matters referred to in regulation 20(5)(f) in any case where the review referred to in paragraph (1) is commenced after the child begins the tenth year of compulsory education, and for that purpose shall seek advice on those matters from the child’s parent and on such of those matters from any other person whose advice they consider appropriate in the case in question for the purpose of arriving at a satisfactory report.

(3) The authority shall invite the following persons to attend a meeting to be held on a date before the review referred to in paragraph (1) is required to be completed—

- (a) the child’s parent;

- (b) where the review referred to in paragraph (1) is the first review commenced after the child has begun the tenth year of compulsory education, a representative of the social services authority;
  - (c) where sub-paragraph (b) applies, a representative of the Careers Service; and
  - (d) any person or persons whose attendance the authority consider appropriate.
- (4) The authority shall not later than two weeks before the date on which the meeting referred to in paragraph (3) is to be held send to all the persons invited to that meeting a copy of the report which they propose to make under paragraph (2) and by written notice accompanying the copies shall request the recipients to submit to the authority written comments on the report and any other advice which they think appropriate.
- (5) A representative of the authority shall attend the meeting.
- (6) The meeting shall consider the matters referred to in regulation 20(5), and in any case where the review is commenced after the child has begun the tenth year of compulsory education, the matters referred to in regulation 20(5)(f), and shall make recommendations in accordance with regulation 20(9), and in any case where the child has begun the tenth year of compulsory education, recommendations as to the matters which it concludes ought to be included in a transition plan.
- (7) The report prepared by the authority under paragraph (2) shall be completed after the meeting referred to in paragraph (3) is held, shall contain the authority's assessment of the matters required to be considered by the meeting and their recommendations as to the matters required to be recommended by it, and shall refer to any difference between their assessment and recommendations and those of the meeting.
- (8) The authority shall within one week of the date on which the meeting referred to in paragraph (3) was held send copies of the report completed under paragraph (7) to—
- (a) the child's parent;
  - (b) any person to whom they consider it appropriate to send a copy.
- (9) The authority shall review the statement under section 328 in light of the report and any other information or advice which it considers relevant, shall make written recommendations as to the matters referred to in regulation 20(9) and in any case where the review is the first review commenced after the child has commenced the tenth year of compulsory education, prepare a transition plan, and in any case where a transition plan exists amend the plan as they consider appropriate.
- (10) The authority shall within one week of completing the review under section 328 send copies of the recommendations and any transition plan referred to in paragraph (9) to the persons referred to in paragraph (8).
- (11) In this regulation "school" has the same meaning as in regulation 18.

### **Transfer of statements**

- 23.—**(1) This regulation applies where a child in respect of whom a statement is maintained moves from the area of the authority which maintains the statement ('the old authority') into that of another ('the new authority').
- (2) The old authority shall transfer the statement to the new authority.
  - (3) From the date of the transfer—
    - (a) the statement shall be treated for the purposes of the new authority's duties and functions under Part IV of the Act and these Regulations as if it had been made by the new authority on the date on which it was made by the old authority, and
    - (b) where the new authority make an assessment and the old authority have supplied the new authority with advice obtained in pursuance of a previous assessment regulation 7(5) shall

apply as if the new authority had obtained the advice on the date on which the old authority obtained it.

(4) The new authority shall within 6 weeks of the date of the transfer serve a notice on the child's parent informing the parent—

- (a) that the statement has been transferred,
- (b) whether they propose to make an assessment, and
- (c) when they propose to review the statement in accordance with paragraph (5).

(5) The new authority shall review the statement under section 328(5)(b) before the expiry of whichever of the following two periods expires later—

- (a) the period of twelve months beginning with the making of the statement, or as the case may be, with the previous review, or
- (b) the period of three months beginning with the date of the transfer.

(6) Where by virtue of the transfer the new authority come under a duty to arrange the child's attendance at a school specified in the statement but in light of the child's move that attendance is no longer practicable the new authority may arrange for the child's attendance at another school appropriate for the child until such time as it is possible to amend the statement in accordance with the procedure set out in Schedule 27.

(7) In this regulation "the new authority" shall include a local education authority in England for the purposes of paragraphs (1) and (2) only.

(8) An authority to whom a statement is transferred from a local education authority in England shall treat the statement as having been transferred by an old authority for the purposes of paragraphs (3) to (6).

### **Restriction on disclosure of statements**

**24.**—(1) Subject to the provisions of the Act and of these Regulations, a statement in respect of a child shall not be disclosed without the child's consent except—

- (a) to persons to whom, in the opinion of the authority concerned, it is necessary to disclose the statement in the interests of the child;
- (b) for the purposes of any appeal under the Act;
- (c) for the purposes of educational research which, in the opinion of the authority, may advance the education of children with special educational needs, if, but only if, the person engaged in that research undertakes not to publish anything contained in, or derived from, a statement otherwise than in a form which does not identify any individual concerned including, in particular, the child concerned and his parent;
- (d) on the order of any court or for the purposes of any criminal proceedings;
- (e) for the purposes of any investigation under Part III of the Local Government Act 1974<sup>(2)</sup> (investigation of maladministration);
- (f) to the National Assembly when it requests such disclosure for the purposes of deciding whether to give directions or make an order under section 496, 497 or 497A of the Act;
- (g) for the purposes of an assessment of the needs of the child with respect to the provision of any statutory services for the child being carried out by officers of a social services authority by virtue of arrangements made under section 5(5) of the Disabled Persons (Services, Consultation and Representation) Act 1986<sup>(3)</sup>;

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(2) 1974 c. 7.

(3) 1986 c. 33; section 5 is amended by the Special Education Needs and Disability Act 2001, paragraphs 16 to 18 of Schedule 8.

- (h) for the purposes of a local authority in the performance of their duties under sections 22(3)(a), 85(4)(a), 86(3)(a) and 87(3) of the Children Act 1989(4);
- (i) to Her Majesty's Chief Inspector of Education and Training in Wales, one of Her Majesty's Inspectors of Education and Training in Wales, or to a registered inspector or a member of an inspection team, who requests the right to inspect or take copies of a statement in accordance with section 2(8) or 3(3) of or paragraph 7 of Schedule 2 to the School Inspections Act 1996(5) respectively;
- (j) to the Careers Service for the purposes of writing or amending a transition plan; or
- (k) to a Young Offender Institution for the purposes of the performance of its duties under Rule 38 of the Young Offender Institution Rules 2000(6).

(2) A child may consent to the disclosure of a statement for the purposes of this regulation if the child's age and understanding are sufficient to allow the child to understand the nature of that consent.

(3) If a child does not have sufficient age or understanding to allow the child to consent to disclosure of his or her statement, the child's parent may consent on his or her behalf.

(4) The arrangements for keeping such statements shall be such as to ensure, so far as is reasonably practicable, that unauthorised persons do not have access to them.

(5) In this regulation any reference to a statement includes a reference to any representations, evidence, advice or information which is set out in the appendices to a statement.

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(4) 1989 c. 41; section 87(3) is prospectively amended by the Care Standards Act 2000 (c. 14), section 105.

(5) 1996 c. 57; section 2(8) is amended by the Education Act 1997 (c. 44), section 42 and Schedule 6, and paragraph 7 of Schedule 3 is amended by the Education Act 1997, section 42 and Schedule 6, paragraph 12.

(6) S.I. 2000/3371.