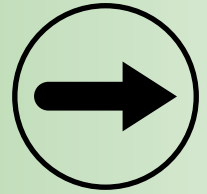


Inclusion and Pupil Support

Guidance
Circular



Social
Inclusion

National Assembly for Wales Circular No: 47/2006

Date of Issue: November 2006



PLANT A PHOBL IFANC - GWEITHREDU'R HAWLIAU
CHILDREN AND YOUNG PEOPLE - RIGHTS TO ACTION

Yr Adran Addysg, Dysgu Gydol Oes a Sgiliau
Department for Education, Lifelong Learning and Skills



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

Title of Document:	Inclusion and Pupil Support
Audience:	Governing bodies and head teachers of maintained and independent schools and pupil referral units in Wales. Local authorities; teaching and other unions; church diocesan authorities; national and local bodies in Wales with an interest in Education.
Overview:	This document covers the inclusion and support of learners, primarily of compulsory school age, including the promotion of positive behaviour and regular attendance and provision outside schools.
Action required:	For use in developing inclusion strategies
Further information: and additional copies:	Please contact: Pupil Engagement Team Tel: 029 2082 1556 e-mail: petshare@wales.gsi.gov.uk or by visiting the Department for Education, Lifelong Learning and Skills website: www.wales.gov.uk/educationandskills
Related documents:	A full list is contained in the documents list at the end of the guidance, however the main National Assembly for Wales documents are: Circular 1/2004: Exclusion from Schools and PRUs Circular 23/2003: Respecting Others: Anti Bullying Guidance SEN Code of Practice for Wales, 2002

This document and further summary information can be accessed from the Welsh Assembly Government website www.wales.gov.uk/inclusionandpupilsupport

Ministerial Foreword - for Inclusion and Pupil Support



I present this document as a vision of how we want our schools and local authorities, alongside their partners to be inclusive and supportive environments which cater for individual children and young people's needs and offer them an equal opportunity to reach their potential.

Through this guidance I want to embed the concept of additional learning needs firmly within our Welsh approach. Children and young people have additional learning needs where their needs are greater than the majority of their peers - for whatever reason and whether this is short-term or long-term. Inclusion is therefore not only about including pupils with Special Educational Needs in mainstream schools it means ensuring that schools and local authorities have a positive ethos with flexibility to provide suitable education for all children and young people. For some children and young people this will mean providing extra support or individually tailored programmes. In doing so we will need to ensure that they remain a part of their schools and communities.

There is a lot of good practice in Wales which we will need to continue to draw upon and share, but as ever there remain areas for improvement and the need for us to adapt our ways of working to respond to our ever-changing society and technological advances.

The guidance reflects the Welsh Assembly Government's drive to promote partnership working across all services as we set out in the Children Act 2004 and subsequent guidance. The introduction of new planning arrangements, including the development of Children and Young People's Plans will give us further opportunity to refine our approaches, strengthen our collaborative working and increase our efficiency.

I recognise that many elements of this guidance represent significant challenges. I hope that the guidance will assist you in facing those challenges and playing your part in making our schools and communities inclusive and supportive.

A handwritten signature in black ink that reads "Jane Davidson". The signature is fluid and cursive, with the first name "Jane" and last name "Davidson" clearly legible.

Jane Davidson AM
Minister for Education and Lifelong Learning

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INCLUSION AND PUPIL SUPPORT

SUMMARY

This guidance covers the inclusion and support of learners of compulsory school age (although some elements will apply to all learners). It provides advice and sets out responsibilities for maintaining high levels of attendance and positive behaviour in schools and the need to support pupils with additional needs to ensure they receive suitable education and avoid becoming disengaged from education. It also covers education provided outside the school setting.

The guidance replaces that currently contained in National Assembly for Wales Circular 3/99: Pupil Support and Social Inclusion. Guidance on tackling bullying (Respecting Others: National Assembly for Wales Circular 23/2003) and exclusions (National Assembly for Wales Circular 1 and 1A/2004) has previously been distributed. Whilst the guidance itself is not statutory it sets out the specific legislation which local authorities, schools and their partners are required to adhere to.

In summary, the main changes to previous guidance are as follows:

- Presentation of a framework for inclusion to promote access to education for all and remove any barriers to learning.
- Adoption of the term 'Additional Learning Needs' to cover those learners whose needs are greater than the majority of their peers.
- Reflection of recent policy developments, including new arrangements under the Children Act 2004, Learning Pathways 14-19, and the Early and Extending Entitlement agendas.
- Bringing attendance, behaviour and anti-bullying policies together within a whole-school approach.
- More extensive guidance on providing support to pupils with additional learning needs.
- Specific annexes containing additional information such as checklists for inclusive practices.
- New attendance registration codes - previously sent separately to all schools in May 2004.
- The introduction of school-level attendance targets for primary schools and for these to be set on all absences as opposed to unauthorised absences.
- Increased emphasis on improving the level and use of information available on pupils receiving education outside the school setting as well as those pupils moving or joining schools.

- New section on LAs and schools' responsibilities for those pupils who are educated at home by parents.
- New guidance on provision of education for young parents.
- Guidance on new provisions under the Anti Social Behaviour Act, 2003 for Parenting Orders for behaviour problems and Parenting Contracts for poor attendance and behaviour problems.

Introduction

1. Overview

1.1 This document contains guidance for schools, local authorities and their partners relating to inclusion and pupil support. It aims to provide a framework for inclusion including key documents to assist in developing LAs' and schools' approaches to planning, supporting and meeting the needs of all learners. It has been developed to enable further guidance to be added over time and to allow education professionals to access guidance on specific matters such as behaviour, attendance and support for pupils with additional learning needs. Further information and summaries are available at **www.wales.gov.uk/inclusionandpupilsupport**.

1.2 The sections contained within the guidance are as follows:

- Inclusive Education
- Supporting Pupils with Additional Learning Needs
- A Whole-school Approach to Behaviour and Attendance
- Attendance
- Provision of Education Outside the School Setting
- Elective Home Education.

1.3 The guidance replaces that currently contained in National Assembly for Wales Circular 3/99: Pupil Support and Social Inclusion. Guidance on bullying (Respecting Others: National Assembly for Wales Circular 23/2003) and exclusions (National Assembly for Wales Circular 1 and 1A/2004) has previously been distributed.

1.4 A key purpose of this guidance is to act as a framework for inclusion to promote meeting the needs of all learners within an inclusive whole-school approach. In doing so the term Additional Learning Needs is used to encompass not only those pupils with special educational needs (SEN), as defined in the Education Act 1996, but to cover all learners who at some point may require greater support than the majority of their peers.

1.5 New guidance is also provided on the following elements:

- provision of education for young parents
- the education of children and young people at home by their parents (Elective Home Education).
- Parenting Orders for behaviour problems and Parenting Contracts for poor attendance and behaviour problems - new provisions introduced under the Anti Social Behaviour Act, 2003.

- school-level attendance targets to be set on total absences rather than unauthorised absences and for primary schools as well as secondary schools - a new requirement introduced under the Education Act, 2002.

1.6 All aspects of this guidance have been developed in partnership with practitioners and build on the good practice evident in learning settings throughout Wales.

1.7 The guidance reflects the Assembly Government's commitment to giving all children and young people more opportunities to participate in decision-making on issues which affect their lives.

Independent schools

1.8 Certain elements of the guidance represent statutory guidance for independent schools, particularly those relating to pupil registration (including attendance) and promotion of positive behaviour, including preventing and dealing with bullying. Other aspects may be useful in terms of giving examples of good practice. More information on the duties and responsibilities of independent schools can be found in National Assembly for Wales Information Document No 13/04: Independent Schools Information and Registration Handbook.

Context

1.9 The Welsh Assembly Government is committed to developing policies to ensure all learners are able to realise their potential. We recognise the impact of success in learning on health, social and emotional well-being, parenting and the economic success of Wales.

1.10 We set out our priorities for Wales in our strategic agenda document *Wales: A Better Country* (2003). These priorities are:

- better health
- better skills
- better jobs
- stronger, safer communities.

1.11 The Welsh Assembly Government set out its vision for children and young people in *Children and Young People: Rights to Action* (2005). This vision is based on the UN Convention on the Rights of the Child and has seven core aims which seek to ensure that all children and young people:

- have a flying start in life
- have a comprehensive range of education and learning opportunities

- enjoy the best possible health and are free from abuse, victimisation and exploitation
- have access to play, leisure, sporting and cultural activities
- are listened to, treated with respect, and have their race and cultural identity recognised
- have a safe home and a community which supports physical and emotional well-being; and
- are not disadvantaged by poverty.

1.12 Educational achievement has a crucial contribution to make to each of these priorities. We seek to support all learners, especially those who are disengaged or disadvantaged, to enable them to fully access learning and enjoy equality of opportunity in learning and ultimately in each of our strategic priorities.

1.13 *The Learning Country (TLC) (2001)* set out the Assembly Government's vision for how it intended to secure the best learning experiences for learners of all ages. It recognised that creating an inclusive environment for learning means supporting learners within their learning settings as well as providing support in the wider aspects of their learning experience. The health, emotional and social needs of children and young people are significant factors in supporting their access to learning *The Learning Country II: Vision Into Action (2006)* highlights the progress made against the vision set out in TLC and outlines the strategy and priorities we will be taking forward over the next few years.

1.14 The following paragraphs describe key Assembly Government policies designed to secure the inclusion and engagement of all children and young people in learning.

Foundation Phase and Flying Start

1.15 The Assembly Government's core aim of giving every child a flying start as described in *The Learning Country* is supported by the development of an appropriate age-based, inclusive curriculum. The Flying Start programme for children aged 0-3 living in disadvantaged communities aims to target the needs of young children and their parents and improve their outcomes by providing dedicated health, education and childcare support. The Foundation Phase for children aged 3-7 focuses on meeting the developmental needs of all children. It provides a curriculum and specific experiences that will help young children to reach their potential. The Foundation Phase will support more inclusive practices through practical activities that challenge, motivate and develop children's curiosity as well as developing their knowledge, skills and independence.

School breakfasts

1.16 The Welsh Assembly Government recognises the importance of proper nutrition to children's learning and health. For this reason it has committed to providing a free healthy breakfast to all primary school pupils in Wales. Provision of free breakfasts for primary school children, began in September 2004, in the first instance in Communities First areas. This built on the work undertaken as part of the Healthy Schools initiative, and the provision of water coolers in primary schools.

Transition

1.17 The Assembly Government recognises that the transition from primary to secondary school can lead to loss of progression in learning and to pupil disengagement. Secondary and primary schools are required to work together to develop transition plans for pupils transferring in September 2008 onwards. (See Section 3)

Narrowing the Gap

1.18 The Narrowing the Gap project sought to identify effective practice in schools operating in difficult circumstances where pupil outcomes were better than might have been expected and to share that effective practice. The report of the secondary school study was published in 2002 followed by the primary school study in 2005.

Learning Pathways 14-19

1.19 The Assembly Government believes that all young people from ages 14 to 19 should be able to have an individually tailored learning pathway which meets their needs, enabling them all to experience success. Guidance distributed in 2006 sets out the intention to transform 14-19 provision, to meet our aspirational target for 95% of young people by age 25 to be ready for high skilled employment or higher education by 2015, and the commitment that by end of the decade no young person should leave school without a qualification. 14-19 Networks have been set up in each local authority area to collaborate and extend choice and flexibility by offering a range of wider experiences and opportunities and developing support mechanisms to ensure that all young people have the breadth of experience currently enjoyed only by the more advantaged.

Welsh Baccalaureate

1.20 As part of the general strategy to ensure that young people have greater choice and flexibility in their education work is ongoing to develop a Welsh Baccalaureate. This is currently being piloted at intermediate and advanced level in post-16 education. From September 2006, it will also be introduced at foundation and intermediate level across the whole 14-19 range to ensure the widest range of young people are able to access this overarching qualification.

Data for individual learners

1.21 Collecting information on individual pupils under new arrangements for expanding the Pupil Level Annual Census (PLASC), the Lost Pupil Database; and Integrated Children Systems; and sharing it across services will be key in ensuring that we have sufficient information on individuals to focus delivery of suitable provision.

Children and Young People's Frameworks

1.22 In accordance with the duty to co-operate under the Children Act 2004, which came into effect on 1 September 2006, local authorities are required to set up Children and Young People's Partnerships with key local service deliverers. A requirement for Children and Young People's plans will come into effect in 2008. These arrangements are designed to secure coordinated strategic planning and delivery of all services for children and young people.

National Service Framework for Children, Young People and Maternity Services in Wales

1.23 The Framework, published in 2005, sets out the quality of services that children, young people and their families have a right to receive. It will contribute to the achievement of the Assembly Government's seven core aims for children and young people by improving quality and reducing variations in service through the setting of national standards. The standards have been set not just for health and social care but also for other local government services which have a strong influence on the health and well-being of children, including education, housing, leisure and transport.

2. Legal Background

2.1 Several general aspects of legislation need to be taken into account in applying this guidance.

Duty to promote high standards of education

2.2 Under section 21(2) of the Education Act 2002, governing bodies are required to conduct a school with a view to promoting high standards of educational achievement. The same duty applies to local authorities under section 5 of the School Standards and Framework Act 1998.

Human Rights Act (HRA) 1998

2.3 Local authorities, schools and the police must apply their powers fairly and consistently, having regard to this guidance. Inconsistency or unfairness may lead to challenges under the HRA. Further information on the HRA can be found at www.humanrights.gov.uk/.

Race Equality

2.4 In addition to the duty not to discriminate on racial grounds, the Race Relations Amendment Act 2000 places a general duty on all public authorities, including LAs, schools and the police, to have due regard to the need to eliminate unlawful racial discrimination and promote equality of opportunity and good relations between people of different racial groups. The Race Relations (Statutory Duties) Order 2001 also places a number of specific duties on LEAs, schools and the police, including duties to assess the impact of their policies on minority groups and to monitor the operation of those policies by ethnicity and make that information publicly available.

