



# Education and Inspections Act 2006

## 2006 CHAPTER 40

### PART 7

#### DISCIPLINE, BEHAVIOUR AND EXCLUSION

### CHAPTER 2

#### PARENTAL RESPONSIBILITIES AND EXCLUDED PUPILS

VALID FROM 01/09/2007

#### *Excluded pupils*

#### **100 Duty of governing body or proprietor where pupil excluded for fixed period**

- (1) Except in prescribed cases, the governing body of a relevant school in England must make arrangements for the provision of suitable full-time education for pupils of compulsory school age who are excluded from the school for a fixed period on disciplinary grounds.
- (2) The education referred to in subsection (1) must be provided from a day that, in relation to the pupil concerned, is determined in accordance with regulations.
- (3) The education must not be provided at the school unless it is provided there in pursuance of arrangements which—
  - (a) are made jointly with the governing body of at least one other relevant school, and
  - (b) make provision for the education of pupils excluded on disciplinary grounds from any of the schools that are parties to the arrangements.

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(4) In determining what arrangements to make under subsection (1) in the case of any pupil, a governing body must have regard to any guidance given from time to time by the Secretary of State.

(5) In this section—

“governing body”, in relation to a relevant school which is an Academy, a city technology college or a city college for the technology of the arts, means proprietor;

“prescribed” means prescribed by regulations;

“regulations” means regulations made by the Secretary of State;

“relevant school” does not include a pupil referral unit;

“suitable full-time education”, in relation to a pupil, means efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have.

### **101 Duty of local education authority in relation to excluded pupils**

(1) Section 19 of EA 1996 (exceptional provision of education in pupil referral units or elsewhere) is amended as follows.

(2) After subsection (3) insert—

“(3A) In relation to England, the duty imposed by subsection (1) includes, except in prescribed cases, a duty to make arrangements for the provision of suitable full-time education at school or otherwise than at school for—

(a) children of compulsory school age who have been permanently excluded on disciplinary grounds from relevant schools or pupil referral units, and have not subsequently been admitted to schools other than pupil referral units, and

(b) children of compulsory school age who are excluded for a fixed period on disciplinary grounds from any pupil referral unit maintained by the authority.

(3B) The education referred to in subsection (3A) must be provided from a day that, in relation to the pupil concerned, is determined in accordance with regulations.”

(3) For subsection (6) substitute—

“(6) In this section—

“relevant school” means—

(a) a maintained school,

(b) an Academy,

(c) a city technology college, or

(d) a city college for the technology of the arts;

“suitable education”, in relation to a child or young person, means efficient education suitable to his age, ability and aptitude and to any special educational needs he may have (and “suitable full-time education” is to be read accordingly).”

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## **102 Reintegration interviews**

- (1) Regulations may require the head teacher of a relevant school in prescribed cases to request any parent of a temporarily excluded pupil to attend an interview (“a reintegration interview”) at the school with the head teacher of the school or any other person authorised by the head teacher.
- (2) The purpose of a reintegration interview is to assist the reintegration of the pupil after the period of exclusion and to promote the improvement of his behaviour.
- (3) Regulations under this section may make provision about the time within which any reintegration interview must be held, the procedure for arranging the interview and the notification of any request to the parent.
- (4) In this section—
  - “prescribed” means prescribed by regulations;
  - “regulations” means regulations made—
    - (a) in relation to England, by the Secretary of State, or
    - (b) in relation to Wales, by the Assembly;
  - “a temporarily excluded pupil” means a pupil who is or has been excluded on disciplinary grounds for a fixed period.

## **103 Duty of parent in relation to excluded pupil**

- (1) This section applies where—
  - (a) a pupil of compulsory school age (“the excluded pupil”) is excluded on disciplinary grounds from a relevant school in England, whether for a fixed period or permanently, and
  - (b) notice under section 104 has been given to a parent of the pupil.
- (2) The parent of the excluded pupil must ensure that the pupil is not present in a public place at any time during school hours on a day which—
  - (a) is one of the first five school days to which the exclusion mentioned in subsection (1)(a) relates or, where that exclusion is for a fixed period of five days or less, any of the days to which the exclusion relates, and
  - (b) is stated in the notice under section 104 to be a day on which the parent is subject to this subsection.
- (3) If the excluded pupil is present in a public place at any time during school hours on a school day falling within subsection (2), the parent commits an offence.
- (4) It is a defence for a person charged with an offence under subsection (3) to prove that he had a reasonable justification for his failure to comply with the duty imposed by subsection (2).
- (5) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (6) Proceedings for an offence under subsection (3) may not be instituted except by a local education authority.
- (7) Where the excluded pupil is excluded during the course of a school day but before the beginning of any afternoon session on that day, that day is to be treated for the purposes of subsection (2)(a) as the first day to which the exclusion relates.

