
WELSH STATUTORY INSTRUMENTS

2002 No. 152

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

PART II

ASSESSMENTS

Time limits and prescribed information

12.—(1) Where under section 323(1) an authority serve a notice on a child's parent informing the parent that they are considering whether to make an assessment they shall within 6 weeks of the date of service of that notice give notice to the child's parent of—

- (a) their decision to make an assessment, and of their reasons for making that decision, or
- (b) their decision not to assess the educational needs of the child and of their reasons for making that decision, and
- (c) in either case the availability to the parent of advice and information on matters related to the child's special educational needs from the parent partnership service.

(2) Where under sections 328(2) or 329(1) a parent asks the authority to arrange for an assessment to be made they shall within 6 weeks of the date of receipt of the request give notice to the child's parent—

- (a) of—
 - (i) their decision to make an assessment;
 - (ii) their reasons for making that decision; and
 - (iii) the availability to the parent of advice and information on matters related to the child's special educational needs from the parent partnership service; or
- (b) of—
 - (i) their determination not to comply with the parent's request;
 - (ii) their reasons for making that determination;
 - (iii) the availability to the parent of advice and information on matters related to the child's special educational needs from the parent partnership service;
 - (iv) 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(1);
 - (v) the parent's right to appeal to the Tribunal against the determination not to make an assessment;
 - (vi) the time limit within which an appeal must be made to the Tribunal; and
 - (vii) the fact that the arrangements made under section 332B(1) cannot affect the parent's right to appeal to the Tribunal and that the parent may appeal to the Tribunal and enter into any arrangements made under section 332B(1).

- (3) Where section 329A applies an authority shall, within 6 weeks of the date of receipt of a request from a responsible body that an assessment of a child be made, give notice to that body—
- (a) of their decision to make an assessment, and of their reasons for making that decision, or
 - (b) of their decision not to assess the educational needs of the child, and of their reasons for making that decision.
- (4) Where section 329A applies an authority shall, within 6 weeks of the date of receipt of a request from a responsible body that an assessment of a child be made, give notice to the child’s parent—
- (a) of—
 - (i) their decision to make an assessment;
 - (ii) their reasons for making that decision; and
 - (iii) the availability to the parent of advice and information on matters related to the child’s special educational needs from the parent partnership service; or
 - (b) of—
 - (i) their decision not to assess the educational needs of the child;
 - (ii) their reasons for making that decision;
 - (iii) the availability to the parent of advice and information on matters related to the child’s special educational needs from the parent partnership service;
 - (iv) 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(1);
 - (v) the parent’s right to appeal to the Tribunal against the decision not to make an assessment;
 - (vi) the time limit within which an appeal must be made to the Tribunal; and
 - (vii) the fact that the arrangements made under section 332B(1) cannot affect the parent’s right to appeal to the Tribunal and that the parent may appeal to the Tribunal and enter into the arrangements made under section 332B(1) .
- (5) An authority need not comply with the time limits referred to in paragraphs (1) to (4) if it is impractical to do so because—
- (a) the authority have requested advice from the head teacher of a school during a period beginning one week before any date on which that school was closed for a continuous period of not less than 4 weeks from that date and ending one week before the date on which it re-opens;
 - (b) the authority have requested advice from the head of SEN or other person responsible for a child’s education at an early education provider during a period beginning one week before any date on which that early education provider was closed for a continuous period of not less than four weeks from that date and ending one week before the date on which it re-opens;
 - (c) exceptional personal circumstances affect the child or the child’s parent during the 6 week period referred to in paragraphs (1) to (4); or
 - (d) 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 6 week period referred to in paragraphs (1) to (4).
- (6) Subject to paragraph (7), where under sections 323(4) or 329A(7) an authority have given notice to the child’s parent of their decision to make an assessment they shall complete that assessment within 10 weeks of the date on which such notice was given.

(7) An authority need not comply with the time limit referred to in paragraph (6) if it is impractical to do so because—

- (a) in exceptional cases after receiving advice sought under regulation 7 it is necessary for the authority to seek further advice;
- (b) the child's parent has indicated to the authority that he or she wishes to provide advice to the authority after the expiry of 6 weeks from the date on which a request for such advice under regulation 7(1)(a) was received, and the authority have agreed to consider such advice before completing the assessment;
- (c) the authority have requested advice from the head teacher of a school under regulation 7(1)(b) during a period beginning one week before any date on which that school was closed for a continuous period of not less than 4 weeks from that date and ending one week before the date on which it re-opens;
- (d) the authority have requested advice from the head of SEN in relation to, or other person responsible for, a child's education at an early education provider under regulation 7(1)(b) during a period beginning one week before any date on which that early education provider was closed for a continuous period of not less than four weeks from that date and ending one week before the date on which it re-opens;
- (e) the authority have requested advice from a health authority or a social services authority under regulation 7(1)(c) or (e) respectively and the health authority or the social services authority have not complied with that request within 6 weeks from the date on which it was made;
- (f) exceptional personal circumstances affect the child or the child's parent during the 10 week period referred to in paragraph (6);
- (g) 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 10 week period referred to in paragraph (6); or
- (h) the child fails to keep an appointment for an examination or a test during the 10 week period referred to in paragraph (6).

(8) Subject to paragraphs (9), (10) and (11) where an authority have requested advice from a health authority or a social services authority under regulation 7(1)(c) or (e) respectively the health authority or social services authority shall comply with that request within 6 weeks of the date on which they receive it.

(9) A health authority or a social services authority need not comply with the time limit referred to in paragraph (8) if it is impractical to do so because—

- (a) exceptional personal circumstances affect the child or the child's parent during the 6 week period referred to in paragraph (8);
- (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 6 week period referred to in paragraph (8); or
- (c) the child fails to keep an appointment for an examination or a test made by the health authority or the social services authority respectively during the 6 week period referred to in paragraph (8).

(10) A health authority need not comply with the time limit referred to in paragraph (8) if they have not before the date on which a copy of a notice has been served on them in accordance with regulation 6(1), 6(3) or 6(4) produced or maintained any information or records relevant to the assessment of the child.

(11) A social services authority need not comply with the request referred to in paragraph (8) if they have not before the date on which a copy of a notice has been served on them in accordance with regulation 6(1), 6(3) or 6(4) produced or maintained any information or records relevant to the assessment of the child.