2.5 LAs, schools and the police should therefore monitor the application of their powers to ensure that there is no underlying bias which would lead to disproportionate, unequal or unfair treatment on account of ethnicity. For example, schools and LAs should consider the reasons behind any disproportionate number of black or ethnic minority pupils excluded from school.

2.6 The Commissioner for Racial Equality (CRE) has issued a Statutory Code of Practice on the Duty to Promote Race Equality which outlines what educational institutions must do to fulfil their duties under the RR(A)A 2000. The Code of Practice points to requirements under the RR(A)A 2000 of the specific duty on schools to:

- have a written statement of its policy for promoting race equality;
- assess the impact of policies on pupils, staff and parents of different racial groups;
- to monitor, by reference to their impact on such pupils, staff and parents, the operation of such policies.

2.7 See the Commission for Race Equality's website for further information: **www.cre.gov.uk**.

Disability

2.8 The SEN and Disability Act, 2001 amends the Disability Discrimination Act, 1995 and delivers comprehensive enforceable civil rights for disabled pupils and students. The Act covers the admission of disabled pupils to schools, and the provision of education and associated services to pupils. Schools and LAs have new duties to prevent discrimination, which will help facilitate inclusion.

2.9 The Disability Rights Commission has the power to issue a Code of Practice in relation to duties imposed on schools. The Code deals only with how to avoid unlawful discrimination against disabled pupils and prospective pupils in education and associated services. Schools are encouraged to go beyond mere compliance with the law and work towards eliminating disability discrimination in education and associated services altogether.

2.10 It is unlawful for schools or LAs, without justification, to discriminate against disabled pupils and prospective pupils for a reason related to their disability in the provision of education and associated services. Discrimination means treating disabled pupils less favourably than other pupils without justification. It also means failing to take reasonable steps to ensure that disabled pupils are not placed at a substantial disadvantage compared to their non-disabled peers. What constitutes a reasonable step will depend on the circumstances of each case. The Disability Discrimination Act makes specific provision in respect of exclusions and provides mechanisms for claims of discrimination to be made in relation to allegations of discrimination.

2.11 The Disability Discrimination Act 2005 places duties on public bodies to promote equality of opportunity for disabled people and place positive responsibilities on authorities to work towards a more equal society by mainstreaming disabled equality into the way in which they carry out their functions. All public sector agencies, including schools, local authorities, the police, health services, NHS trusts, central government have a duty to promote the equalisation of opportunities for disabled people. It is illegal for bodies to treat disabled people less favourably in the exercise of a public function and public authorities have a duty of reasonable adjustment. For example, where physical features - access or design of premises, or services make it difficult for disabled people to make use of such a service.

2.12 Under the DDA 2005 schools are required to produce a Disability Equality Scheme by April 2007. Local authorities are required to produce schemes by December 2006. In doing so schools and LAs must involve disabled people in its development; develop a 3-year action plan; identify how they will gather and analyse evidence to inform their actions and track progress; and set out how they will assess the impact of their existing and proposed activities on disabled people. Further information can be found on www.dotheduty.org.

2.13 As well as the Code of Practice for Schools, The Disability Rights Commission has developed A Code of Conduct. The Code provides guidance to public bodies on how to meet their new duties and can be obtained on their website at www.drc-gb.org.

Child Welfare

2.14 The guidance in this document contributes to promoting and protecting the welfare of children. In some cases the processes described may lead education practitioners to identifying actual or potential child welfare issues. Welsh Assembly Government guidance on child welfare is contained in Circular 52/95: Protecting Children from Abuse: The Role of the Education Service. Forthcoming guidance under section 175 of the Education Act 2002, which came into force in September 2006, will deal with the duty of local authorities and school governing bodies to promote the welfare of children.

The definition of parent

2.15 The education-related provisions of the Anti-social Behaviour Act 2003 apply to all parents who fall within the definition in section 576 of the Education Act 1996. This defines 'parent' as: all natural parents, whether they are married or not; any person who, although not a natural parent, has parental responsibility (as defined in the Children Act 1989) for a child or young person; and any person who, although not a natural parent, has care of a child or young person. Having care of a child or young person means that a person with whom the child lives and who looks after the child, irrespective of their relationship with the child, is considered to be a parent in education law.

2.16 Throughout this document, references to 'parent' mean each and every parent coming within the definition (whether acting jointly or separately) and should not be taken to mean that provisions only apply to 'parent' in the singular.

Welsh Language Act

2.17 The Welsh Language Act 1993 has clear implications for strategic planning by schools and LEAs and for the delivery of inclusive education across Wales. These are enhanced in Welsh Language Schemes approved under the 1993 Act. It is integral to this guidance that:

- equal status must be given to Welsh and English in the provision of inclusive education opportunities, training and support; and
- where parents or carers opt for Welsh medium or bilingual education for children and young people with additional learning needs, there is also a need for associated services to be available through the medium of Welsh or bilingually.

Children Act 2004

2.18 The Children Act 2004 places a duty to co-operate on local authorities and relevant partners including NHS trusts, local health boards, the police, youth offending teams, probation boards and the National Council for Education and Training for Wales. Local authorities are required to make arrangements to promote co-operation with these partners and to produce plans setting out their strategy for discharging their functions in relation to children and relevant young persons. Local authorities are required to appoint a Lead Director for Children and Young People with responsibility for coordinating and overseeing arrangements for collaboration and development of Children and Young People's Plans which will be required from 2008 and will need to cover all services, including education.

2.19 The Act also requires a local authority to safeguard and promote the welfare of a child looked after by them and includes, in particular, a duty to promote the child's educational achievement.

Section 1

Inclusive Education



Section 1: Inclusive Education

1. Introduction and context

1.1 The following areas are covered in this section:

- Definition of Inclusion
- Principles of an Inclusive Education Service
- Planning for Inclusion
- An Inclusive Curriculum
- High Expectations and Targets for Inclusion
- Training and Development
- Working Together for Inclusion
- Monitoring, Evaluation and Intervention

1.2 'The Learning Country' and 'The Learning Country: Vision into Action' promote inclusive education and set out an agenda that enshrines the following principles:

- There must be high standards and expectations, together with progressive improvements in outcomes for all learners
- The interests of learners override all other considerations
- Barriers to learning must be recognized and steadily overcome
- Academic, technical and vocational learning pathways must have parity of esteem
- Inequalities in achievement between advantaged and disadvantaged areas, groups and individuals must be narrowed in the interests of all.

1.3 Inclusive education is an ongoing process concerned with ensuring equality of educational opportunity by accounting for and addressing the diversity present in schools. It requires the commitment of schools and LEAs to develop policies and practices that ensure equality of educational opportunity and access; safeguard vulnerable pupils; and focus on raising the achievement of all learners and increasing their participation in their schools and local communities.

1.4 In common with many other countries, Wales supports the Salamanca Statement. The statement was drawn up by a UNESCO world conference in 1994. It calls upon all governments to "adopt as a matter of law or policy the principle of inclusive education, enrolling all children in regular schools, unless there are compelling reasons for doing otherwise'.

Additional Learning Needs (ALN) and Special Educational Needs (SEN)

1.5 The Welsh Assembly Government has adopted a wider term than 'Special Educational Needs' for those learners who require additional support. This is in order to recognise the diverse and complex needs of learners and to reflect a more holistic approach to meeting individual pupils' needs. The Welsh Assembly Government, through this guidance wishes to instill the concept of 'Additional Learning Needs'. This encompasses all children and young people with learning needs which are greater than those of the majority of their peers and not just those identified as having special educational needs as defined within the Education Act 1996 and the SEN Code of Practice for Wales.

1.6 The term 'Additional Learning Needs' includes those learners who require additional support either due to their circumstances or because they have a longer-term disorder or condition. In many cases, for example through sickness or where a family is experiencing temporary difficulties, children and young people may have additional learning needs for a short period only. Section 2 of this circular highlights a number of factors which may lead to learners having additional learning needs, and sets out specific guidance where appropriate.

1.7 The term 'Special Educational Needs' continues to be used to identify those learners who have severe, complex and / or specific learning difficulties as set out within the Education Act 1996 and the SEN Code of Practice for Wales. It is used in this guidance in that context. SEN is therefore a sub-category of ALN. Further information on the definition of SEN and supporting learners with SEN is contained in Section 2.

2. Principles of an inclusive education service

2.1 Inclusion is a process through which all pupils access common opportunities in ways relevant to their needs and they fully belong to the school community. Inclusion requires the active involvement of all concerned. It places the onus on schools to adapt their organisation and their ways of responding to meet the needs of all children and young people and to value their development in all areas of school life. In particular, inclusion of pupils involves much more than the placement of a child or young person in a mainstream or a special school. It requires an inclusive curriculum and measures to improve the awareness of teaching and other staff of inclusive learning and equality issues. The essential principles are:

- inclusion is a process by which schools, LEAs and others develop their cultures, policies and practices to include all children and young people;
- all children and young people should have access to an appropriate education that affords them the opportunity to achieve their personal potential;

- an inclusive education service offers excellence and choice and seeks and responds to the views of parents, carers, children and young people;
- the interests of all children and young people are safeguarded;
- with the right training, strategies and support, nearly all children and young people with additional learning needs can be successfully included in mainstream education;
- mainstream education is not always right for every child or young person all of the time but if mainstream education is not right at a particular stage this should not prevent the child or young person from being included successfully at a later stage; and
- those pupils not in mainstream education should have links to their peers in mainstream schools.

2.2 Effective inclusive schools and LEAs have:

- coherent plans for the development of inclusion linked to school improvement strategies (Part 3 of this section);
- key personnel to drive forward inclusion and school improvement (Part 3);
- a broad, balanced and relevant curriculum differentiated to meet the needs of all pupils, as well as access to and recognition of extra-curricular activities (Part 4);
- high expectations and targets for inclusion (Part 5);
- strategies to address the training and development needs of staff and governors (Part 6);
- clear strategies to listen to the views of children and young people in order to best meet their needs (Part 7);
- proactive joint-working practices which involve parents and partner agencies (Part 7); and
- well-developed systems for monitoring, evaluation and assessment (Part 8).

3. Planning for inclusion

The role of LEAs

3.1 LEAs' plans for inclusion form a key element of their Single Education Plans (SEPs) for 2006-07 and 2007-08 and will continue to be required in their Children and Young People's Plans from 2008-09.

3.2 Within the SEPs, local authorities are required to set out their strategies for raising the standards and improving the performance of schools, including support for schools to improve attendance rates, provision for a range of pupils with additional learning needs, supporting and advising schools on pupil behaviour and for raising the standards of education for children and young people not educated in school.

3.3 Within the SEPs, local authorities are required to set out their strategies for raising the standards and improving the performance of schools, including support for schools to improve attendance rates, making provision for a range of pupils with additional learning needs, supporting and advising schools on pupil behaviour and for raising the standards of education for children and young people not educated in school.

3.4 Further details on the purpose and content of SEPs is contained in the Welsh Assembly Government guidance 'Children and Young People: Rights to Action, Single Education Plans 2006-08'.

3.5 LEA strategies should be based on an analysis of current needs and forward projections of the needs profile over the next five to ten years and set out a timetable for developing the capacity of mainstream schools and early years settings to meet the needs of children and young people with ALN. Strategies need to include information from health and social services in order to help to gain an accurate picture of the population of children and young people with high support needs and show how they can be educated in local mainstream schools, as far as possible. This means involving health and social services departments in the planning process and demonstrating how the additional learning needs of pupils can be met holistically across the statutory agencies.

3.6 Inclusion strategies should also set out clearly the future role of special schools and other educational provision such as pupil referral units and education outside the school setting in the spectrum of provision and how this is to be achieved. There will need to be a programme of active and ongoing consultation with schools and parents/carers which involves children and young people at all stages of policy development, implementation and monitoring. LEAs will also need to give details of a phased programme of capital investment to support inclusion including targeted professional development opportunities for staff; and plans to develop the role of central advisory and support services.

3.7 A key aspect of the LEA's role must be to work with schools to promote positive whole-school approaches and to support individual pupils in order to avoid exclusion (see Section 3). In particular they should offer advice and send clear messages on policy on the following:

- Recognition of problems at an early stage with suitable referral.
- The use of PSPs for all pupils in danger of disengagement and exclusion (see Section 3 and Annex 3.iii)
- The unacceptability of 'voluntary withdrawals', where pressure is put on parents to remove their children from school to avoid exclusion.

3.8 A number of authorities in Wales have established authority-wide protocols with all schools to avoid the majority of exclusions by moving pupils to other schools. These 'managed moves' avoid the stigma of exclusion and can allow a more positive relationship to continue with parents and pupils who may otherwise not wish to engage in further discussions.

3.9 LEAs should also consider promoting partnership working between mainstream and special schools (including non-maintained and independent schools), to make the most of specialist expertise and to create opportunities for children and young people in special schools to spend time learning alongside their mainstream peers.

3.10 Annex 1.i provides a checklist offering questions for consideration by LEAs to help them evaluate the nature and quality of their current provision, and further develop inclusive strategies.

The role of schools

3.11 Schools, supported by LEAs and others, should actively seek to remove the barriers to learning and participation that can hinder or exclude pupils with Additional Learning Needs (ALN). Schools and LEAs that successfully include children and young people with ALN meet those needs in a positive and proactive way. They do this by employing strategies that contribute to the wider school improvement agenda.

3.12 The Welsh Assembly Government's Narrowing the Gap project highlighted that whilst there is a statistically significant relationship between levels of disadvantage of their pupils and the performance of schools, which is particularly strong for secondary schools this link can be broken. In visits to schools in deprived areas which had shown significant process, three key factors were identified as necessary for school improvement:

- having key personnel in a position to drive school improvement;
- monitoring of learning and teaching and promotion of effective practice; and
- making effective use of attainment data to improve teaching and learning.