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(8) In this section—

“parent”, in relation to a pupil, does not include any person who is not an individual;

“public place” means—

- (a) any highway, and
- (b) any place to which at the material time the public or any section of the public have access, on payment or otherwise, as of right or by virtue of express or implied permission;

“school hours” means any time during a school session of the school referred to in subsection (1)(a) or during a break between sessions of that school on the same day.

#### **104 Notice to parent relating to excluded pupil**

- (1) The head teacher of a relevant school in England, on excluding from the school a pupil of compulsory school age, must give the parent by the prescribed time a notice in writing complying with subsections (2) and (3) and containing such other information as may be prescribed.
- (2) Where the appropriate authority are or will be obliged under the relevant enactment to make arrangements for the provision of full-time education for the excluded pupil during his exclusion, or intend to do so without being so obliged, the notice must specify the first day on which full-time education is to be provided for the excluded pupil.
- (3) The notice must specify as days on which the parent is to be subject to section 103(2) each school day beginning with the first school day to which the exclusion relates and ending with the earliest of the following—
  - (a) where a day is specified under subsection (2), the school day preceding that day,
  - (b) the fifth school day to which the exclusion relates, and
  - (c) the last school day to which the exclusion relates.
- (4) Subsection (7) of section 103 applies for the purposes of subsection (3) as it applies for the purposes of subsection (2)(a) of that section.
- (5) Where the appropriate authority are a local education authority, they must provide the head teacher with such information as will enable the head teacher to give a notice complying with subsection (2).
- (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 this section from being given to the parent of the excluded pupil by any effective method.
- (7) Regulations may enable a notice under this section to be combined with a notice required by virtue of section 52(3)(a) of EA 2002 (which relates to the exclusion of pupils from maintained schools).
- (8) In this section—
 

“the appropriate authority” means—

  - (a) in the case of a permanent exclusion or an exclusion from a pupil referral unit, a local education authority,

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- (b) in the case of an exclusion for a fixed period from a maintained school, the governing body of the school, and
- (c) in the case of an exclusion for a fixed period from a relevant school which is an Academy, a city technology college or a city college for the technology of the arts, the proprietor of the school;
  - “prescribed” means prescribed by regulations;
  - “regulations” means regulations made by the Secretary of State;
  - “the relevant enactment” means—
- (a) where the appropriate authority is a local education authority, section 19 of EA 1996, and
- (b) in any other case, section 100 of this Act.

### **105 Penalty notice in respect of presence of excluded pupil in public place**

- (1) Where an authorised officer has reason to believe that a person has committed an offence under section 103(3), he may give the person a penalty notice in respect of the offence.
- (2) A penalty notice is a notice offering the person the opportunity of discharging any liability to conviction for the offence under section 103(3) to which the notice relates by payment of a penalty in accordance with the notice.
- (3) Where a person is given a penalty notice, proceedings for the offence to which the notice relates may not be instituted before the end of such period as may be prescribed.
- (4) Where a person is given a penalty notice, he cannot be convicted of the offence to which the notice relates if he pays a penalty in accordance with the notice.
- (5) Sums received by a local education authority under this section may be used by the authority for the purposes of any of their functions which may be specified in regulations but, to the extent that they are not so used, must be paid in accordance with regulations to the Secretary of State.
- (6) In this section—
  - “authorised officer” means—
    - (a) a constable,
    - (b) an officer of a local education authority in England who is authorised by the authority to give penalty notices, or
    - (c) an authorised staff member;
  - “authorised staff member” means—
    - (a) a head teacher of a relevant school in England, or
    - (b) a member of the staff of a relevant school in England who is authorised by the head teacher of the school to give penalty notices;
  - “regulations” means regulations made by the Secretary of State.

