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WELSH STATUTORY INSTRUMENTS

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**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**

*Case statements and supplementary provision*

**Case statement period**

**19.**—(1) The case statement period—

- (a) is a period of 30 working days, commencing on the date on which notice given under regulation 15(1)(b)(iv) and 15(2)(c) is taken to have been received in accordance with regulation 79(11); and
- (b) includes any extension to that period ordered by the President under regulation 69.

(2) If the President makes a direction in relation to—

- (a) an appeal in accordance with regulation 17, the period specified in paragraph (1) does not start, and the Secretary of the Tribunal must not send a notice to the appellant as required by regulation 15(1)(b)(iv) or send any documents as required by regulation 15(2) until reasons are received in response to the direction;
- (b) a claim in accordance with regulation 17 or makes enquiries under regulation 15(3), the period specified in paragraph (1) does not start, and the Secretary of the Tribunal must not send a notice to the claimant as required by regulation 15(1)(b)(iv) or send any documents to the responsible body as required by regulation 15(2), until reasons are received in response to the direction or the enquiries are concluded.

**Appellant's or claimant's case statement and evidence**

**20.**—(1) The appellant or the claimant must submit to the Secretary of the Tribunal before the end of the case statement period—

- (a) a case statement; and
- (b) all other evidence to be relied on which has not already been submitted.

(2) The case statement must include—

- (a) where the appellant or the claimant is the parent of the child—
  - (i) the views of the child on the issues raised in the appeal or the claim; or
  - (ii) an explanation of why the appellant or claimant has not established the child's views;
- (b) where the appellant or the claimant is the child—

- (i) the views of the child's parent on the issues raised in the appeal or the claim; or
  - (ii) an explanation of why the appellant or claimant has not established the parent's views.
- (3) If the President gives permission, the appellant or the claimant may—
- (a) amend the appeal application or the claim application;
  - (b) submit a supplementary statement of reasons in support of the appeal application or the claim application;
  - (c) amend a supplementary statement of reasons in support of the appeal application or the claim application;
  - (d) submit a supplementary case statement;
  - (e) amend a supplementary case statement.
- (4) The appellant or the claimant must submit to the Secretary of the Tribunal a copy of every amendment and supplementary statement for which permission was given under paragraph (3) within the time period granted.
- (5) If an appeal application is amended in accordance with paragraph (3) so that the appellant seeks an order that a maintained school other than the one already named in the statement is named in the child's statement, or where none is named that a maintained school is named, the appellant must notify the head teacher of the maintained school named in the amended appeal application, stating the name and date of birth of the child.
- (6) If the school referred to in paragraph (5) is not maintained by the local authority, the appellant must notify the authority that maintains the school.
- (7) Where permission is given under paragraph (3), the President may, if necessary, extend the case statement period, under regulation 69 or, if it has expired, grant such further period as the President considers appropriate.
- (8) If, at the time permission is given under paragraph (3), the local authority or the responsible body has lost its entitlement to attend or be represented at the hearing in accordance with regulations 25 or 36 the giving of permission restores such entitlement and, if necessary, the hearing may be postponed or adjourned, as appropriate, so that the local authority or the responsible body can be represented.

### **Local authority's or responsible body's case statement and evidence**

- 21.—**(1) The local authority or the responsible body must submit to the Secretary of the Tribunal before the end of the case statement period—
- (a) a copy of the disputed decision;
  - (b) where the appeal is made under section 326 of, or paragraphs 8 or 11 of Schedule 27 to, the 1996 Act, a copy of the child's statement, any documentation attached to or forming part of the statement and if available a copy of the latest review;
  - (c) a case statement; and
  - (d) all other evidence to be relied on which has not already been submitted.
- (2) The local authority's or responsible body's case statement must be signed by a person who is authorised to sign such documents on the local authority's or responsible body's behalf, and must state whether or not the local authority or responsible body intends to oppose the appeal or claim.
- (3) If the local authority or the responsible body intends to oppose the appeal or the claim, its case statement must state—

- (a) the grounds on which the appeal or the claim or any part of the appeal or the claim is opposed;
  - (b) the name and address of the local authority's or the responsible body's representative and if available the representative's telephone number, fax number and email address;
  - (c) the address where documents for the local authority or the responsible body should be sent or delivered;
  - (d) a summary of the facts relating to the disputed decision;
  - (e) the reason or reasons for the disputed decision, if not included in the decision; and
  - (f) the steps, if any, already taken to resolve the dispute.
- (4) The local authority's or the responsible body's case statement must include—
- (a) the views of the child concerning the issues raised in the appeal or the claim; or
  - (b) an explanation of why it has not established the child's views.
- (5) The local authority or the responsible body may amend its case statement, submit a supplementary case statement, or amend a supplementary case statement, if permission is given by the President.
- (6) The local authority or the responsible body must submit to the Tribunal a copy of every amendment and supplementary statement for which permission was given under paragraph (5) within the time period granted.
- (7) If permission is given under paragraph (5) the President may extend the case statement period under regulation 69 or, if it has expired, grant such further period as the President considers appropriate.
- (8) If, at the time permission is given under paragraph (5), the appellant or the claimant has lost entitlement to attend or be represented at the hearing in accordance with regulation 36, the giving of permission restores such entitlement and, if necessary, the hearing may be postponed or adjourned, as appropriate, so that the appellant or the claimant can be represented.