3.13 Taking into account the findings of the Narrowing the Gap project and the principles set out earlier, the following provides a suggested checklist for the development of an inclusive ethos in schools:

- ensure that the philosophy and practice of inclusion are accepted by all students, staff, parents/carers, governors and the local community;
- ensure that there is real ownership of policy and practice and promote a common understanding that all children and young people can learn and benefit from working together;
- have strong leadership and a clear vision of what can be achieved;
- welcome, safeguard and value all pupils;
- develop the language of inclusive practice and reflect on their existing work and knowledge as a starting point for developing a “can do” culture;
- regard difference as an opportunity for learning rather than a problem to be fixed;
- monitor and evaluate own practice (see Part 8, Estyn Framework and ACCAC Equal Opportunities Guidance);
- plan strategically to ensure greater inclusion;
- link staff training and development to school based review, school development planning and to the needs of pupils identified as having additional learning needs within the school;
- ensure that all pupils participate as fully as possible in class activities, develop their relationships with their peers and interact fully in all aspects of school life, including aspects of school management.
- be proactive in setting in place systems to prevent and tackle bullying and racist incidents;
- ensure consistency of approach in dealing with behavioural and attendance issues; and
- include those out-of-school through sickness or other reasons.

Special schools, specialist resource bases and education outside the school setting

3.14 Within an inclusive framework, the majority of children and young people will attend their local mainstream school. However, special schools and resourced provision attached to mainstream schools continue to play an important role for those children and young people requiring very specialist specific support. ‘Shaping the Future for Special Education,’

(The Welsh Office, 1999), suggested that there is a need for all special schools to be confident outward-looking centres of excellence as part of their evolving role.

3.15 Special schools specifically have an important role to play in establishing effective inclusive practice by:

- promoting effective partnership working between special and mainstream schools, the wider community and across the statutory agencies;
- being innovative in the development of an appropriate curriculum which matches the needs of pupils with a variety of SEN, and facilitates their inclusion into mainstream;
- having high expectations of all pupils with SEN, to raise levels of attainment and achievement and to measure these; and
- effectively integrating specialist staff and SEN pupils into the wider community.

3.16 It will also at times be necessary to provide education outside all school settings for those pupils who may not otherwise receive suitable education. Where this is necessary the emphasis should be on ensuring, where possible, that pupils are reintegrated as soon as is practicable to schools, that the provision is regularly monitored and reviewed and that effective links are maintained between schools and out-of-school placements. Guidance on provision of education outside the school setting is set out in Section 5.

Dual placements

3.17 The inclusion framework does not inhibit in any way the appropriate use of dual placements. Dual placements can support effective inclusion, by helping to prepare children and young people for mainstream education and schools to meet their additional learning needs. The Education Act 1996 allows for dual registration of pupils at both a Pupil Referral Unit (PRU) or special school and another local school. This process can assist in a phased return to mainstream education. Dual placements need careful management to ensure that there is a sense of belonging in both placements.

3.18 In order for a pupil with SEN who is being supported by a dual placement to be deemed as being educated at a mainstream school the pupil must spend the majority - i.e. 51% or more - of their time at a mainstream school. Where a pupil is being supported back into a mainstream school via a dual placement the pupil's statement should be amended to name the mainstream school at the point the child or young person is ready to spend 51% or more of their time at the mainstream school.

Independent schools and non-maintained special schools

3.19 A child or young person with a statement of SEN can be placed and funded by an LEA in an independent school approved to cater for children and young people with SEN or in a non-maintained special school.

3.20 Children and young people may be placed at independent special schools that have been approved by the National Assembly for Wales under section 347 of the Education Act 1996. If the school has not been approved, the National Assembly for Wales, where appropriate, should have given consent to the LEA for the child or young person's placement there. The LEA must satisfy itself that the child's or young person's interests require education at a non-maintained school and that education at that particular school is appropriate (section 248). Where a local education authority disagrees with what parents or carers want and does not name the independent or non-maintained school in the pupil's statement, the parents or carers, in certain circumstances, may have the right of appeal to the SEN Tribunal for Wales.

3.21 Often a child's or young person's placement at an independent or non-maintained special school can mean that they spend most of the academic year away from home on a residential basis. This can lead to further difficulties in ensuring inclusive practices are maintained. It is important that parents are kept informed of their child's development and progress and that the child or young person and parents/carers are consulted and their views sought in relation to their progress and placement. The LEA should maintain regular contact with the school to offer continued support and advice and monitor progress and provision made for the child or young person. The LEA should be satisfied that the school offers an inclusive educational environment and should ensure that other agencies such as Careers Wales are informed of the child or young person's whereabouts to ensure they receive their universal entitlements.

3.22 Where the child or young person is looked after by a local authority they will need to ensure that they are fulfilling their duties as corporate parents to ensure the safeguarding of their well-being and the promotion of their educational achievement (see Section 2). Evidence shows that looked after children with SEN who are placed in independent schools are particularly vulnerable.

4. An inclusive curriculum

4.1 All schools and LEAs must have regard to the National Curriculum in Wales, which includes a statement on 'Access for all pupils'. The Curriculum is currently undergoing revision with the final version due to be implemented in September 2008.

4.2 'The School Curriculum in Wales' states that the Common Requirements which include communication, numeracy, information technology, problem solving, creative skills, Curriculum Cymreig and

personal and social education (PSE), provide a framework which will help teachers use the National Curriculum subjects as contexts to meet the individual needs of children and young people.

4.3 'The School Curriculum in Wales', also provides guidance on developing skills within the curriculum and assessment framework and shows progression from the Desirable Outcomes through the Common Requirements to Key Skills post 16.

4.4 Personal and Social Education (PSE), which from September 2003 became part of the Basic Curriculum in Wales, provides opportunities for teachers to promote and value the personal, emotional and social development of all children and young people including positive attitudes to diversity. 'Equal opportunities and diversity in the school curriculum in Wales' (ACCAC 2001) provides an audit of ways of promoting equal opportunities in all subjects of the curriculum and in qualifications.

4.5 The Audit Commission's report, 'Special Educational Needs - A Mainstream Issue', 2001 found that some children and young people with SEN are regularly excluded from aspects of the curriculum as a result of judgements being made about the suitability of certain lessons. Such judgements must be made openly and in consultation with parents and carers and with children and young people. Exclusion of individual pupils from the curriculum due to it not adequately reflecting their race and/or culture is also an aspect which schools should consider and adapt for where needed.

4.6 The curriculum includes all aspects of teaching and learning together with wider provision such as after school clubs, leisure, sporting and cultural activities and school visits. Planning for improved access to the curriculum should include consideration of school and classroom organisation and support, timetabling, curriculum options, deployment of staff and staff information and training. Further guidance is available in Welsh Assembly Government Circular 15/2004: 'Planning to Increase Access to Schools for Disabled Pupils'.

4.7 In order to deliver a curriculum that is broad, balanced and relevant and effective in promoting inclusion, schools should:

- identify common needs, such as the well-being of all children and young people, before moving to those needs which are specific to individuals;
- communicate effectively with all members of the school's community using appropriate language, texts and materials in different formats and alternative systems that make use of sign, symbols, ICT, communication aids, translation, interpretation or support where necessary;
- use active, multi sensory approaches to introduce new learning, taking account of the different learning styles and emotional needs of children and young people;

- provide effective learning opportunities that use a variety of stimuli, relevant contexts and frequent review to aid memory;
- have relevant learning outcomes and appropriate levels of challenge for students with additional needs/disabilities;
- differentiate learning through use of different lesson formats, pace, groupings, materials, and support;
- provide opportunities for children and young people to collaborate on activities in which learning objectives are appropriate to needs;
- develop positive and proactive responses to the management of behaviour that take account of the school environment, that recognize and respect the contributions of children and young people and increase their responsibility for their own behaviour and learning;
- include all pupils in activities outside the classroom;
- teach all pupils about diversity and equal opportunity issues;
- involve pupils actively in their own learning and assessment, including seeking an understanding of their learning styles and preferences;
- provide feedback to pupils on their learning;
- ensure that pupils have access to appropriate support and make reasonable adjustments to enable them to show what they know, understand and can do in national tests and qualifications; and
- value a wide range of achievement across the curriculum and beyond school.

5. High expectations and targets for inclusion for schools and LEAs

5.1 All schools, supported by LEAs, are required to set measurable targets, which will help them to clarify their values, principles and purposes. Further guidance is provided in 'A Focus on Achievement - Guidance on including pupils with additional needs in whole school target setting' (ACCAC 2002). This booklet emphasises that target setting needs to be developed within the context of school self-evaluation and school improvement and exemplifies the setting of broad targets for the areas in which schools feel their success should be judged i.e. measuring what is valued. It is important for schools to analyse data and ensure that they are aware of any underachievement by different groups of pupils.

5.2 The Welsh Assembly Government has also produced assessment materials for learners with profound and multiple learning difficulties - Routes to Learning (2006).

5.3 Individual Education Plans assist in setting targets for pupils with special educational needs, but these cannot be aggregated to gain a secure view of whole school performance.

5.4 The LEA should set clear targets for inclusion and support schools on the commitment to inclusion alongside improving academic standards.

6. Training and development

6.1 In inclusive education all staff should have the skills and knowledge necessary to support all children and young people in achieving the highest possible standards. Governors should also be provided with specific training on inclusion to allow them to perform their role effectively.

6.2 LEAs should plan to ensure a steady supply of appropriately trained staff who can support and advise schools in their training to meet diverse needs. These specialists should also include staff who can work through the medium of the Welsh language as well as others who can support pupils for whom English is an additional language.

6.3 Inclusion clearly has training implications. LEAs and others can help schools develop and train their staff. Inclusion is a key theme of the Better Schools Funding (BSF) which should be used to provide training in support of schools' and LEAs' development plans for inclusion.

6.4 There are many training and staff development activities which schools can organise for themselves, to help them become more inclusive in their practice. Schools should also access relevant INSET made available by their LEAs and other providers. The checklist attached at Annex 1.ii may be helpful to schools in evaluating current training and professional development needs.

6.5 Training for all staff should include information about the principles of inclusive education and equality. Training events can highlight successful practice, exploring schools' and LEAs' experiences of inclusion and what works. Events might also focus on awareness raising in relation to particular additional learning needs, such as those highlighted in Section 2 and on good practice in responding to the changing needs of children and young people, or exploring aspects of good practice in working together with parents, carers and other departments.

6.6 Joint training sessions with parents, carers, professionals from other agencies such as health service staff, Careers Wales and local voluntary groups are a helpful way of furthering professional understanding and of improving provision made for individuals through better joint working. NHS Child and Adolescent Mental Health Services (CAMHS) are currently active in many parts of Wales in providing training to schools, to help them fulfill their role as part of Tier 1 CAMHS services, as set out in Everybody's Business, the Welsh Assembly Government's strategy for CAMHS. This ties in with a recommendation in the recent Estyn report,

Behaviour Management Training (2004) that more should be done to improve the understanding of teachers and support staff about mental health in children.

Training for senior managers

6.7 It is essential that senior managers have a commitment to their schools becoming fully inclusive and are knowledgeable about the implications of such a commitment. In order to achieve this they should ensure that they have sufficient knowledge and awareness of the following:

- the key principles which underpin inclusive practice;
- the implications for school organisation of becoming more inclusive;
- methods by which the achievements of all pupils can be recognised and celebrated;
- with the requirements of this guidance and appropriate knowledge of:
 - the SEN Code of Practice for Wales;
 - the SEN Handbook of Good Practice;
 - equal opportunities legislation and guidance, including;
 - Disability Discrimination Acts (1995 and 2005);
 - SEN and Disability Act, 2001;
 - the Disability Rights Commission's Code of Practice for Schools;
 - the Race Relations (Amendment) Act 2000;
 - Early Entitlement and Extending Entitlement and the 10 universal basic entitlements for all children and young people
 - the Framework for the Assessment of Children in Need and Their Families;
 - Welsh Assembly Government guidance, including the following:
 - Education of Children Looked After by Local Authorities (Circular 2/2001);
 - Planning to Increase Access to Schools for Disabled Pupils (Circular 15/2004);
 - Exclusions from Schools and Pupil Referral Units (Circular 1 and 1A/2004);
 - Respecting Others: Anti-bullying Guidance (Circular 23/2003);

- Learning Pathways 14-19 Guidance II (Circular 17/2006);
- Quality Standards in Education for Children and Young People with Sensory Impairment (Circular 34/2005).

Responding to diversity

6.8 Most staff can be equipped to meet the diverse needs of the great majority of children and young people by using the general methods listed above. However, a very small minority of children and young people have such specialised learning needs that they require identified direct contact staff who have specialised training to meet those needs effectively. Examples of the skills and knowledge needed by staff can include the ability to communicate effectively with children and young people through the use of various techniques, such as signed support, or the effective use of behaviour management techniques.

6.9 LEAs in conjunction with schools should ensure access to specific specialist training, including on many of the issues identified in Section 1b is made available according to need.

6.10 LEAs in collaboration with schools should plan ahead to ensure the availability of sufficient staff who are trained in these skills, including staff who can offer them through the Welsh language.

Sharing good practice

6.11 Through their monitoring of school improvement, LEAs acquire knowledge of the most effective inclusive practice. They should share this knowledge with each other and with their own schools.

6.12 Special schools should share their expertise and experience with mainstream schools and vice versa.

6.13 The National Grid for Learning (NGfL) Cymru provides both online teaching and learning materials and a network of links to selected websites, which offer high quality content and information. The NGfL Cymru website provides schools in Wales with a range of bilingual services. It enables schools to build on their own practice and access a wide range of schools where ideas and materials can be shared through mutual support to promote inclusion.

'The National SEN Specialist Standards' published by the Teacher Training Agency in December 1999 include an accessible audit tool to identify specific teacher training and development needs. The Standards are specifically designed to support the developing role of teachers in an inclusive environment. A related CD-ROM is available from the Teacher Training Agency.

