



Education (No. 2) Act 1986

1986 CHAPTER 61

PART III

ORGANISATION AND FUNCTIONS

Discipline

22 Discipline: general duties.

The articles of government for every county, voluntary and maintained special school shall provide—

- (a) for it to be the duty of the head teacher to determine measures (which may include the making of rules and provision for enforcing them) to be taken with a view to—
 - (i) promoting, among pupils, self-discipline and proper regard for authority;
 - (ii) encouraging good behaviour on the part of pupils;
 - (iii) securing that the standard of behaviour of pupils is acceptable; and
 - (iv) otherwise regulating the conduct of pupils;
- (b) for it to be the duty of the head teacher, in determining any such measures—
 - (i) to act in accordance with any written statement of general principles provided for him by the governing body; and
 - (ii) to have regard to any guidance that they may offer in relation to particular matters;
- (c) for it to be the duty of the head teacher to make any such measures generally known within the school;
- (d) for the standard of behaviour which is to be regarded as acceptable at the school to be determined by the head teacher, so far as it is not determined by the governing body;
- (e) for it to be the duty of the governing body and the head teacher to consult the local education authority, before determining any such measures, on

Status: Point in time view as at 01/02/1991.

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any matter arising from the proposed measures which can reasonably be expected—

- (i) to lead to increased expenditure by the authority; or
- (ii) to affect the responsibilities of the authority as an employer;
- (f) for the power to exclude a pupil from the school (whether by suspension, expulsion or otherwise) to be exercisable only by the head teacher.

23 Exclusion of pupils: duty to inform parents etc.

The articles of government for every county, voluntary and maintained special school shall provide—

- (a) for it to be the duty of the head teacher—
 - (i) where he excludes from the school a pupil who is under eighteen, to take (without delay) reasonable steps to inform a parent of the pupil of the period of the exclusion and the reasons for it;
 - (ii) where he decides that any exclusion of such a pupil from the school which was originally for a fixed or indefinite period should be made permanent, to take (without delay) reasonable steps to inform a parent of the pupil of his decision and of the reasons for it; and
 - (iii) where he excludes any pupil from the school to take (without delay) reasonable steps to inform the pupil, if he is aged eighteen or over, or a parent of his, if he is under eighteen, that the pupil or (as the case may be) parent may make representations about the exclusion to the governing body and the local education authority;
- (b) for it to be the duty of the head teacher, where he excludes a pupil from the school—
 - (i) for more than five school days (in the aggregate) in any one term; or
 - (ii) in circumstances in which the pupil would, as a result of his exclusion from the school, lose an opportunity to take any public examination;
 to inform the local education authority and the governing body (without delay) of the period of the exclusion and of the reasons for it and where he decides that any exclusion of a pupil from the school which was originally for a fixed or indefinite period should be made permanent, to inform them (without delay) of his decision and of the reasons for it.

24 Reinstatement of excluded pupils: county, controlled and maintained special schools.

The articles of government for every county, controlled and maintained special school shall provide—

- (a) for it to be the duty of the local education authority, where they have been informed of the permanent exclusion of a pupil from the school—
 - (i) to consider, after consulting the governing body, whether he should be reinstated immediately, reinstated by a particular date or not reinstated;
 - (ii) where they consider that he should be reinstated, to give the appropriate direction to the head teacher; and
 - (iii) where they consider that he should not be reinstated, to inform the pupil (if he is aged eighteen or over) or a parent of his (if he is under eighteen) of their decision;

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- (b) for it to be the duty of the head teacher, where he has excluded a pupil from the school—
 - (i) for more than five school days (in the aggregate) in any one term; or
 - (ii) in circumstances in which the pupil would, as a result of his exclusion from the school, lose an opportunity to take any public examination;to comply with any direction for the reinstatement of the pupil given by the governing body or the local education authority, in the case of an exclusion for a fixed period, or by the governing body, in the case of an exclusion which is for an indefinite period or is permanent;
- (c) for it to be the duty of the local education authority, where they have been informed of the indefinite exclusion of a pupil from the school, to consult the governing body and, where the governing body do not intend to direct the head teacher to reinstate the pupil or the authority consider that he should be reinstated by a date which is earlier than that determined by the governing body as the date by which he is to be reinstated—
 - (i) to direct that he be reinstated immediately; or
 - (ii) to direct that he be reinstated within such period as may be specified in the direction;
- (d) for it to be the duty of the local education authority where—
 - (i) they have been informed of the exclusion of a pupil from the school for a fixed period; and
 - (ii) they propose to give a direction for his reinstatement;to consult the governing body before doing so;
- (e) for any direction given by virtue of paragraph (c) above to cease to have effect (without prejudice to any subsequent direction given by virtue of any other provision made by the articles in accordance with this section) if the head teacher decides that the exclusion of the pupil concerned should be made permanent;
- (f) for it to be the duty of the head teacher to comply with any direction given in exercise of the duty imposed on the local education authority by virtue of paragraph (a) or (c) above;
- (g) for it to be the duty of the head teacher, where conflicting directions for the reinstatement of a pupil are given by the governing body and the local education authority, to comply with that direction which will lead to the earlier reinstatement of the pupil; and
- (h) for it to be the duty of the governing body and the local education authority to inform each other and—
 - (i) the pupil concerned, if he is aged eighteen or over; or
 - (ii) a parent of his, if he is under eighteen;of any direction, of a kind mentioned in this section, which is given by them.

