

*Status: Point in time view as at 01/09/2021.*

*Changes to legislation: Equality Act 2010, Paragraph 6A is up to date with all changes known to be in force on or before 23 April 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 17

#### DISABLED PUPILS: ENFORCEMENT

##### Modifications etc. (not altering text)

- C1** Sch. 17: power to amend or repeal conferred (10.2.2012) by Education (Wales) Measure 2009 (nawm 5), s. 18(2)(c) (as amended by [S.I. 2011/1651](#), [art. 12\(b\)](#)); [S.I. 2012/320](#), [art. 2\(g\)](#))

#### PART 2

#### TRIBUNALS IN ENGLAND AND WALES

##### *<sup>F1</sup>Case friends — Wales*

##### Textual Amendments

- F1** Sch. 17 para. 6A and cross-heading inserted (E.W.) (10.2.2012) by [Education \(Wales\) Measure 2009 \(nawm 5\)](#), [s. 12\(2\)](#) (as substituted (6.7.2011) by [The Right of a Child to Make a Disability Discrimination Claim \(Schools\) \(Wales\) Order 2011 \(S.I. 2011/1651\)](#), [art. 6](#)); [S.I. 2012/320](#), [art. 2\(e\)](#))

- [<sup>F2</sup>6A
- (1) This paragraph applies to a child not over compulsory school age who—
    - (a) has the right to make a claim under paragraph 3A, and
    - (b) lacks the capacity to understand what it means to exercise that right.
  - (2) The Education Tribunal for Wales may by order—
    - (a) appoint a person to be a case friend for a child to whom this section applies, or
    - (b) remove the person from being a case friend for the child,on the application of any person or on its own initiative, subject to provision in regulations under sub-paragraph (7).
  - (3) A case friend appointed for a child under this paragraph may—
    - (a) represent and support the child, and
    - (b) take decisions and act on behalf of the child,in respect of matters arising under or by virtue of this Schedule, subject to provision in regulations under sub-paragraph (7).
  - (4) Where a person is appointed to be a case friend by order of the Tribunal under this paragraph, the right of a child to make a claim under paragraph 3A is to be exercised by the case friend on behalf of the child.
  - (5) A case friend appointed under this paragraph must—

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- (a) act fairly and competently,
  - (b) not have any interest adverse to that of the child,
  - (c) ensure that all steps and decisions taken by the case friend are for the benefit of the child, and
  - (d) take account of the child's views, so far as possible.
- (6) In deciding whether to appoint a person to be a case friend, or to remove a person from being a case friend, the Tribunal must have regard, in particular, to whether the person is likely to comply (in the case of appointment) or has complied (in the case of removal) with the duty in sub-paragraph (5).
- (7) The Welsh Ministers may by regulations make further provision about case friends, including (among other things) provision—
- (a) conferring functions on the Education Tribunal for Wales;
  - (b) conferring functions on case friends;
  - (c) for procedures in relation to case friends;
  - (d) specifying the circumstances in which a person may or may not act as a case friend;
  - (e) specifying the circumstances in which a child must have a case friend;
  - (f) specifying requirements in respect of the conduct of case friends;
  - (g) applying any enactment with or without modifications for the purpose of enabling a case friend to make decisions or act on behalf of a child in respect of matters arising under or by virtue of this Schedule.]]

#### **Textual Amendments**

- F2** Sch. 17 para. 6A substituted (2.11.2020 for specified purposes; 1.9.2021 in so far as not already in force) by [Additional Learning Needs and Education Tribunal \(Wales\) Act 2018 \(anaw 2\)](#), s. 100(3), [Sch. 1 para. 19\(5\)\(g\)](#); S.I. 2020/1182, [reg. 3\(1\)\(n\)](#); S.I. 2021/373, [art. 8\(j\)\(xxxiii\)](#)

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