#### **Change of local authority's or responsible body's representative**

**22.**—(1) The local authority or the responsible body may at any time change its representative for the purposes of the appeal or the claim by notifying the Secretary of the Tribunal of the name and address of its new representative and if available the representative's telephone number, facsimile number and email address.

(2) References in these Regulations (however expressed) to sending documents to, or giving notice to, the local authority or the responsible body are to be construed as references to sending documents to, or giving notice to, the representative named in accordance with paragraph (1) or regulation 21(3)(b).

#### **Change of local authority in an appeal**

**23.**—(1) This regulation applies for the purposes of an appeal if, after the date on which the local authority made the disputed decision, the local authority is no longer responsible for the child within the meaning of section 321(3) of the 1996 Act ("the old authority").

(2) Where paragraph (1) applies, the President may order that, for all the purposes of the appeal and on receiving evidence that this regulation applies, the name of the authority responsible for the child within the meaning of section 321(3) of the 1996 Act ("the new authority") is substituted for the old authority.

(3) The old authority, the new authority and the appellant must have an opportunity to be heard before an order is made under paragraph (2).

- (4) When an order is made under paragraph (2)—
- (a) the Secretary of the Tribunal must notify the old authority, the new authority and the appellant;
  - (b) the old authority is no longer a party to the appeal;
  - (c) the new authority becomes a party to the appeal;
  - (d) these Regulations apply as if the new authority had made the disputed decision;
  - (e) the Secretary of the Tribunal must send to the new authority copies of all the documents and written evidence relating to the appeal received by the Tribunal from the appellant and from the old authority;
  - (f) the procedure for determining the appeal re-starts and regulation 15 applies as if the documents and written evidence sent in accordance with sub-paragraph (e) were part of the appeal application referred to in regulation 15(1).

### **Copy documents for parties**

- 24.**—(1) Subject to paragraph (2), the Secretary of the Tribunal must—
- (a) send to the local authority or the responsible body a copy of any amendment to the appeal application or the claim application received during the case statement period;
  - (b) at the end of the case statement period send a copy of each party’s case statement and written evidence to the other party;
  - (c) immediately send copies of any amendments or supplementary statements, written representations, written evidence (other than written evidence of which a copy is received in accordance with regulation 50 (late written evidence)) or other documents received from a party after the end of the case statement period to the other party.

(2) If an appeal application or a claim application, a case statement, amendment, supplementary statement, written representation, written evidence or other document is submitted to the Secretary of the Tribunal after the time prescribed by these Regulations, the Secretary of the Tribunal must not send a copy of it to the other party unless the President extends the time limit under regulation 69.

(3) Where the Secretary of the Tribunal sends any copies of documents referred to in paragraph (1) to a party who has already informed the Secretary of the Tribunal in response to the enquiries made under regulation 26(a)(i) and (ii) that the party does not wish to attend or be represented at the hearing, the Secretary of the Tribunal must ask whether the party wishes to amend that response on the basis of the copies received.

### **Failure to submit a case statement and absence of opposition**

**25.**—(1) The tribunal panel may determine the appeal or the claim without a hearing or by holding a hearing if—

- (a) the Secretary of the Tribunal does not receive a case statement from the local authority or the responsible body within the case statement period;
- (b) the local authority or the responsible body states in writing that it does not resist—
  - (i) the appeal which relates to the contents of the child’s statement or a decision to cease to maintain the child’s statement; or
  - (ii) the claim;
- (c) the local authority or the responsible body withdraws its opposition to—
  - (i) the appeal which relates to the contents of the child’s statement or a decision to cease to maintain the child’s statement; or

(ii) the claim.

(2) Where the tribunal panel determines the appeal or the claim without a hearing it must do so on the basis of the appeal application or claim application and any other documentation already received or amended in accordance with regulation 20(3).

(3) If the tribunal panel decides to hold a hearing in accordance with paragraph (1), it may issue a direction precluding the local authority or the responsible body from attending the hearing or being represented at the hearing.

(4) If the appeal relates to—

- (a) the contents of a child's statement, no statement that the local authority does not resist the appeal or that it withdraws its opposition may take effect until the local authority submits to the Secretary of the Tribunal written confirmation of the amendments (if any) it agrees to make to the child's statement;
- (b) a decision to cease to maintain a statement, no statement that the local authority does not resist the appeal or that it withdraws its opposition may take effect until the local authority submits to the Secretary of the Tribunal written confirmation of its decision not to resist the appeal or to withdraw its opposition.