7. Working together for inclusion

7.1 Meeting the educational needs of individual children and young people, particularly those with additional learning needs, requires collaborative working arrangements within and between the statutory agencies. There is a need to communicate and agree policies and protocols that ensure an effective, fully integrated, 'seamless service'. Working supportively and in partnership with parents and carers and the children and young people themselves will help to ensure that everyone involved understands the responses of the professionals concerned. This, in turn will help to enhance inclusive practices.

The voice of pupils

7.2 Effective inclusion is characterised by commitment to meeting the educational entitlement of all children and young people and their involvement in the planning and making decisions about their learning.

7.3 All children should be involved in making decisions, where possible right from the start of their education. The ways in which children are encouraged to participate should reflect the child's evolving maturity. Participation in education is a process that will necessitate all children being given the opportunity to make choices and to understand that their views matter. Very young children can be encouraged to choose and to share their wishes and feelings with families and staff. Confident young children, who know that their opinions will be valued and who can practice making choices, will be more secure and effective pupils during the school years.

7.4 The Welsh Assembly Government is committed to following the United Nations Convention On The Rights of The Child to guide its work with the children and young people of Wales. The Assembly Government sets out its aims in this respect in 'The Dragon's Dialogue - Issues for discussion with Children and Young People in Wales'. Central to the aims of the initiative is the belief that children and young people should have a say in the decisions that affect them. To achieve this, the Assembly Government has introduced a number of initiatives in which children and young people can participate across the range of policy making. These include children and youth forums in all local authorities, and school councils in primary and secondary schools.

7.5 At national level, the Welsh Assembly Government has developed Funky Dragon - the Children and Young People's Assembly - as a representative body for the whole of Wales. Funky Dragon is a Council of representatives from local children and young people's forums and national and local peer-led groups. This body has a direct link with members of the Welsh Assembly Government Ministers and officials.

Listening to learners

7.6 As part of the introduction of the Common Framework for Inspection in 2004, Estyn published guidance to inspectors on listening to learners. The purpose of the guidance is to help inspectors to communicate effectively with learners in order to gain their views as part of the inspection process. The guidance applies to all learners and to the inspection of all providers. It is designed to ensure that all learners, and vulnerable groups of learners in particular, have the opportunity to express their views on:

- their achievements;
- their experiences of teaching, training and assessment;
- how well learning experiences meet their needs and interests;
- how well they are guided and supported;
- how well leaders and managers involve them in the evaluation and improvement of quality and standards; and
- how well learning resources are used.

7.7 In many cases children and young people would benefit from the involvement of an advocate to ensure that their views are represented in the most effective way to the most appropriate people. Pupils who are already experiencing difficulties may find it particularly difficult to have their view heard or to represent themselves should they wish to complain or if they are the subject of sanctions such as exclusion from school. Every effort should be made to ensure that they are able to access advocacy services.

Working in partnership with parents/carers

7.8 Developing strong relationships with parents and carers should be a key consideration in service delivery. Schools need to do this from as early a stage as possible.

7.9 Parents and carers have a crucial role to play in supporting their child. However, parents and carers may sometimes feel alienated or daunted when they have to deal with professionals concerning their child's needs. Parents and carers need to be fully involved in developing and implementing policies and strategies and parents of individual pupils requiring extra support need to be actively involved in decisions affecting their children and kept fully informed of progress and any changes in the provision required.

7.10 In working with parents, schools and LEAs will need to ensure that any information they provide is readily understandable, allows for different cultures and beliefs and is available in different languages and formats as required.

7.11 The Welsh Assembly Government's information document 'Special Educational Needs: Information for Parents and Carers of Young People who may have SEN' offers useful guidance about the roles, responsibilities and rights of parents and carers in respect of the SEN Code of Practice for Wales. Schools and LEAs should ensure that parents and carers of young people who have SEN or who believe their child has SEN are made aware of this and other useful documents.

7.12 Parent partnership services provide support and advice to parents and carers whose children have SEN. The services provide information on the full range of options available to parents and carers, and help them to make informed decisions about their children's education.

7.13 Disagreement resolution services can provide an informal and prompt way of preventing or resolving disagreements between parents and carers of pupils and the LEA or school. Parents of pupils with SEN may also appeal against decisions made by LEAs in Wales to the SEN Tribunal for Wales. Parents of pupils with a disability may also make claims of disability discrimination to the Tribunal. Claims of less favourable treatment on the basis of disability may be made against "responsible bodies" in Wales (usually schools). The Tribunal is an independent body whose decisions are legally binding (see Part 8).

Inter-agency partnerships

7.14 The Assembly's Children and Young People's Framework and Early and Extending Entitlement agenda has introduced key authority-wide partnerships to ensure that children and young people receive their key entitlements. LEAs should ensure that they are active members of Children's (0-10 year olds), Young People's (11-25 year olds) Partnerships and local equality and community fora. Another key authority-wide group where LEAs need to play an active role is the 14-19 Network set up to implement the new curriculum arrangements for 14-19 year olds (Learning Pathways). See National Assembly for Wales Circular 17/2006.

7.15 Important developments in inter-agency working have been achieved in Wales in recent years and in many cases where this has worked well the key has been joint funding and/or management. Where these arrangements aren't in place the use of clear, fully-agreed protocols detailing each organisation's role are important in ensuring that support can be put in place quickly rather than negotiating on an ad-hoc basis.

7.16 Voluntary sector organisations have a major part to play in delivery on inclusive services and are often used effectively. Evidence from Estyn highlights that this is an area which could be further developed in many authorities, subject to there being capacity locally. They have a key role to play as members of Children and Young People's Partnerships and on 14-19 Networks.

8. Monitoring, evaluation and intervention

8.1 In addition to specifically commissioned work from the Welsh Assembly Government, Her Majesty's Chief Inspector for Education and Training in Wales (Estyn) Estyn monitors aspects of inclusion in its inspections of LEAs, schools, colleges and training organisations.

8.2 Self-evaluation has always been a significant feature of good school and LEA development planning and has a high profile within the inspection process. It is important that schools, LEAs and other providers monitor and evaluate their own performance in relation to providing an inclusive education which caters for all pupils, including those with additional learning needs.

8.3 In 2003, the Welsh Assembly Government issued all schools with a copy of the 'Index for Inclusion' published by the Centre for Studies on Inclusive Education (CSIE). This contains a number of strategies and approaches to promote inclusion and identify and remove the barriers to learning and participation.

8.4 The Inclusion Quality Mark, developed by Public Sector Matters (PSM)- Management Consultancy, also provides a unique framework for self-review and evaluation by which schools and LEAs can develop more inclusive approaches to meeting the needs of pupils with SEN. It provides a programme for action and checklists in relation to inclusive practices in schools.

8.5 The principles of inspection as set out in the Common Inspection Framework for Wales reflect a clear commitment to inclusion, including:

- being responsive to the needs of all learners;
- focussing inspection on priority areas of Welsh Assembly Government policy, including tackling social disadvantage and equal opportunity; and
- looking at the experience of all learners.

8.6 The Common Inspection Framework requires inspectors to evaluate and report on:

- the quality of care, support and guidance to learners;
- the quality of provision for additional learning needs;
- the quality of provision for equal opportunities.

8.7 Also, within the Common Inspection Framework, inspectors will be required to consider specific aspects of inclusion when making their judgements.

These include:

- learners' achievement - whether learners succeed regardless of their social, ethnic or linguistic background;
- how well teaching, training and assessment promote equality of opportunity and actively address issues of gender, race and disability equality;
- the extent to which learning experiences respond to the interests of learners and the wider community, including whether these experiences tackle social disadvantage and stereotyping, and how well they ensure equality of access and opportunity;
- whether leaders and managers have explicit aims and values that promote equality for all.

8.8 The joint local authority inspections undertaken by Estyn and the Audit Commission monitor how authorities are supporting and facilitating inclusion and the quality of provision they are making for pupils with SEN. The focus of LEA inspections is, in most cases, on one of the four main areas of responsibility identified in the 'Fair Funding' regulations*. Three of these areas - school improvement, special educational needs, and access to education - are directly related to inclusion.

Appeals, tribunals and complaints processes

8.9 The intention to have an SEN Tribunal for Wales was set out in "The Learning Country" and the necessary legislation to establish it was made in the Education Act 2002. The Tribunal was established on 1 April 2003 and started hearing appeals from 1 September 2003. The Tribunal is based in Llandrindod Wells and travels across Wales to hear evidence on appeals.

8.10 The role of the Tribunal is to consider disputes between parents and LEAs. These disputes could involve matters such as decisions by an LEA not to undertake a statutory assessment of a child's needs, or to decline to issue a Statement of SEN once an assessment has taken place. Parents might also appeal to the Tribunal if they disagree with a school named to deliver specific provision. The decisions of the independent Tribunal are binding on both parties and there are statutory time limits for LEA compliance with relevant orders.

8.11 The Tribunal also hears cases of disability discrimination in Wales. It will also hear appeals against fixed-term exclusions where discrimination against a disabled pupil is alleged to have taken place or the disabled pupil has been placed at a substantial disadvantage by the exclusion procedures. Appeals against a permanent exclusion will take place through the standard process of an Independent Appeal Panel.

* Statutory Instruments 1998 No 101: The Financing of Maintained Schools Regulations

8.12 Parents and pupils have the right to appeal against exclusion from schools or pupil referral units. In January 2004, the right to appeal was extended to include not only adults and pupils aged over 18 but also children and young people of secondary school age. The appeals process is two-staged with an initial appeal to the school's governing body followed by the right to appeal to an independent appeal panel. Guidance on all aspects of exclusion is contained in National Assembly for Wales Circular 1 and 1A/2004.

8.13 All governing bodies of maintained schools are required by section 29 of the Education Act 2002 to have procedures for dealing with complaints from parents, pupils, members of staff, governors, members of the local community and others. The law also requires governing bodies to publish their complaints procedures. The Assembly Government has issued guidance to governing bodies in Circular 03/2004, 'School Governing Bodies Complaints Procedures'. In establishing and publicising their complaints procedures, governing bodies must have regard to this guidance. The Assembly Government also issued more specific guidance for governing bodies on procedures for complaints involving pupils (Circular 39/2006) in order to implement one of its core aims that all children and young people should be listened to and treated with respect.

The Welsh Assembly Government's powers of intervention

8.14 The Assembly has powers of intervention under the Education Act 1996. If the Assembly is satisfied that, under sections 496 and 497 of that Act, an LEA or governing body have exercised their functions unreasonably or have failed to discharge any duty imposed on them, the Assembly may issue a direction to the LEA or governing body. Unreasonableness has been interpreted by the courts as acting in a way in which no reasonable authority acting with due recognition of their responsibilities could act.

8.15 The Assembly has a further discretion, under section 497A of the 1996 Act, to issue a direction if it is satisfied that an LEA are failing to perform an education function to an adequate standard, or at all.

The role of the Children's Commissioner for Wales

8.16 The Children's Commissioner was appointed in December 2000. The Children's Commissioner for Wales Act 2001 set out the principal aim and widened the Commissioner's role by:

- giving a power to review the effect of policies, and delivery of services to children; and
- extending the Commissioner's remit well beyond services directly provided for children, such as social care, health and education, to include areas such as transport, the environment, economic development and agriculture.

8.17 The powers also cover policies and practice of the National Assembly itself. The powers of the Commissioner are designed to be sufficient for him to act as an informed champion of children and their rights. They include authority to give advice and guidance to children, and a requirement to ascertain the views of children and young people. The Commissioner can examine the case of a particular child or children if it involves an issue that has a more general application to the lives of children in Wales and can require an agency or person acting on their behalf to provide information. He can also require the attendance of witnesses who then give evidence on oath. Such an examination by the Commissioner will usually only happen when all other routes have been exhausted.

8.18 The Commissioner must have regard to the United Nations Convention on the Rights of the Child in everything he does. Children's rights underpin all his team's activities, and the main way in which those rights will be realised in Wales is through active participation. This will empower young people and enlighten adults whose work and attitudes affect them.

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Cambridge Education Association, Modernising the Management of SEN in Wales, 2004

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Save the Children, Listen Up ! Children and Young People Talk About Their Rights in Education, 2003

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ACCAC, Personal and Social Education Framework: Key Stages 1-4 in Wales, 2000

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ACCAC, An Introduction to the School Curriculum in Wales, 2003

ACCAC, Equal Opportunities and Diversity in the School Curriculum in Wales, 2001

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Child and Adolescent Mental Health Services, Everybody's Business, 2001

Children and Young People: Rights to Action, Single Education Plans 2006-08, 2006, Circular 05/2006

Early Entitlement: Supporting Children and Families in Wales, 2004

Education of Children Looked After by Local Authorities (Circular 2/2001)

Exclusions from Schools and Pupil Referral Units (Circular 1 and 1A/2004)

Extending Entitlement: Support for 11 to 25 Year Olds in Wales, 2002

Extending Entitlement: Making It Real, 2004

Framework for the Assessment of Children in Need and Their Families, 2001

Guidance for Governing Bodies on Procedures for Complaints Involving Pupils (Circular 39/2006)

Learning Pathways 14-19 Guidance II (Circular 17/2006)

Narrowing the Gap in the Performance of Schools, 2002

Narrowing the Gap in the Performance of Schools: Phase II Primary Schools, 2005

National Grid for Learning (NGfL) Cymru, website

Planning to Increase Access to Schools for Disabled Pupils (Circular 15/2004)

Quality Standards in Education for Children and Young People with Sensory Impairment (Circular 34/2005)

Respecting Others: Anti-bullying Guidance (Circular 23/2003)

School Governing Bodies Complaints Procedures, (Circular 03/2004)

Special Educational Needs Code of Practice for Wales, 2002

Special Educational Needs Handbook of Good Practice, 2002

Special Educational Needs: Information for Parents and Carers of Young People who may have SEN, 2002

The Dragon's Dialogue - Issues for discussion with Children and Young People in Wales, 2003

The Learning Country, 2001

The Learning Country II - Vision Into Action (2006)

Welsh Office, Shaping the Future for Special Education - an Action Programme for Wales, 1999

Annex 1.i

Developing Inclusive Strategies - A Checklist for LEAs

Annex 1.i: Developing Inclusive Strategies - A checklist for LEAs

The following checklist offers questions for consideration by LEAs to help them evaluate the nature and quality of their current provision, and further develop inclusive strategies. It draws on the guidance contained in this document as well as that for Single Education Plans.

