



Education Act 1997

1997 CHAPTER 44

PART II

SCHOOL DISCIPLINE

Responsibility for discipline

2 Responsibility for discipline: LEA-maintained schools

For section 154 of the Education Act 1996 there shall be substituted—

“154 Responsibility of governing body and head teacher for discipline

- (1) The governing body of a county, voluntary or maintained special school shall ensure that policies designed to promote good behaviour and discipline on the part of its pupils are pursued at the school.
- (2) In particular, the governing body—
 - (a) shall make, and from time to time review, a written statement of general principles to which the head teacher is to have regard in determining any measures under subsection (4); and
 - (b) where they consider it desirable that any particular measures should be so determined by the head teacher or that he should have regard to any particular matters—
 - (i) shall notify him of those measures or matters, and
 - (ii) may give him such guidance as they consider appropriate;and in exercising their functions under this subsection the governing body shall have regard to any guidance given from time to time by the Secretary of State.
- (3) Before making or revising the statement required by subsection (2)(a) the governing body shall consult (in such manner as appears to them to be appropriate)—

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- (a) the head teacher; and
 - (b) parents of registered pupils at the school.
- (4) The head teacher shall determine measures (which may include the making of rules and provision for enforcing them) to be taken with a view to—
- (a) promoting, among pupils, self-discipline and proper regard for authority;
 - (b) encouraging good behaviour and respect for others on the part of pupils;
 - (c) securing that the standard of behaviour of pupils is acceptable; and
 - (d) otherwise regulating the conduct of pupils.
- (5) The head teacher shall, in determining such measures—
- (a) act in accordance with the current statement made by the governing body under subsection (2)(a); and
 - (b) have regard to any notification or guidance given to him under subsection (2)(b).
- (6) The standard of behaviour which is to be regarded as acceptable at the school shall be determined by the head teacher, so far as it is not determined by the governing body.
- (7) The measures determined by the head teacher under subsection (4) shall be publicised by him in the form of a written document as follows—
- (a) he shall make the measures generally known within the school and to parents of registered pupils at the school; and
 - (b) he shall in particular, at least once in every school year, take steps to bring them to the attention of all such pupils and parents and all persons employed at the school.
- (8) The governing body and the head teacher shall, before any measures are determined under subsection (4), consult the local education authority on any matter arising from the proposed measures which can reasonably be expected—
- (a) to lead to increased expenditure by the authority, or
 - (b) to affect the responsibilities of the authority as an employer.”

3 Responsibility for discipline: grant-maintained and grant-maintained special schools

- (1) After section 306 of the Education Act 1996 there shall be inserted—

“Discipline

306A Responsibility of governing body and head teacher for discipline

- (1) The governing body of a grant-maintained school shall ensure that policies designed to promote good behaviour and discipline on the part of its pupils are pursued at the school.
- (2) In particular, the governing body—

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- (a) shall make, and from time to time review, a written statement of general principles to which the head teacher is to have regard in determining any measures under subsection (4); and
 - (b) where they consider it desirable that any particular measures should be so determined by the head teacher or that he should have regard to any particular matters—
 - (i) shall notify him of those measures or matters, and
 - (ii) may give him such guidance as they consider appropriate; and in exercising their functions under this subsection the governing body shall have regard to any guidance given from time to time by the Secretary of State.
- (3) Before making or revising the statement required by subsection (2)(a) the governing body shall consult (in such manner as appears to them to be appropriate)—
- (a) the head teacher; and
 - (b) parents of registered pupils at the school.
- (4) The head teacher shall determine measures (which may include the making of rules and provision for enforcing them) to be taken with a view to—
- (a) promoting, among pupils, self-discipline and proper regard for authority;
 - (b) encouraging good behaviour and respect for others on the part of pupils;
 - (c) securing that the standard of behaviour of pupils is acceptable; and
 - (d) otherwise regulating the conduct of pupils.
- (5) The head teacher shall, in determining such measures—
- (a) act in accordance with the current statement made by the governing body under subsection (2)(a); and
 - (b) have regard to any notification or guidance given to him under subsection (2)(b).
- (6) The standard of behaviour which is to be regarded as acceptable at the school shall be determined by the head teacher, so far as it is not determined by the governing body.
- (7) The measures determined by the head teacher under subsection (4) shall be publicised by him in the form of a written document as follows—
- (a) he shall make the measures generally known within the school and to parents of registered pupils at the school; and
 - (b) he shall in particular, at least once in every school year, take steps to bring them to the attention of all such pupils and parents and all persons employed at the school.”
- (2) In Schedule 28 to that Act (government and conduct of grant-maintained special schools), in paragraph 15 (application of section 307 to such schools) for “Section” there shall be substituted “Each of sections 306A (responsibility for discipline) and”.

