



Education and Inspections Act 2006

2006 CHAPTER 40

PART 7

DISCIPLINE, BEHAVIOUR AND EXCLUSION

CHAPTER 1

SCHOOL DISCIPLINE

Enforcement of discipline (including compliance with instructions)

90 **Meaning of “disciplinary penalty”**

- (1) In this Chapter, “disciplinary penalty” means a penalty imposed on a pupil, by any school at which education is provided for him, where his conduct falls below the standard which could reasonably be expected of him (whether because he fails to follow a rule in force at any such school or an instruction given to him by a member of its staff or for any other reason).
- (2) In subsection (1), the reference to conduct, in relation to a pupil, includes—
 - (a) conduct which occurs at a time when the pupil is not on the premises of a school and is not under the lawful control or charge of a member of the staff of a school, but only to the extent that it is reasonable for the school imposing the penalty to regulate the pupil's conduct at such a time, and
 - (b) conduct which consists of a failure by the pupil to comply with a penalty previously imposed on him.

Commencement Information

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| I1 | S. 90 in force at 1.4.2007 for E. by S.I. 2007/935, art. 4(a) |
| I2 | S. 90 in force at 31.10.2010 for W. by S.I. 2010/2543, art. 2(c) |

Status: Point in time view as at 01/09/2013.

Changes to legislation: Education and Inspections Act 2006, Cross Heading: Enforcement of discipline (including compliance with instructions) is up to date with all changes known to be in force on or before 07 July 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)

91 Enforcement of disciplinary penalties: general

- (1) This section applies in relation to a disciplinary penalty imposed on a pupil by any school at which education is provided for him, other than a penalty which consists of exclusion.
- (2) The imposition of the disciplinary penalty is lawful if the following three conditions are satisfied.
- (3) The first condition is that the imposition of the penalty on the pupil—
 - (a) is not in breach of any statutory requirement or prohibition, and
 - (b) is reasonable in all the circumstances.
- (4) The second condition is that the decision to impose the penalty on the pupil was made—
 - (a) by any paid member of the staff of the school, except in circumstances where the head teacher has determined that the member of staff is not permitted to impose the penalty on the pupil, or
 - (b) by any other member of the staff of the school, in circumstances where the head teacher has authorised the member of the staff to impose the penalty on the pupil and it was reasonable for the head teacher to do so.
- (5) The third condition is that the decision to impose the penalty was made, and any action taken on behalf of the school to implement the decision was taken—
 - (a) on the premises of the school, or
 - (b) elsewhere at a time when the pupil was under the lawful control or charge of a member of staff of the school.
- (6) In determining for the purposes of subsection (3)(b) whether the imposition of the penalty is reasonable, the following matters must be taken into account—
 - (a) whether the imposition of the penalty constitutes a proportionate punishment in the circumstances of the case, and
 - (b) any special circumstances relevant to its imposition on the pupil which are known to the person imposing it (or of which he ought reasonably to be aware) including in particular—
 - (i) the pupil's age,
 - (ii) any special educational needs he may have,
 - (iii) any disability he may have, and
 - (iv) any religious requirements affecting him.
- (7) For the purposes of subsection (6)(b)(iii) a pupil has a disability if he has a disability for the purposes of the [F1Equality Act 2010].
- (8) A determination or authorisation by the head teacher for the purpose of subsection (4) (a) or (b) may be made—
 - (a) in relation to a particular member of staff or members of staff of a particular description;
 - (b) in relation to a particular disciplinary penalty or disciplinary penalties of a particular description;
 - (c) in relation to a particular pupil or pupils of a particular description or generally in relation to pupils.

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- (9) Where the disciplinary penalty is detention outside school sessions, this section has effect subject to section 92.
- (10) Nothing in this section authorises anything to be done in relation to a pupil which constitutes the giving of corporal punishment within the meaning of section 548 of EA 1996.
- (11) This section is not to be construed as restricting what may lawfully be done apart from this section.
- (12) In this section, “paid member of the staff”, in relation to a school, means any member of the staff who works at the school for payment, whether under a contract of employment or a contract for services; and, for this purpose, it is immaterial whether the contract of employment or contract for services is made with the governing body or proprietor of the school or with any other person.