The LEA's Strategy for Inclusion

- Does the LEA have a strategy for inclusion which is consistent with guidance set out for Single Education Plans and which includes specific elements for particularly vulnerable groups (see Section 2)?
- Does the strategy comply fully with equality legislation relating to education, including the Human Rights Act 1998, Sex Discrimination Act 1975, Welsh Language Act 1993, Race Relations Act 1976 and Race Relations (Amendment Act) 2000, the Disability Discrimination Act 1995 as amended by the Special Educational Needs and Disability Act 2001 and Disability Discrimination Act 2005?
- Is the strategy based on knowledge of current and emerging pupil needs, existing and proposals on future levels of provision, associated costs, and targets for pupils with lower attainment?
- Has the LEA produced a detailed, SMART plan for its strategy that has been approved by members?
- Is the strategy accompanied by financial planning that makes proposed developments feasible?
- Have appropriate targets and time-scales been set for development, and are these subject to regular monitoring that provides members with details of the progress being made?
- Do Elected Members take responsibility for the strategy, provide effective leadership by setting clear strategic objectives, monitoring performance and where necessary taking difficult decisions that are consistent with strategic objectives?
- Is the policy developed into clear operational plans that indicate the steps the LEA intends to take toward greater inclusion and improved pupil outcomes?

Partnerships

- Is the LEA's strategy and planning adequately represented within the Single Education Plan (Children and Young Person's Plan) and consistent with other plans such as the Learning Pathways 14-19 Plan, Children and Young People's Plans, other specific theme plans, and provision for Welsh education?

- Have schools (including special schools), pupil referrals units, parents, pupils, voluntary agencies and other partners been fully consulted on developments? Are they clear about the implications of these developments? Are there good levels of commitment to their implementation?
- Is the Parent Partnership Service effective in providing appropriate advice and information about educational inclusion services? Are schools and parents informed how to access the Service?
- Does the LEA inform parents and schools how to access the independent Disagreement Resolution Service?
- Is the proportion of parents and schools resorting to the Disagreement Resolution Service low?

Specific LEA duties on inclusion

- Are there improvements in the attainment of pupils with additional learning needs in Key Stages 1,2 and 3 and in the proportion of these pupils gaining GCSE/GNVQ?
- Has LEA support to schools to improve behaviour and attendance reduced the number of permanent and fixed term exclusions and improved attendance of pupils with additional learning needs?
- Has LEA support to schools to improve ways of tackling bullying resulted in improved approaches in schools? Is there any evidence of reduced levels of bullying?
- Does the LEA monitor attainment, absences, exclusions and bullying of various pupil groups, including minority ethnic groups, those with SEN and looked after children?
- Does the LEA provide comprehensive provision to meet a diversity of needs, including Welsh medium support where required?
- Does the LEA provide full-time education for pupils after 15 days of their having been excluded?
- Does the LEA have a comprehensive strategy for the implementation of the SEN and Disability Act 2001 to extend accessibility in the curriculum and the physical environment of schools?
- Has the LEA effectively supported schools in promoting the inclusion of pupils with SEN into mainstream?
- Are draft statements of SEN, with and without exceptions, completed within 18 weeks?
- Does the LEA have a clear policy on the full range of SEN that states pupils' entitlement and reflects the SEN Code of Practice for Wales?

- Do schools provide all reasonable adjustments to allow disabled pupils to access areas of the building and grounds?
- Is the LEA fully meeting its corporate parent responsibilities for children in its care?

Funding

- Do the LEA's funding arrangements promote inclusion? Are they transparent?
- Do they fairly reflect the pattern of needs in schools?
- Has the LEA produced a sound financial plan to support its inclusion strategy?
- Does the LEA monitor how funding for inclusion is used? Does it evaluate its impact?
- Does the LEA monitor out-of-area placements and has set out a timetable for reducing these placements where appropriate?

Monitoring and evaluation

- Do school improvement officers, advisers and support staff use data well to monitor standards and provision?
- Is the LEA able to provide a detailed picture of school admissions, and identify patterns of admission for children with behavioural difficulties?
- Does the LEA have systematic monitoring procedures for incidents of sexual and racial harassment, bullying and hostile behaviour?
- Does the LEA monitor attainment, attendance and behaviour for pupils educated outside the school setting under Section 19(1) of the Education Act 1996 ? Does it have clear and well-implemented processes for reviewing the progress of individual pupils as well as the quality and cost-effectiveness of different forms of provision?
- Does the LEA monitor schools' progress in responding to the requirements of the SEN and Disability Act 2001, in particular the anti-discriminatory duties placed on schools, and the provision of greater accessibility for disabled pupils to the curriculum?
- Is the proportion of pupils with statements of SEN attending out-of-county independent and LEA maintained special schools falling?
- Does the LEA effectively support mainstream schools in providing for pupils with additional learning needs and particularly for those with statements of SEN?

- Are the number of pupils with additional learning needs taught in mainstream schools increasing?
- Is the LEA strategy for early intervention successful i.e. is it leading, where appropriate, to a significant reduction in the proportion of pupils with statements of SEN (considered in combination with measures of parent satisfaction)?

Training

- Does the LEA have a coherent programme of training for staff and governors?
- Has the LEA reviewed the training needs of support staff and the educational psychology service and taken action to meet them?
- Is the LEA promoting access to specialist expertise by developing outreach and the training role of special schools?

Does the LEA plan to redistribute resources and staff expertise to pursue the inclusion strategy?

Annex 1.ii

Training and Staff Development on Inclusion - a Checklist for Schools

Annex 1.ii: Training and Staff Development on Inclusion - a checklist for schools

The following checklist may be helpful to schools in evaluating training and staff development needs.

Effective Inclusive Schools	Yes	No	Partly
Provide training aimed at securing staff commitment to the principles of inclusive education.			
Provide appropriate training on the relevant codes and circulars relating to inclusion.			
Encourage staff to work collaboratively to differentiate the curriculum in ways which will maximise the full participation of all children in their lessons.			
Provide opportunities for staff to visit other schools to see examples of good practice.			
Receive visits from staff in other schools to demonstrate their own good practice.			
Organise opportunities for staff to work collaboratively by reflecting on their current practice; with a view to agreeing the most effective methods and approaches to address individual needs.			
Train teachers and teaching assistants to use technology to support children's learning.			
Provide staff with access to the Internet and other sources of information about individual needs.			
Arrange access for staff to relevant e-mail clusters which facilitate joint discussion of ideas, problems and solutions.			
Encourage staff to explore ways of involving children in decisions made about their education.			
Provide diversity and equality training for all staff.			
Provide training to help staff learn how to counter bullying, racism, sexism, disability discrimination and homophobia.			
Offer opportunities for staff to learn how to improve their communications with parents.			
Offer opportunities for staff to discuss with other agencies how their joint working practice could be improved.			

Annex 1.iii

The SEN and Disability Act 2001

Annex 1. iii: The SEN and Disability Act 2001

The SEN and Disability Act 2001 amends sections 316 and 316A of the Education Act 1996.

Section 1 of the SEN and Disability Act 2001

316 Duty to educate pupils with SEN in mainstream schools

- (1) This section applies to a child with special educational needs who should be educated in a school.
- (2) If no statement is maintained under section 324 for the child, he must be educated in a mainstream school.
- (3) If a statement is maintained under section 324 for the child, he must be educated in a mainstream school unless that is incompatible with:
 - (a) the wishes of his parent, or
 - (b) the provision of efficient education for other children.
- (4) In this section and section 316A “mainstream school” means any school other than:
 - (a) a special school, or
 - (b) an independent school which is not:
 - (i) a city technology college,
 - (ii) a city college for the technology of the arts, or
 - (iii) a city academy.

316A Education otherwise than in mainstream schools

- (1) Section 316 does not prevent a child from being educated in-
 - (a) an independent school which is not a mainstream school, or
 - (b) a school approved under section 342, if the cost is met otherwise than by a local education authority.
- (2) Section 316(2) does not require a child to be educated in a mainstream school during any period in which-
 - (a) he is admitted to a special school for the purposes of an assessment under section 323 of his educational needs and his admission to that school is with the agreement of:
 - (i) the local education authority,
 - (ii) the head teacher of the school or, if the school is in Wales, its governing body,

- (iii) his parent, and
 - (iv) any person whose advice is to be sought in accordance with regulations made under paragraph 2 of Schedule 26;
 - (b) he remains admitted to a special school, in prescribed circumstances, following an assessment under section 323 at that school;
 - (c) he is admitted to a special school, following a change in his circumstances, with the agreement of:
 - (i) the local education authority;
 - (ii) the head teacher of the school or, if the school is in Wales, its governing body, and
 - (iii) his parent;
 - (d) he is admitted to a community or foundation special school which is established in a hospital.
- (3) Section 316 does not affect the operation of:
- (a) section 348, or
 - (b) paragraph 3 of Schedule 27.
- (4) If a local education authority decide:
- (a) to make a statement for a child under section 324, but
 - (b) not to name in the statement the school for which a parent has expressed a preference under paragraph 3 of Schedule 27, they shall, in making the statement, comply with section 316(3).
- (5) A local education authority may, in relation to their mainstream schools taken as a whole, rely on the exception in section 316(3)(b) only if they show that there are no reasonable steps that they could take to prevent the incompatibility.
- (6) An authority in relation to a particular mainstream school may rely on the exception in section 316(3)(b) only if it shows that there are no reasonable steps that it or another authority in relation to the school could take to prevent the incompatibility.
- (7) The exception in section 316(3)(b) does not permit a governing body to fail to comply with the duty imposed by section 324(5)(b).
- (8) An authority must have regard to guidance about section 316 and this section issued-
- (a) for England, by the Secretary of State,
 - (b) for Wales, by the National Assembly for Wales.

(9) That guidance shall, in particular, relate to steps which may, or may not, be regarded as reasonable for the purposes of subsections (5) and (6).

(10) "Prescribed", in relation to Wales, means prescribed in regulations made by the National Assembly for Wales.

(11) "Authority":

(a) in relation to a maintained school, means each of the following-

(i) the local education authority,

(ii) the school's governing body, and

(b) in relation to a maintained nursery school or a pupil referral unit, means the local education authority.

Section 2

Supporting Pupils with Additional Learning Needs



Section 2: Inclusive Education: Support for Pupils With Additional Learning Needs

1. Introduction

1.1 Evidence shows that certain factors which exist in children and young people's lives place them at a greater risk of disengagement from school and in turn also increase their risk of social exclusion. Children and young people exposed to these factors are over-represented amongst those who are absent from school, exhibit poor behaviour, and who are excluded from school. Many are already among the most vulnerable in the community. Disengagement from school, therefore, serves to exacerbate what are already difficult circumstances for the child or young person.

1.2 The National Service Framework for Children, Young People and Maternity Services in Wales (Welsh Assembly Government, 2005) contains a separate chapter on Children and Young People in Special Circumstances, and highlights that certain groups of pupils often have additional unmet needs.

1.3 Potentially there are many pupil groups who could be identified as having additional learning needs which need to be addressed. However, the main groups dealt with in this section are:

- (Part 2) children of families in difficult circumstances
- (3) pupils with special educational needs
- (4) pupils with a disability
- (5) certain minority ethnic pupils including those learning English as an additional language (EAL)
- (6) asylum seeking refugee children
- (7) Gypsies and Travellers
- (8) children of migrant workers
- (9) more able and talented pupils
- (10) those who are looked-after by the local authority
- (11) pupils with medical needs
- (12) young parents and pregnant young women
- (13) young offenders
- (14) young carers
- (15) lesbian, gay, bisexual and transgender pupils
- (16) school refusers and school phobics
- (17) pupils who perform or who have employment

1.4 This list is not intended to be exhaustive as there are a wide range of circumstances in which children and young people may have additional learning needs, which may be either short or long term. Many pupils will fall into several of the above categories. Evidence shows that where there is more than one risk factor the overall risk to the child or young person is greater than merely the sum of the risk levels for each factor.

1.5 Pupils who are at risk of disengagement and social exclusion are more vulnerable, have more diverse needs and require more support than their peer group. Schools should recognise that this can also place pupils at an increased risk of bullying. Schools, therefore, need to promote a whole school approach to inclusion through celebration of diversity, through their school ethos, through the curriculum, through anti-bullying policies and through personal and social education (PSE) lessons. Anti-bullying strategies are discussed at length in National Assembly for Wales Circular 23/2003: Respecting Others.

1.6 The variety of pupil groups identified above as being at risk of disengagement and social exclusion indicates that a diverse range of support mechanisms need to be provided, within a whole-school approach.

1.7 Most teachers can usually meet the needs of pupils with a wide range of learning needs and organise their classroom to maximise potential. The more flexible and responsive teachers are, the more likely pupils are to make progress. Strands of action will need to be organised so that progressively more powerful interventions can be used to meet increasing need.

1.8 When a pupil requires additional help, it will usually be available within the classroom resources and managed by the class or subject teacher. Even if a pupil requires additional support outside the classroom, this should still be in the context of an inclusive curriculum.

1.9 LEA support services can provide advice to teachers (e.g. on teaching techniques and strategies, classroom management and curriculum materials); support for curriculum development; direct teaching or practical support for class teachers; part-time specialist help or access to learning support assistants.

Assessment

1.10 All pupils are entitled to have an accurate and fit for purpose assessment of their learning needs. "Routes for Learning " (Welsh Assembly Government 2006) can be used to assess pupils who have profound learning difficulties and additional disabilities and who are working at very early levels of development.