Status: This is the original version (as it was originally enacted).

Power to restrain pupils

4 Power of members of staff to restrain pupils

After section 550 of the Education Act 1996 there shall be inserted—

“Power to restrain pupils

550A Power of members of staff to restrain pupils

- (1) A member of the staff of a school may use, in relation to any pupil at the school, such force as is reasonable in the circumstances for the purpose of preventing the pupil from doing (or continuing to do) any of the following, namely—
- (a) committing any offence,
 - (b) causing personal injury to, or damage to the property of, any person (including the pupil himself), or
 - (c) engaging in any behaviour prejudicial to the maintenance of good order and discipline at the school or among any of its pupils, whether that behaviour occurs during a teaching session or otherwise.
- (2) Subsection (1) applies where a member of the staff of a school is—
- (a) on the premises of the school, or
 - (b) elsewhere at a time when, as a member of its staff, he has lawful control or charge of the pupil concerned;
- but it does not authorise anything to be done in relation to a pupil which constitutes the giving of corporal punishment within the meaning of section 548.
- (3) Subsection (1) shall not be taken to prevent any person from relying on any defence available to him otherwise than by virtue of this section.
- (4) In this section—
- “member of the staff”, in relation to a school, means any teacher who works at the school and any other person who, with the authority of the head teacher, has lawful control or charge of pupils at the school;
- “offence” includes anything that would be an offence but for the operation of any presumption that a person under a particular age is incapable of committing an offence.”

Detention

5 Detention outside school hours lawful despite absence of parental consent

After the section 550A inserted in the Education Act 1996 by section 4 of this Act there shall be inserted—

“Detention

550B Detention outside school hours lawful despite absence of parental consent

- (1) Where a pupil to whom this section applies is required on disciplinary grounds to spend a period of time in detention at his school after the end of any school session, his detention shall not be rendered unlawful by virtue of the absence of his parent’s consent to it if the conditions set out in subsection (3) are satisfied.
- (2) This section applies to any pupil who has not attained the age of 18 and is attending—
 - (a) a school maintained by a local education authority;
 - (b) a grant-maintained or grant-maintained special school; or
 - (c) a city technology college or city college for the technology of the arts.
- (3) The conditions referred to in subsection (1) are as follows—
 - (a) the head teacher of the school must have previously determined, and have—
 - (i) made generally known within the school, and
 - (ii) taken steps to bring to the attention of the parent of every person who is for the time being a registered pupil there, that the detention of pupils after the end of a school session is one of the measures that may be taken with a view to regulating the conduct of pupils;
 - (b) the detention must be imposed by the head teacher or by another teacher at the school specifically or generally authorised by him for the purpose;
 - (c) the detention must be reasonable in all the circumstances; and
 - (d) the pupil’s parent must have been given at least 24 hours’ notice in writing that the detention was due to take place.
- (4) In determining for the purposes of subsection (3)(c) whether a pupil’s detention is reasonable, the following matters in particular shall be taken into account—
 - (a) whether the detention 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 religious requirements affecting him, and
 - (iv) where arrangements have to be made for him to travel from the school to his home, whether suitable alternative arrangements can reasonably be made by his parent.
- (5) Section 572, which provides for the methods by which notices may be served under this Act, does not preclude a notice from being given to a pupil’s parent under this section by any other effective method.”

Status: This is the original version (as it was originally enacted).

Exclusion of pupils from school

6 Variation of limit on fixed-period exclusions: all maintained schools

- (1) In section 156 of the Education Act 1996 (exclusion of pupils from county, voluntary or maintained special school), in subsection (2) (which imposes a limit on fixed-period exclusions of 15 school days per term), for “15 school days in any one term” there shall be substituted “45 school days in any one school year”.
- (2) In section 307 of that Act (exclusion of pupils from grant-maintained school), in subsection (1) (which also imposes a limit on fixed-period exclusions of 15 school days per term), for “15 school days in any one term” there shall be substituted “45 school days in any one school year”.