Textual Amendments

- F1** Words in s. 91(7) substituted by 2010 c. 15, Sch. 26 Pt. 1 para. 94 (as inserted (1.10.2010) by [The Equality Act 2010 \(Consequential Amendments, Saving and Supplementary Provisions\) Order 2010 \(S.I. 2010/2279\)](#), art. 1(2), [Sch. 1 para. 6](#) (see S.I. 2010/2317, art. 2))

Commencement Information

- I3** S. 91 in force at 1.4.2007 for E. by [S.I. 2007/935](#), art. 4(a)
I4 S. 91 in force at 31.10.2010 for W. by [S.I. 2010/2543](#), art. 2(c)

92 Enforcement of disciplinary penalties: detention outside school sessions

- (1) This section applies in relation to a disciplinary penalty which consists of the detention of a pupil outside school sessions.
- (2) In relation to a disciplinary penalty to which this section applies, subsection (2) of section 91 has effect as if it required the following additional conditions to be satisfied, as well as the conditions set out in subsections (3) to (5) of that section.
- (3) The additional conditions are—
 - (a) that the pupil has not attained the age of 18,
 - (b) that the head teacher of the school has previously determined, and has made generally known within the school and to parents of registered pupils at the school, that the detention of pupils outside school sessions is one of the measures that may be taken with a view to regulating the conduct of pupils,
 - (c) that the detention is on a permitted day of detention, and
 - (d) that ^[F2], in relation to a pupil at a school in Wales, the pupil's parent has been given at least 24 hours' notice in writing that the detention is due to take place.
- (4) The additional conditions set out in subsection (3)(a), (c) and (d) do not apply in the case of a detention during a break between school sessions on the same day.
- (5) If arrangements have to be made for the pupil to travel to school for the purposes of the detention or to travel home after the detention, then in determining for the purposes of the condition in subsection (3) of section 91 whether the imposition of the detention is reasonable, subsection (6) of that section is to be read as if it also required the question

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whether suitable travelling arrangements can reasonably be made by his parent to be taken into account.

- (6) Section 572 of EA 1996, which provides for the methods by which notices may be served under that Act, does not preclude a notice under subsection (3)(d) from being given to the parent by any effective method.
- (7) This section is not to be construed as restricting what may lawfully be done apart from this section.
- (8) In this section, “permitted day of detention”, in relation to a pupil, means any of the following days—
- (a) a school day, other than a day on which the pupil has leave to be absent, and for this purpose “leave” means leave granted by a person authorised to do so by the governing body or proprietor of the school;
 - (b) a Saturday or Sunday during a school term, other than a Saturday or Sunday which falls during, or at a weekend immediately preceding or immediately following, a half-term break;
 - (c) a day (whether or not during a school term) which is set aside wholly or mainly for the performance of duties by members of the staff of the school other than teaching, other than such a day which is excluded by regulations made—
 - (i) in relation to England, by the Secretary of State, and
 - (ii) in relation to Wales, by the Assembly.

Textual Amendments

F2 Words in s. 92(3)(d) inserted (15.1.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 5**, 82(3); [S.I. 2012/84](#), **art. 2**

Modifications etc. (not altering text)

C1 S. 92(3)(b) modified (1.9.2013) by [The Operation of the Local Curriculum \(Wales\) Regulations 2013 \(S.I. 2013/1793\)](#), **regs. 1(1)**, **12**

C2 S. 92(3)(d) modified (1.9.2013) by [The Operation of the Local Curriculum \(Wales\) Regulations 2013 \(S.I. 2013/1793\)](#), **regs. 1(1)**, **12**

Commencement Information

I5 S. 92 in force at 1.4.2007 for E. by [S.I. 2007/935](#), **art. 4(a)**

I6 S. 92(1)-(7) (8)(a)(c) in force at 31.10.2010 for W. by [S.I. 2010/2543](#), **art. 2(d)**

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