1.11 Beyond these early levels, Foundation Phase outcomes and National Curriculum outcomes have been written to assess pupils working below National Curriculum level 1.

1.12 For minority ethnic pupils, a multifaceted approach to assessment is essential to provide a comprehensive picture of what they are capable of achieving. Assessment should take into account pupils' prior learning, their previous school experience, and their cultural and linguistic backgrounds, including competence in English/Welsh. An important distinction was made in the Section 156 of the 1993 Education Act:

“A child is not to be taken as having a learning difficulty solely because the language (or form of language) in which he is, or will be, taught is different from a language (or form of language) which has at any time been spoken in his home”

1.13 Schools should consider whether pupils are:

- learning more slowly than others because the ethos and curriculum are not inclusive
- not learning because their good level of conversational English/Welsh has misled the teacher into setting tasks which are too abstract for current language level
- learning at an appropriate rate but need more time to get used to the demands of working in their additional language
- failing because of emotional/social stress
- failing to learn due to a specific language or learning difficulty

Transition

1.14 Transition is often a difficult time for any child but this is especially so where they have additional learning needs.

1.15 The word transition encompasses all changes we can experience throughout our lives. In educational terms it can be the movement from early years to primary education, from primary to secondary education and from secondary onto further education or employment.

1.16 Whatever the transition phase or however it is termed, when it involves children and young people with additional learning needs, the effective working between the range of organisations involved and the timely transfer of information becomes critical in ensuring the smooth transition between settings.

1.17 It is essential that all agencies work together to ensure effective information sharing and financial and strategic planning to ensure that needs can be met without any unnecessary interruptions or delays.

1.18 The SEN Code of Practice for Wales sets out a number of requirements to ensure a smooth transition between and across phases. For example, primary schools must ensure that school records are transferred to the child's new school within 15 days of the child ceasing to be registered at that school. Annual reviews of statements of special educational needs

for children in year 6 must be amended by 15th February in the year the child transfers. This then allows time for records to be transferred and any additional provision to be put in place prior to any transfer taking place.

1.19 The Foundation Phase for 3-7 year olds currently being developed by the Welsh Assembly Government will provide guidance for improving the transition from home to school. The Assembly Government is also currently developing a policy on improving the transition between primary and secondary school (See Section 3, Part 8 and developing Learning Pathways for 14-19 year olds).

Gender differences

1.20 Across the pupil groups identified as being at risk of disengagement from school, the greater majority of those permanently excluded are male pupils -around 4 times more boys than girls are permanently excluded from Welsh schools. Additionally boys' attainment levels are significantly less than those of girls - a difference of 12% in terms of the proportion achieving 5 GCSE grades A* to C in 2004/05.

1.21 The higher level of exclusion for male pupils, together with differences in behaviour which may exist between female and male pupils experiencing difficulties, can result in female pupils who are experiencing difficulties going unnoticed. Research for the Joseph Rowntree Foundation (Osler et al, 2001) points to a widespread belief among schools that 'girls are not a problem'. This can lead to the scale of exclusion and disengagement going unrecognised and the particular needs of disaffected girls being inadequately met (Osler et al, 2001). Schools should ensure that inclusion policies address the diverse needs of male and female pupils.

1.22 In Wales, girls generally outperform boys across the key stages. Estyn highlight the importance of skill in language as a factor in performance in other subjects and the need for schools to put in place strategies to improve boys' language skills.

Use of the Curriculum

1.23 In addition to school policies the Personal and Social Education Framework identifies specific learning outcomes to promote equality of opportunity and to value and celebrate diversity across key stages 1 to 4. The school curriculum provides many opportunities to promote equal opportunities. A list of organisations and recommended teaching materials are available on the curriculum and qualifications pages of the Welsh Assembly Government's website. More information on adopting an Inclusive Curriculum is contained in Section 1. The whole of the Curriculum in Wales, including the PSE Framework, is being revised and is due to be introduced in September 2008.

ACCAC, Personal and Social Education Framework: Key Stages 1-4 in Wales, 2000

ACCAC, Equal Opportunities and Diversity in the School Curriculum in Wales, 2001

National Assembly for Wales Circular 23/2003, Respecting Others: Anti-bullying guidance

National Assembly for Wales Website: Curriculum organisations and materials

Osler, A., Street, C., Lall, M., and K. Vincent (2001): Not a problem? Girls and school exclusion (National Children's Bureau: London)

2. Children of families in difficult circumstances

2.1 Disengagement from school often coincides with incidents at home, including abuse, bereavement, threats of arranged marriages and other traumatic events which can go unnoticed by schools or professional workers.

2.2 Difficult home situations across the social spectrum may have an adverse effect on children's emotional and educational development. School staff should be sensitive to possible links between poor school behaviour and other experiences in a child's life. Research suggests that children who have experienced family upheaval and change are more likely than their peers to leave school early with fewer qualifications, to truant, to be excluded, or to engage in self-destructive or anti-social behaviour. Difficult circumstances might include:

- bereavement;
- loss of one or both parents through divorce or separation or parents in frequent conflict;
- formation of a new family unit involving new adult partnerships;
- family stress resulting from unemployment, low income, alcohol and drug abuse, mental illness;
- domestic violence and/or child abuse within the family;
- stress resulting from a parent serving a custodial sentence.

2.3 Children may express the pain they feel in a variety of ways, and boys and girls may react differently. For example, some pupils may develop anxiety, which may result in school phobia developing (see Part 16 of this section). Other pupils may express their pain through inappropriate behaviour. Whilst pupils may need to be made aware that their behaviour is inappropriate, they also need ways to express their pain, anger or confusion. Pupils may wish to speak in confidence to other children or to teachers or to a trusted adult. Research suggests that the presence of an adult who is able to support and listen to the child can offset the impact of divorce, separation and new adult partnerships.

2.4 A major protective factor in a child's life is having good relationships and succeeding in school. Education staff, through their day-to-day contact with pupils, have a crucial role to play enabling children to have positive experiences in school - academically and through good relationships - as well as ensuring and observing their well-being. Education Welfare Officers and Educational psychologists may, through their work with schools, have knowledge of a particular child. If a child is thought to be in need social services departments may be able to assist. With parental agreement, these concerns may be discussed with the local social services department and a way forward agreed on identified matters.

2.5 In addition to contributing to work undertaken with pupils by staff from other agencies, social services departments can assist directly by working with individual children and their families who are experiencing difficulties which impact on the child's educational progress. This could include work with children who are caring for a sick or disabled adult, or where there are relationship difficulties within the family, or where a child has suffered abuse or neglect. In such situations where a child and family is referred to a social services department for help with difficulties identified at school, an initial assessment will be undertaken using the dimensions in the Framework for Assessment of Children in Need and their Families to ascertain if the child is in need and what help could be offered to respond to the particular needs of the child and their family.

2.6 A Fair Future for Our Children, The Strategy of the Welsh Assembly Government for Tackling Child Poverty, 2006 highlighted the need to ensure that children of families with low incomes are not stigmatised and are provided with suitable support. This would include considering ways of avoiding embarrassment for pupils receiving free school meals and selection of affordable school uniforms. Further examples of good practice can be found in the End Child Poverty Network's guide for schools 'Tackling Child Poverty in Wales: A Good Practice Guide', 2006.

2.7 Domestic abuse has a devastating effect on children. The Assembly has produced an information booklet for schools, which builds on existing child protection procedures and assist teachers and support staff to recognise and understand children and young people who are victims of domestic abuse. The booklet "Good Practice on Domestic Abuse" was published in March 2004 and has been circulated widely to schools, local education authorities, teaching bodies and youth organisations. A leaflet for children and young people has also been produced and is available on the Welsh Assembly website (www.wales.gov.uk/subicrimeprevention/index.htm).

2.8 Schools may wish to involve social services or other agencies in helping to cope with the underlying family problem. There may also be other local sources of support for children and young people, for example counselling services, which teachers need to know about to refer children for support.

2.9 Schools and LEAs need to be aware of the need to support children of parents who are substance abusers, as highlighted in the Hidden Harm report, produced by the Advisory Council on the Misuse of Drugs in 2003 and draw on any local strategies developed on this aspect.

Advisory Council on the Misuse of Drugs, Hidden Harm: Responding to the Needs of the Children of Problem Drug Users, 2003

End Child Poverty Network's guide for schools 'Tackling Child Poverty in Wales: A Good Practice Guide', 2006

National Assembly for Wales, Good Practice on Domestic Abuse: Safeguarding Children and Young People in Wales, 2003

National Assembly for Wales, Tackling Substance Misuse in Wales: A Partnership Approach, 2000

NSPCC, Problems at Home, Problems at School, 2004

Welsh Assembly Government, A Fair Future for Our Children, The Strategy of the Welsh Assembly Government for Tackling Child Poverty, 2006

3. Pupils with special educational needs (SEN)

3.1 This part provides summary information on supporting pupils with special educational needs (SEN) as defined within the Education Act 1996 and the SEN Code of Practice for Wales.

3.2 Children have special educational needs if they have a learning difficulty, which calls for special educational provision to be made for them. Children have learning a difficulty if they:

- a) have a significantly greater difficulty in learning than the majority of children of the same age; or
- b) have a learning disability which prevents or hinders them from making use of educational facilities of a kind generally provided for children of the same age in schools within the area of the local education authority;
- c) are under compulsory school age and fall within the definition at (a) or (b) above or would do so if special educational provision was not made for them.

See Section 312, Education Act 1996

3.3 The Special Educational Needs and Disability Act 2001 delivers a strengthened right to a mainstream education for children and young people with SEN. The Act has amended the Education Act, 1996 and transformed the statutory framework for inclusion into a positive endorsement of inclusion. The Act seeks to enable more children and young people who have SEN to be included successfully within mainstream education. This clearly signals that where parents or carers want a mainstream education for their child everything possible should be done to provide it. Equally where parents or carers want a special school place their wishes should be listened to and taken into account.

3.4 The SEN Code of Practice for Wales (2002), advises the adoption of a range of strategies to ensure inclusive practice in schools. It further suggests that any strategies used should recognise the various complexities of need, the different responsibilities to assess and meet those needs, and the associated range and variations in provision which will best reflect and promote common recognition of the continuum of SEN. The SEN of the majority of children and young people can and should be met effectively at school or early years action and action plus. The graduated response, outlined in the Code, allows for movement along a continuum of support to reflect needs and progress made.

3.5 Schools and early years' practitioners will need to determine which form of action is appropriate for each individual. They will need to assess a pupil's overall progress, their attainments and strengths, in addition to their difficulties and areas for development. This will involve assessing the strategies that are currently being used to meet the pupil's special educational needs and considering how they might be made more effective.

3.6 Meeting the special educational needs of individual children and young people requires flexible working on the part of statutory agencies. They need to communicate and agree policies and protocols that ensure that there is a 'seamless' service. Working supportively and in partnership with parents and the children and young people themselves will ensure that everyone involved understands the responses of the professionals concerned, and lead to a better quality of provision.

3.7 Maintained schools must publish information that includes the school's arrangements for working in partnership with LEA support services, health and social services, Careers Wales and any relevant local and national voluntary organisations. Teachers have a great deal of expertise in identifying and meeting the needs of their pupils. External support services can however play an important part in helping schools identify, assess and make provision for pupils with SEN.

3.8 The importance of early identification, assessment and provision for any pupil who may have SEN cannot be over-emphasised. The earlier action is taken, the more responsive the child is likely to be, and the more readily an intervention can be made. As soon as there are difficulties, staff should liaise with the SENCO and the pupil's parents.

3.9 Some children and young people's special needs - for example, moderate or specific learning difficulties (including dyslexia) - may not emerge until children start school or even later. Often special educational needs are masked by other difficulties such as emotional or behavioural difficulties, disaffection or simply where a child has used their own coping strategies to avoid being 'different'. It is equally important that the special educational needs of these children and young people are identified as early as possible and that appropriate intervention strategies are put into place.

3.10 If a child's difficulties prove to be transient, the child will subsequently be able to learn and progress normally. If the child's difficulties prove less responsive to the provision made by the school or within the early years setting, then an early start can be made in considering the additional help the child may need.

3.11 Where a child is considered to have SEN and is deemed to be requiring support at early years or school action or action plus they should have an Individual Education Plan (IEP). The IEP, which should be drawn up in partnership with parents and the child, sets out the child's needs in detail and the actions that should be taken to ensure progress is made. The IEP will contain targets for the future and show how and when the child's progress will be reviewed

3.12 The IEP should record only that information which is additional to or different from the differentiated curriculum plan that is in place as part of normal provision. IEPs and the way in which they can help should be discussed with parents and the child.

3.13 Other than in the most exceptional circumstances, schools should avoid permanently excluding pupils with statements of special educational needs. Schools should also make every effort to avoid excluding pupils who are being supported at School Action or School Action Plus under the SEN Code of Practice for Wales, (Further guidance is given in National Assembly for Wales Circular 1/2004 Exclusion from Schools and Pupil Referral Units).

National Assembly for Wales: Special Educational Needs Code of Practice for Wales, 2002

National Assembly for Wales: SEN Handbook for Schools, 2002

National Assembly for Wales Circular 1/2004: Exclusion from Schools and Pupil Referral Units

4. Pupils with a disability

4.1 Inclusion within mainstream schools is not sufficient in itself to ensure disability equality in schools. Disabled pupils must have the right to pursue their education without unfair discrimination.

4.2 The Disability Discrimination Act 2005 (as amended by the SEN and Disability Act 2001) states that the responsible body for a school must take such steps as it is reasonable to take to ensure that disabled pupils and disabled prospective pupils are not placed at a substantial disadvantage in comparison with those who are not disabled. Further the Act states [section 28B(2) and section 28C(1)] that the responsible body for a school discriminates against a disabled child if it fails to the detriment of the child and without justification to take these reasonable steps. This is often referred to as the reasonable adjustments duty.