7 Exclusion or reinstatement appeals: LEA-maintained schools

- (1) Schedule 16 to the Education Act 1996 (appeals against exclusion or reinstatement of pupils) shall be amended as follows.
- (2) After paragraph 7 there shall be inserted—
 - “7A (1) For the purpose of fixing the time (falling within the period mentioned in paragraph 7) at which the hearing of an appeal is to take place, the body mentioned in that paragraph shall take reasonable steps to ascertain any times falling within that period when—
 - (a) the relevant person, or
 - (b) any other person who wishes, and would be entitled, to appear and make oral representations in accordance with paragraph 8 or 9, would be able to attend.
 - (2) Where in accordance with sub-paragraph (1) that body have ascertained any such times in the case of any such person, they shall, when fixing the time at which the hearing is to take place, take those times into account with a view to ensuring, so far as it is reasonably practicable to do so, that that person is able to appear and make such representations at the hearing.”
- (3) For paragraph 8 there shall be substituted—
 - “8 (1) On an appeal by a pupil or parent the appeal committee shall give the appellant an opportunity of appearing and making oral representations, and shall allow him to be represented or to be accompanied by a friend.
 - (2) On such an appeal the committee shall allow—
 - (a) the head teacher to make written representations and to appear and make oral representations,
 - (b) the local education authority and the governing body to make written representations,
 - (c) an officer of the authority nominated by the authority, and a governor nominated by the governing body, to appear and make oral representations, and
 - (d) the governing body to be represented.”
- (4) After paragraph 12 there shall be inserted—

- “12A (1) In deciding—
- (a) whether the pupil in question should be reinstated (and, if so, the time when this should take place), or
 - (b) whether any direction for the reinstatement of the pupil in question should be confirmed,
- an appeal committee shall have regard to both the interests of that pupil and the interests of other pupils at his school and members of its staff.
- (2) In making any such decision an appeal committee shall also have regard to the measures publicised by the head teacher under section 154(7).
- (3) Sub-paragraphs (1) and (2) do not apply where an appeal committee decides that the pupil in question was not guilty of the conduct which the head teacher relied on as grounds for his permanent exclusion.
- (4) Sub-paragraphs (1) and (2) shall not be read as precluding an appeal committee from having regard to any other relevant matters.”

8 Exclusion appeals: grant-maintained and grant-maintained special schools

- (1) After section 307 of the Education Act 1996 there shall be inserted—

“307A Exclusion appeals

Schedule 25A to this Act has effect in relation to the procedure on any appeal which—

- (a) is made in pursuance of arrangements made by the governing body of a grant-maintained school by virtue of paragraph 6(1) and (2) of Schedule 23 (content of articles of government), and
 - (b) relates to a decision not to reinstate a pupil who has been permanently excluded from the school.”
- (2) After Schedule 25 to that Act there shall be inserted as Schedule 25A the Schedule set out in Schedule 1 to this Act.
- (3) At the end of Schedule 28 to that Act (government and conduct of grant-maintained special schools) there shall be added—

“16 Section 307A and Schedule 25A (exclusion appeals) apply in relation to a grant-maintained special school as they apply in relation to a grant-maintained school, but as if any reference in those provisions to any provision of Schedule 23 were a reference to that provision as it applies in accordance with regulations under paragraph 14 above.”

LEA plans

9 LEA plans relating to children with behavioural difficulties

- After section 527 of the Education Act 1996 there shall be inserted—

Status: This is the original version (as it was originally enacted).

“Plans relating to children with behavioural difficulties

527A Duty of LEA to prepare plan relating to children with behavioural difficulties

- (1) Every local education authority shall prepare, and from time to time review, a statement setting out the arrangements made or proposed to be made by the authority in connection with the education of children with behavioural difficulties.
- (2) The arrangements to be covered by the statement include in particular—
 - (a) the arrangements made or to be made by the authority for the provision of advice and resources to relevant schools, and other arrangements made or to be made by them, with a view to—
 - (i) meeting requests by such schools for support and assistance in connection with the promotion of good behaviour and discipline on the part of their pupils, and
 - (ii) assisting such schools to deal with general behavioural problems and the behavioural difficulties of individual pupils;
 - (b) the arrangements made or to be made by the authority in pursuance of section 19(1) (exceptional provision of education for children not receiving education by reason of being excluded or otherwise); and
 - (c) any other arrangements made or to be made by them for assisting children with behavioural difficulties to find places at suitable schools.
- (3) The statement shall also deal with the interaction between the arrangements referred to in subsection (2) and those made by the authority in relation to pupils with behavioural difficulties who have special educational needs.
- (4) In the course of preparing the statement required by this section or any revision of it the authority shall carry out such consultation as may be prescribed.
- (5) The authority shall—
 - (a) publish the statement in such manner and by such date, and
 - (b) publish revised statements in such manner and at such intervals,as may be prescribed, and shall provide such persons as may be prescribed with copies of the statement or any revised statement.
- (6) In discharging their functions under this section a local education authority shall have regard to any guidance given from time to time by the Secretary of State.
- (7) In this section “relevant school”, in relation to a local education authority, means—
 - (a) a school maintained by the authority (whether situated in their area or not), or
 - (b) a grant-maintained or grant-maintained special school situated in their area.”