Modifications etc. (not altering text)

C1 Ss. 24–26 amended by S.I. 1989/1503, art. 25(4)

25 Reinstatement of excluded pupils: aided and special agreement schools.

The articles of government for every aided and special agreement school shall provide—

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- (a) for it to be the duty of the governing body, where they have been informed of the permanent exclusion of a pupil from the school—
 - (i) to consider whether he should be reinstated immediately, reinstated by a particular date or not reinstated;
 - (ii) where they consider that he should be reinstated, to give the appropriate direction to the head teacher; and
 - (iii) where they consider that he should not be reinstated, to inform (without delay) the local education authority and either the pupil, if he is aged eighteen or over, or a parent of his, if he is under eighteen, of their decision;
- (b) for it to be the duty of the head teacher where he has excluded a pupil from the school—
 - (i) for more than five school days (in the aggregate) in any one term; or
 - (ii) in circumstances in which the pupil would, as a result of his exclusion from the school, lose an opportunity to take any public examination;
 to comply with any direction for the reinstatement of the pupil given by the governing body or, in the case of an exclusion for a fixed period, by the governing body or the local education authority;
- (c) for it to be the duty of the local education authority to consult the governing body before giving any direction by virtue of paragraph (b) above;
- (d) for it to be the duty of the local education authority, where they have been informed of the indefinite exclusion of a pupil from the school, to consult the governing body and, where the governing body do not intend to direct the head teacher to reinstate the pupil or the authority consider that he should be reinstated by a date which is earlier than that determined by the governing body as the date by which he is to be reinstated—
 - (i) to direct that he be reinstated immediately; or
 - (ii) to direct that he be reinstated within such period as may be specified in the direction;
- (e) for any direction given by virtue of paragraph (d) above to cease to have effect (without prejudice to any direction given by virtue of any other provision made by the articles in accordance with this section) if the head teacher decides that the exclusion of the pupil concerned should be made permanent;
- (f) for it to be the duty of the head teacher to comply with any direction given in exercise of the duty imposed on the local education authority by virtue of paragraph (d) above;
- (g) for it to be the duty of the head teacher, where conflicting directions for the reinstatement of a pupil are given by the governing body and the local education authority, to comply with that direction which will lead to the earlier reinstatement of the pupil; and
- (h) for it to be the duty of the governing body and the local education authority to inform each other and—
 - (i) the pupil concerned, if he is aged eighteen or over; or
 - (ii) a parent of his, if he is under eighteen;
 of any direction, of a kind mentioned in this section, which is given by them.

Modifications etc. (not altering text)

C2 Ss. 24–26 amended by S.I. 1989/1503, art. 25(4)

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26 Appeals.

- (1) Every local education authority shall make arrangements for enabling—
 - (a) a registered pupil at a county, controlled or maintained special school who is aged eighteen or over, or a parent of his, in the case of a pupil at such a school who is under eighteen, to appeal against any decision not to reinstate the pupil following his permanent exclusion from the school; and
 - (b) any governing body of such a school, the head teacher of which has been directed by the authority to reinstate any registered pupil at the school who has been permanently excluded, to appeal against the direction.
- (2) The governing body of every aided or special agreement school shall make arrangements for enabling a registered pupil at the school who is aged eighteen or over, or a parent of a pupil at such a school who is under eighteen to appeal against any decision not to reinstate the pupil following his permanent exclusion from the school.
- (3) Joint arrangements may be made under subsection (2) above by the governing bodies of two or more aided or special agreement schools maintained by the same local education authority.
- (4) Any appeal by virtue of this section shall be to an appeal committee constituted in accordance with Part I of Schedule 2 to the 1980 Act; and Schedule 3 to this Act shall have effect, in place of Part II of Schedule 2 to the 1980 Act, in relation to any such appeal.
- (5) The decision of an appeal committee on any such appeal shall be binding on the persons concerned; and where the committee determines that the pupil in question should be reinstated it shall direct that he be reinstated immediately or direct that he be reinstated by such date as is specified in the direction.

Modifications etc. (not altering text)

C3 Ss. 24–26 amended by S.I. 1989/1503, art. 25(4)

27 Exclusion: additional provision for appeals.

Where the articles of government for any county, voluntary or maintained special school provide—

- (a) for the parents of any pupil who is excluded from the school in circumstances in which no right of appeal is given by section 26 of this Act to have the right to appeal against his exclusion to a person specified by the articles; and
- (b) for the procedure to be followed on such an appeal; any decision on such an appeal that the pupil should be reinstated, or that he should be reinstated earlier than would otherwise be the case, shall be binding on the head teacher.

28 Local education authority's reserve power.

- (1) Every local education authority shall have power, in the circumstances mentioned in subsection (3) below, to take such steps in relation to any county, controlled or special school maintained by them as they consider are required to prevent the breakdown, or continuing breakdown, of discipline at the school.

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- (2) The governing body and the head teacher of every aided and special agreement school shall, in the circumstances mentioned in subsection (3) below, consider any representations made to them by the local education authority.
- (3) The circumstances are that—
- (a) in the opinion of the authority—
 - (i) the behaviour of registered pupils at the school; or
 - (ii) any action taken by such pupils or their parents;is such that the education of any such pupils is, or is likely in the immediate future to become, severely prejudiced; and
 - (b) the governing body have been informed in writing of the authority's opinion.
- (4) Steps taken by an authority under subsection (1) above may include the giving of any direction to the governing body or head teacher.

Modifications etc. (not altering text)

C4 S. 28(1)(3)(4) modified (1.9.1994) by S.I. 1994/2103, art. 2, **Sch. 1 Pt I para. 2(2)**

Status:

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