4.3 However, education law does not set out what should be taken into account when deciding if a step is reasonable. What constitutes a reasonable step or steps will depend on all of the circumstances of the individual case. In its Code of Practice for Schools (2002) the Disability Rights Commission sets out a number of examples that can be deemed to be reasonable adjustments and what would constitute disability discrimination.

4.4 All reasonable steps must be taken to enable pupils to be included without compromising the efficient education of other children and young people. The decision not to educate a child or young person in a mainstream school - against their parent's or carer's wishes - should not be taken lightly. It is important that all cases are judged on the individual circumstances. There may be a range of reasons why it may not always be possible to take reasonable steps to prevent a child's or young person's inclusion being incompatible with the efficient education of others. For example, an extreme incident may be sufficient to make the child or young person's inclusion incompatible with the efficient education of others where it is highly likely that it would occur again and there are no reasonable steps that could be taken to prevent this.

4.5 Mainstream education can only be refused on the grounds that a child or young person's inclusion would be incompatible with the efficient education of others and where there are no reasonable steps maintained schools or LEAs could take to prevent the incompatibility. The following are some of the factors which might be taken into account when considering what is reasonable:

- whether taking the step would be effective in overcoming the incompatibility;
- the extent to which it is practical for the maintained school or local authority to take the step;
- the extent to which steps have already been taken to facilitate the child or young person's inclusion and their effectiveness;
- the financial and other resource implications of taking the step; and
- the extent of any disruption taking the step would cause.

4.6 Over time, the nature of reasonable steps may change as schools, LEAs and other providers become more able to meet the needs of diverse groups of children and young people.

4.7 National Assembly for Wales Circular 15/2004, issued in March 2004 gives guidance on Planning to Increase Access to Schools for Disabled Pupils.

4.8 Sections 28D and 28E of the DDA Act 1995 (as amended by the SEN and DDA Act 2001) place a duty on all LEAs to plan strategically to increase over time the accessibility to disabled pupils of all of their maintained schools. Sections 28D and 28E also place a duty on the responsible bodies for schools to plan to increase the accessibility of their individual schools.

4.9 This includes community schools, community special schools, foundation schools, voluntary controlled and aided schools, independent schools and non-maintained special schools. The duty to produce an accessibility plan does not apply to pupil referral units or maintained nursery schools where the LEA is the responsible body. The LEA accessibility strategy should cover these institutions. The planning duties do not cover

private and voluntary providers of early years education, except nursery education provided by independent schools as defined by section 463 of the Education Act, 1996.

4.10 LEA accessibility strategies and school accessibility plans must cover:

- increasing the extent to which disabled pupils can participate in the school curriculum;
- improving the physical environment of schools for disabled pupils;
- improving the delivery to disabled pupils of information provided to other pupils in writing.

4.11 Disability discrimination happens when a person is treated less favourably than someone without a disability, for a reason related to the disability, and this cannot be justified. The SEN and Disability Tribunal can hear and decide upon a parent or carer's claim in relation to disability discrimination in relation to schools. From April 2003 Wales has had its own SEN Tribunal for Wales (SENTW). From 1 September 2003, SENTW will consider appeals about special educational needs. The SENTW will also hear claims of disability discrimination in relation to schools in Wales.

5. Pupils from minority ethnic groups

5.1 Pupils from some specific minority ethnic may face a number of issues, which place them at an increased risk of disengagement, including:

- isolation and racially motivated bullying
- learning English as an additional language (EAL)

Isolation and dealing with incidents of racism

5.2 Minority ethnic pupils can be isolated both numerically and geographically. Pupils in urban multi-ethnic schools can be isolated if there are few others of the same ethnic background, culture, faith or language as themselves. However, pupils who share an ethnic origin or home language may be very different socially and/or academically and may not necessarily provide support for one another in the face of isolation.

5.3 Pupils can also be isolated by their experience of racism. Evidence shows that minority ethnic pupils' experience of racism and discrimination in schools in Wales varies between locations and ethnic groups. The way in which racism is dealt with in schools can profoundly impact on pupils' attitudes and relationships to the school and their teachers. Negative experiences can alienate pupils from the school system. In order to fulfil their obligations under the RR(A)A 2000, schools must provide training for all staff including non-teaching staff in dealing with racist incidents.

Learning English as an additional language (EAL)

5.4 There is a clear correlation between EAL stage and achievement. "Apart from the phase of schooling, EAL stage is the most statistically significant factor impacting on the achievement of ethnic minority pupils for whom English is an additional language." (EALAW: The achievement of ethnic minority pupils in Wales (2003) P 16).

5.5 Pupils who are learning English as an additional language are at risk of lacking competency in both English and their home language. Whilst many pupils learning English as an additional language use their home languages extensively, this may not always be recognised or supported in school. Consequently, some pupils may reach the end of compulsory schooling without obtaining proficiency in either English or their home language. Some Welsh schools have responded by offering GCSE in a diversity of languages, which are open to all pupils within the school.

ACCAC, Equal Opportunities and Diversity in the School Curriculum in Wales', 1991 - good practice in promoting equality across all subject areas throughout key stages 1-4

(The Open University) Blair, M. and J Bourne with C Coffin, A Creese and C Kenner (1998) Making the Difference: Teaching and Learning Strategies in Successful Multi-ethnic Schools

Commission for Racial Equality: Code of Practice on the Duty to Promote Racial Equality, 2002

Commission for Racial Equality: A Guide for Schools, 2002

EALAW: The Achievement of Ethnic Minority Pupils in Wales (2003)

Estyn: Supplementary Guidance on the Inspection of Racial Equality, the Promotion of Good Relationships and English as an Additional Language (2005)

National Assembly for Wales: Race Equality Scheme 2005-2008 (2005)

National Assembly for Wales Circular No:27/02: Collecting and Recording Data on Pupils' Ethnic Background, 2002

Rochdale Metropolitan Borough Council: Activity Pack for Extended Holidays Abroad (designed for pupils visiting Pakistan and Bangladesh)

Forthcoming guidance:

Welsh Assembly Government, Principles and Practice in the support of Minority Ethnic Pupils' Achievement (2006/07)

6. Asylum seeking/refugee children

6.1 Pupils whose families are seeking asylum or who have refugee status may experience many of the difficulties outlined above. Additionally some children, referred to as unaccompanied asylum seeking children have been separated from their families, and have additional traumas for them to deal with. Research has identified a number of additional factors that can be significant to the experience of school and which are specific to pupils seeking asylum and for those pupils with refugee status.

6.2 School provides an opportunity to meet with other children and make friends. The importance of education to the social integration of asylum seeker pupils cannot be over-emphasised.

6.3 Many asylum-seeking children will need support to thrive in their new environment as a result of their past experiences or current situation. For example, war may have disrupted children's education for several years. Some may have lost relatives or witnessed extreme violence and suffer from emotional or behavioural problems as a result. Unaccompanied children have the additional problem of not having the support of their parents or guardian. Once in schools in this country they may experience racial bullying or feelings of isolation or may struggle to integrate because of their lack of English. Both parents and children can experience a feeling of loss - loss of language and loss of culture.

6.4 Parents of pupils who are seeking asylum or who have refugee status may also face difficulties coping with readjustment. In particular, there are likely to be considerable differences between the school system in Wales and the school system in the pupil's home country. Evidence suggests that school-home communication plays an important role in helping both parents and pupils to understand the education system in Wales.

Audit Commission (1999) Another Country: Implementing Dispersal Under the Immigration and Asylum Act 1999

Daycare Trust Research

Save the Children (2005) Uncertain Futures: Children Seeking Asylum in Wales

Forthcoming guidance:

Welsh Assembly Government "Principles and Practice in the support of Minority Ethnic Pupil's Achievement" (2006/07)

7. Gypsies and Travellers

7.1 Romany Gypsies have been recognised in law as a racial group since 1988. Irish Travellers, who have been travelling as a distinct social group since the 1800s, received legal recognition as a racial group in England and Wales in 2000. Both groups are offered protection by the Race Relations (Amendment) Act 2000.

7.2 There are a number of other groups covered by the generic terms 'Gypsy and Traveller' that are defined by their ethnic, national or social characteristics rather than by their racial origins:

- English and Welsh Gypsies
- Scottish Travellers
- Show People (Fairground People) and Circus People
- Bargees (occupational boat dwellers)
- New Travellers.

7.3 Research shows that pupils who are Gypsy Travellers (mostly either Gypsy/Roma or Travellers of Irish Heritage), have the lowest results of any pupil group, and are the group most at risk of disengagement from school. They are disproportionately represented amongst pupils who are excluded from school and in those not attending school regularly. Gypsies and Travellers may experience many of the problems outlined in the parts above. There are, however, a number of special circumstances which are important in influencing the achievement of Gypsy Traveller pupils:

- teacher knowledge and expectations;
- parental education, aspirations and concerns; and
- interrupted educational experience.

7.4 Observed best practice in educating Gypsy Traveller pupils suggests that schools making provisions for Gypsy Traveller pupils through additional teaching staff may also find useful non-teaching assistants, classroom ancillaries or other professional support. Securing the regular attendance of Gypsy Traveller children at school may be facilitated through the additional appointment of one or more specialist Educational Welfare Officers (EWO) working closely with other EWO colleagues in the area.

7.5 Some authorities have found that effective practice has resulted from the establishment of a peripatetic teaching team, providing flexible support to schools, pupils and parents. In establishing such teams it is helpful if levels of staffing reflect the additional demands of specialist teaching at the secondary stage, if standards of achievement are to be satisfactory. It is also helpful if staff appointments are given an appropriate management structure and allowances which are commensurate with similar services provided by the LEA.

7.6 Outreach work to the Gypsy Traveller communities may be undertaken by EWOs working in close liaison with advisory teachers. Initial visits to Gypsy Traveller families may benefit from introductions provided by Gypsy Traveller representatives, Gypsy Traveller site Liaison officers or voluntary workers who may have already established a relationship with the community.

7.7 At an early stage schools should also be involved in the process of welcoming parents and children. Close links between home and school can facilitate the discussion of such issues as transfer between schools, medical inspections and educational visits and the participation of parents in the life and work of the school. Good relationships may also lead to schools being notified of impending movement and this can help with the transfer of educational records. While schools may benefit from the liaison work of advisory teachers and EWOs they should also build up their own pastoral links with Traveller parents as they do with the parents of other pupils.

7.8 For more information please see Welsh Office Circular 52/90, Meeting the Education Needs of Travellers and Displaced Persons.

Estyn: The Education of Gypsy Traveller Learners 2005

NFEF: Research into the Education of Gypsy Traveller Children in Wales (2006)

National Assembly for Wales Report, Equal Opportunities Committee Report on Services for Gypsies and Travellers (2003)

Save the Children, Will You Listen? Report on a survey of the views and experiences of young Gypsy/Travellers in Wales, 2003

Welsh Office, Meeting the Education Needs of Travellers and Displaced Persons. (Circular 52/90) **(due to be revised in 2006/07)**

8. Children of migrant workers

8.1 Wales is attracting an increasing share of migrant workers, mainly from European Union countries. The International Convention for the Protection of All Migrant Workers and Members of Their Families defines 'migrant workers' as follows:

"the term 'migrant worker' refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national'

This does not include refugees or asylum seekers, whose principle reason for entering another country is that they are fleeing persecution in their own country.

8.2 The great majority of migrant workers are employed in the unskilled labour market, and on a short-term basis. In Wales they primarily work within agriculture, hotels and tourism, packing, building and construction, abattoirs, catering, cleaning and social and personal care.

8.3 The Welsh Assembly Government has produced a Welcome Pack for employers to distribute to their employees, which will provide migrant workers with essential information on how to access education for themselves and their children.

8.4 Due to the often transient nature of their lifestyles along with English not being the first language for the majority of migrant workers, many of the approaches highlighted earlier for supporting pupils with English as an Additional Language and Gypsy and Travellers should be adopted to support the children of migrant workers integrating successfully into education

National Assembly for Wales, Migrant Workers' Welcome Pack

National Assembly for Wales, Employers Voluntary Code of Practice on the Treatment of Migrant Workers and Provision of Services in Wales 2006/07

9. More able and talented pupils

9.1 The term 'more able and talented' is used to describe pupils who have additional learning needs in that they require opportunities for enrichment and extension that go beyond those provided for the general cohort of pupils. This term encompasses pupils who are more able across the curriculum as well as those who show talent in one or more specific area.

9.2 Some able students, for a variety of reasons, can become disillusioned with school and their education and are at risk of disengagement; they can also, in some cases, develop negative and disruptive behaviour patterns. Unfortunately, such behaviour can mask the individual's potential ability.

9.3 Able, but disaffected learners patterns of attendance at school might be irregular as they can become easily bored. Pupils need a supportive environment that promotes high self-esteem in order to be motivated to learn.

9.4 Pupils must be allowed to develop their potential through a curriculum of opportunity. All abilities and talents can be nurtured through an enriched curriculum and extended learning experiences. Meeting the needs of more able and talented pupils will therefore benefit all pupils.

Meeting the Challenge - Quality Standards in Education for More Able and Talented Pupils (2006/07)

10. Children and young people looked after by the local authority

10.1 At March 31st, 2005, around 3,400 young people between the ages of 5-17 were looked after by local authorities in Wales. The difficulties surrounding the education of children in public care are well researched and documented in both academic and government literature. It is also an area where there is a general consensus among researchers, policy makers, practitioners and importantly, young people themselves, about the central issues. A number of issues are faced by pupils who are looked after by the local authority, including:

- bullying (as a result of vulnerability rather than as a specific result of being looked after by the local authority);
- emotional and behavioural difficulties;
- feelings of isolation as a result of being separated from family and/or friends;
- disruption to schooling before being taken into care;
- frequent changes of school once in care;
- concerns about events at home;
- negative or discouraging attitudes of peers, care staff, teachers and social workers, including low expectation of achievement;
- lack of motivation and confidence arising out of low achievement.