### **106 Penalty notices: supplemental**

- (1) Regulations may make—
  - (a) provision as to the form and content of penalty notices;

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- (b) provision as to the monetary amount of any penalty and the time by which it is to be paid;
  - (c) provision for determining the local education authority to whom a penalty is payable;
  - (d) provision as to the methods by which penalties may be paid;
  - (e) provision as to the records which are to be kept in relation to penalty notices;
  - (f) provision as to the persons who may be authorised by a local education authority or a head teacher to give penalty notices;
  - (g) provision limiting the circumstances in which authorised officers of a prescribed description may give penalty notices;
  - (h) provision for or in connection with the withdrawal, in prescribed circumstances, of a penalty notice, including—
    - (i) repayment of any amount by way of penalty under a penalty notice which is withdrawn, and
    - (ii) prohibition of the institution or continuation of proceedings for the offence to which the withdrawn notice relates;
  - (i) provision for a certificate—
    - (i) purporting to be signed by or on behalf of a prescribed person, and
    - (ii) stating that payment of any amount paid by way of penalty was or, as the case may be, was not received on or before a date specified in the certificate,
 to be received in evidence of the matters so stated;
  - (j) provision as to the action to be taken if a penalty is not paid in accordance with a penalty notice;
  - (k) provision for or in connection with the preparation of codes of conduct in relation to the giving of penalty notices;
  - (l) such other provision in relation to penalties or penalty notices as the Secretary of State thinks necessary or expedient.
- (2) Without prejudice to the generality of subsection (1) or section 181(2)(a), regulations under subsection (1)(b) may make provision for penalties of different amounts to be payable in different cases (including provision for the penalty payable under a penalty notice to differ according to the time by which it is paid).
- (3) Local education authorities, head teachers and authorised officers must, in carrying out their functions in relation to penalty notices, have regard to any guidance which is given by the Secretary of State from time to time in relation to penalty notices.
- (4) In this section —
- “penalty” means a penalty under a penalty notice;
  - “penalty notice” has the meaning given by section 105(2);
- and other expressions have the same meaning as in section 105.

## **107 Penalty notices: amendments of Police Reform Act 2002**

- (1) The Police Reform Act 2002 (c. 30) is amended as follows.
- (2) In paragraph 1(2) of Schedule 4 (powers of community support officers to issue fixed penalty notices), after paragraph (aa) insert—



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“(ab) the power of a constable to give a penalty notice under section 105 of the Education and Inspections Act 2006 (penalty notice in respect of presence of excluded pupil in public place);”.

(3) In paragraph 1(4) of that Schedule, after “sub-paragraph (2)(aa)” insert “ or (ab) ”.

(4) In paragraph 1(2) of Schedule 5 (powers of accredited persons to issue fixed penalty notices), after paragraph (ab) insert—

“(ac) the power of a constable to give a penalty notice under section 105 of the Education and Inspections Act 2006 (penalty notice in respect of presence of excluded pupil in public place);”.

(5) In paragraph 1(4) of that Schedule, after “sub-paragraph (2)(ab)” insert “ or (ac) ”.

(6) In paragraph 2(4) of that Schedule, after “paragraph 1(2)(ab)” insert “ or (ac) ”.

## **108 Removal of excluded pupils to designated premises**

(1) Section 16 of the Crime and Disorder Act 1998 (c. 37) (removal of truants to designated premises) is amended in accordance with subsections (2) to (6).

(2) In subsection (2)—

- (a) for “subsection (3)” substitute “ subsections (3) and (3ZA) ”, and
- (b) for “that subsection” substitute “ each of those subsections ”.

(3) After subsection (3) insert—

“(3ZA) If a constable has reasonable cause to believe that a child or young person found by him in a public place in a specified area during a specified period and during school hours—

- (a) is of compulsory school age,
  - (b) has been excluded on disciplinary grounds from a relevant school for a fixed period or permanently,
  - (c) remains excluded from that school,
  - (d) has not subsequently been admitted as a pupil to any other school, and
  - (e) has no reasonable justification for being in the public place,
- the constable may remove the child or young person to designated premises.”

(4) After subsection (3A) insert—

“(3B) In subsection (3ZA), “school hours” means any time during a school session of the school referred to in paragraph (b) of that subsection or during a break between sessions of that school on the same day.”

(5) In subsection (5), after the definition of “public place” insert—

““relevant school” has the meaning given by section 111 of the Education and Inspections Act 2006;”.

(6) In the heading, after “truants” insert “ and excluded pupils ”.

(7) In Schedule 4 to the Police Reform Act 2002 (c. 30) (exercise of police powers by civilians)—

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- (a) in paragraph 4C, for the words from “section 16(3)” to the end substitute “section 16(3) or (3ZA) of that Act (power to remove truant or excluded pupil found in specified area to designated premises or, in case of truant, to the school from which he is absent).”, and
- (b) in the italic heading immediately before that paragraph, after “truants” insert “and excluded pupils”.



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