10.2 These factors can result in lower levels of attainment and higher levels of truancy and exclusion. Compared to their peer group, looked after children have lower attainment at school. In 2004/05, 34% of looked after children left care aged 16 or over with 2 or more GCSEs, grade A* to G. This compares with a figure for all pupils of 85% achieving 5 or more GCSEs grade A* to G in 2003/04.

10.3 National Assembly for Wales Circular 2/2001: Guidance on the Education of Children Looked after by Local Authorities, highlights these issues and provides guidance to help local authorities in their role as 'corporate parents'. This includes the requirement of schools to designate a teacher to act as a resource and advocate for children and young people in public care. It is critical that the designated teacher understands the care system and the impact for the pupil of being looked after by the local authority to make joint working a reality. LEAs and social services departments should co-ordinate suitable training of designated teachers and maintain an up-to-date list of designated teachers in schools in their area.

10.4 The Children Act 2004 has strengthened the role of local authorities in the provision of education as corporate parents. An amendment to the Children's Act 1989, Section 22, inserts a requirement that a local authority's duty to safeguard and promote the welfare of a child looked after by them includes in particular a duty to promote the child's educational achievement.

10.5 The Adoption and Children Act 2002, also places new duties on LEAs to assess what aspects of education support will be required by children and young people after they have been adopted. Additionally local authorities are required to assess, on request, what support might be required by adoptive parents and other relatives post-adoption. The regulations relating to these duties are: The Adoption Support Services (Local Authority) (Wales) Regulations 2005 SI 2005 No 1512 (W116) which came into force in December 2005.

Non-attendance

10.6 Pupils who are looked after by the local authority have a high level of non-attendance compared to their peers and are over-represented as a pupil group who are excluded from school. Research by the Audit Commission found that 1 in 4 children aged over 14 who are looked after by the local authority did not attend school.

10.7 To improve the attendance of pupils who are looked after by the local authority, Assembly guidance in Circular 2/2001 highlights that:

- schools should monitor and report to the LEA non-attendance by pupils who are looked after by the local authority
- each LEA should have an officer who has responsibility to keep an overview of the attendance of looked after children.

Exclusion

10.8 Young people who are looked after by the local authority are over-represented in exclusions. Twenty seven pupils who were looked after by local authorities were excluded during 2004/05 - a rate of 7.9 per 1,000. This compares to a rate of 1.0 per 1,000 across the total school population for 2004/05. Schools should be sensitive to the use of exclusion of children who are looked after by the local authority, recognising the particular need for continuity of education for such pupils.

10.9 LEAs need to work closely with schools in order to fulfil their corporate parent duties for looked after children and establish clear procedures for supporting looked after children who are in danger of exclusion. Where exclusion is considered necessary, the LEA must make clear and practical arrangements to ensure that someone acts as an advocate for the young person. An advocate may be a primary carer, social worker, designated teacher, or an independent person. These arrangements should be clearly set out in policies and protocols about the education of children looked after by the local authority, and made available to all those involved in corporate parenting, including governors and councillors.

Continuity of education

10.10 National Assembly guidance on the Education of Children Looked After by Local Authorities states that:

- the National Assembly expects local authorities to set a maximum time limit of twenty school days within which they must secure an education placement for any looked after pupil.
- where delay is caused due to an adverse admission decision, the local authority is expected to keep any delay to a minimum and, where it is clear that twenty days will be exceeded, they should provide temporary alternative education until the case is resolved.

Personal Education Plans

10.11 Every child looked after by the local authority should have a Personal Education Plan (PEP). Personal Education Plans were introduced to overcome the difficulties in the provision and monitoring of the education of looked after children caused largely by changing schools more frequently and the need for a high level of joint working between the social services and education sectors. A PEP should:

- ensure access to services and support;
- contribute to stability;
- minimise disruption and broken schooling;
- signal particular educational needs and special educational needs;
- establish clear goals and act as a record of progress and achievement.

10.12 The social worker allocated to the pupil has responsibility for initiating the process of providing the plan. The social worker contacts the school where the pupil is to be placed, and the teacher with designated responsibility for pupils who are looked after by the local authority convenes a meeting. It is the school's responsibility to draw up the PEP in consultation with parents, carers and appropriate agencies. The PEP should be agreed as soon as possible and, at the latest, within 20 school days of the child entering care or joining a new school.

National Assembly for Wales, Circular 2/2001: Guidance on the Education of Children Looked after by Local Authorities

11. Pupils with medical needs

11.1 Most pupils will at some time have a medical condition that may affect their participation in school activities. For many this will be short term. Other pupils may have medical conditions that, if not properly addressed, could limit their access to education. Such pupils are regarded as having medical needs.

11.2 Most pupils with medical needs are able to attend school and with some support, can fully access the National Curriculum and associated activities. However, depending on the nature of the pupil's needs school staff may need to take extra care in supervising some activities to make sure that these pupils and others are not at risk. In some cases, schools may find it helpful to draw up individual procedures in the form of a health care plan to ensure the safety of such pupils.

11.3 Pupils who have on-going medical conditions or who are absent from school for a long period due to illness may suffer discontinuity of education and may face difficulties reintegrating into mainstream schools. There is a particularly high risk of such pupils getting lost in the system, especially when they are discharged from hospital to provision in another authority. In these cases it is especially important that there is effective communication between hospital provision and home LEAs.

11.4 Section 19 of the Education Act, 1996 makes it the responsibility of LEAs to provide education for children who are unable to attend school due to illness:

‘Each local education authority shall make arrangements for the provision of suitable education at school or otherwise than at school for those children of compulsory age who, by reason of illness, exclusion from school or otherwise, may not for any period receive education unless such arrangements are made for them’
(Education Act 1996, section 19).

11.5 Local education authorities also have the power to provide suitable education otherwise than at school for young people over compulsory school age but under the age of 19 (see Section 5). Suitable education is defined under the Education Act, 1996 as efficient education suitable to the age, ability, aptitude and to any special educational needs the child (or young person) may have.

11.6 Detailed guidance on the education of pupils with medical needs is contained in Welsh Office Circular 34/97, Supporting Pupils with Medical Needs and Circular 57/94, The Education of Sick Children.

11.7 The primary aim of educating children and young people who have medical needs is to minimise, as far as possible, the disruption to normal schooling by continuing education as normally as the incapacity allows.

11.8 Particular care is needed to ensure that there is adequate provision for pupils suffering from mental illness. Pupils with mental illness, anxieties, depressions and/or school phobia, including separation anxiety and school

refusal associated with depression, which prevent them from attending school, may need support from specialist mental health services. Part 16 of this section provides guidance on supporting pupils who are refusing school or who have school phobia.

Welsh Office Circular 57/94, The Education of Sick Children.

Welsh Office Circular 34/97, Supporting Children with Medical Needs

(a revised document combining both the above is due for publication in 2006/07)

12. Young parents and pregnant young women

12.1 Some young women become more motivated about their education and want to plan for the future as a result of pregnancy. This motivation is not, however, always manifest in achievement. Most school-age mothers and fathers leave school at the minimum age with few or no qualifications, leaving them disadvantaged in the labour market throughout their adult life.

12.2 Young people who become parents should not lose out on the opportunity of completing their education. A young woman should be given the opportunity to stay in full time education during pregnancy unless personal or medical circumstances make other arrangements necessary. Pregnancy is never a reason for exclusion from school.

12.3 Where possible, pregnant women and young mothers should be given the choice between attending a mainstream school or more individual provision outside of mainstream school. The aim of schools and LEAs should be to keep the pregnant pupil or school age mother in learning. This means keeping the pupil on the school roll, even if she is not able to attend for a period of time or is attending a PRU; keeping up to date with her progress and working with the LEA looking for a suitable time to re-integrate her into the school. Estyn reports that there are many disadvantages to placing young mothers in general PRUs. These include:

- placing the expectant mother with pupils who may have significant behavioural problems, and who may be disengaged from education;
- a lack of support for the pupil's additional needs;
- a lack of balance and good quality curriculum, because members of staff have insufficient expertise to cover the full range of curriculum subjects;
- unavailability of enough specialist accommodation and resources;
- difficulties to be faced by the pupils who may wish to return to mainstream school after the birth to continue their studies in both core and non-core curriculum subjects, because they have missed so much teaching.

12.4 As well as supporting young mothers it is important that the needs of young fathers are met. For example, this might include allowing time off to attend ante-natal classes or providing access to counselling services.

12.5 Further, detailed guidance on supporting young parents and pregnant young women is contained in Annex 2.i.

13. Young offenders

13.1 In November 2004 the number of young people under the age of 18 serving a custodial sentence in Wales and England totalled 3,211. Of these, 242 were in local authority secure children's homes, 223 in secure training centres and 2,746 in prisons. In July 2006, 75 Welsh young people were within the secure estate.

13.2 Young offenders are amongst the most disadvantaged and low achieving group of young people in our community and often experience multiple disadvantage, addressed elsewhere in this guidance. For example they may be or have been:

- excluded from school;
- involved in truancy;
- frequently absent from school on either or both an authorised or unauthorised basis;
- disengaged/disaffected with school;
- educated otherwise than at school (and attending or absent from alternative provision/placements);
- statemented or have other special needs;
- experiencing Attention Deficit Hyperactivity Disorder (ADHD) or other attention deficit;
- in public care (looked after children);
- involved in substance misuse; and
- abused or abusers.

13.3 Research undertaken by HM Prison Inspectorate's research team found, from a survey of 171 young offenders aged under 18, that:

- 49% reported having at some time been looked after by the local authority;
- 84% had been excluded from school;
- 86% had truanted from school;
- 52% had left school at 14 or younger;

- 29% had left school at 13 or younger;
- 73% described their educational achievement as nil; and
- 10% had one or more GCSEs.

13.4 Research undertaken on behalf of the “Plus” strategy shows that 1 in 3 young people supervised by Youth Offending Teams (YOTs) need help with reading and writing, and 1 in 2 are under-achieving at school. The Basic Skills Agency has found that 6 in 10 people, mainly young men, in prison are functionally illiterate and innumerate.

13.5 The All Wales Youth Offending Strategy, published in 2004 sets out the Assembly’s approach to supporting young offenders. “Extending Entitlement”, the Assembly Government’s strategic policy for all young people in Wales aged 11-25, identifies young offenders as a key group of young people who may need additional support to access the basic universal entitlement to services. Circular 17/2006: 14-19 Learning Pathways Guidance II which sets out the Assembly Government’s approach to learning for all young people in this age group in Wales is particularly relevant to providing appropriate learning experiences and support for young people within the criminal justice system.

13.6 The Welsh Assembly Government initiated a project in 2003-04 to identify the key issues which need to be addressed in educating and training young offenders. This was followed up by the second Young Offenders’ Learning (YOL) Project, designed to co-ordinate activity to take forward work on the key issues. Details of the project activity are available on the Assembly Government’s Extending Entitlement website.

13.7 The Youth Justice Board, has produced a booklet called ‘Youth Justice and Schools’ which has been set within the Welsh context. This was distributed to all schools in Wales as well as LEAs and other relevant partners in 2006. The booklet concentrates on the early intervention and prevention work, information sharing and joint working protocols between those working in and with schools and YOTs, which aim to reduce this risk factor for young people.

13.8 The availability of appropriate and uninterrupted learning opportunities and support is recognised as an important protective factor in reducing the likelihood of offending behaviour and preventing re-offending.

13.9 The Welsh Assembly Government regards young offenders as having the same rights and entitlements as all other young people in Wales, including the right to participate, and to have their voices heard in decisions which affect their lives. Accordingly, a key component of our approach is for each young offender to be supported as necessary by all agencies working with them in identifying their learning needs and developing an Individual Learning Plan (ILP) to meet these needs, which is updated regularly.

13.10 Young offenders’ learning needs to be addressed in the context of those serving both community and custodial sentences. This guidance sets out, in particular, the issues which schools and LEAs need to focus on.

13.11 The Crime and Disorder Act 1998 required each local authority in England and Wales to establish by April 2000 a YOT to co-ordinate and work with youth offending at local level. YOTs are multi-agency bodies and are funded and staffed by the statutory partners. The Act established five statutory partners for YOTs:

- police
- probation
- social services
- education
- health.

13.12 Local authorities are required, in consultation with statutory partner agencies, to put in place an annual youth justice plan which describes the nature and scale of offending by young people in their area and the programmes to tackle this. The plan needs to cover how the youth justice system in an area is to be provided and funded, and how YOTs or teams established by them are to be composed and funded, how they are to operate and what functions they will carry out.

13.13 The Audit Commission in their review of youth justice in 2004 highlighted the need for closer working between YOTs and schools to improve outcomes for young people who offend.

13.14 For some young people within the criminal justice system existing provision in mainstream education will meet their needs and the school will retain the responsibility for their education.

13.15 Under the requirements of the Youth Justice Board, each YOT will identify as part of the initial ASSET assessment (i.e. the system used in Youth Offending Teams to assess young people's needs in relation to YOT provision) those young people:

- a) whose education and training needs are not being met by existing school provision
- b) where there is no provision or
- c) where existing provision is inappropriate.

13.16 For all young offenders identified in accordance with the previous paragraph, it is essential that LEAs (rather than schools) assume responsibility for making provision for the education and training needs of young offenders of statutory school age. The Welsh Assembly Government expects every LEA to exercise that responsibility, with the minimum of delay, in the following ways:

- a) within 10 school days of an approach from the YOT, lead multi-agency work to produce an ILP for each young offender based on an assessment of their individual needs, and learning styles;

- b) ensure that the ILP is developed and regularly updated using a participative approach that engages the young person and helps them to gain ownership of the contents;
- c) ensure that information held by the LEA/school in relation to the young person's needs including any special educational needs is used to inform the contents of the ILP;
- d) within the information sharing protocols developed by the local Young People's Partnership (YPP), ensure that information held by other agencies particularly health, social services, housing and Careers Wales in relation to the young person's needs is used to inform the ILP;
- e) working with local framework and children's partnerships, the YPP and 14-19 Networks ensure the availability of a flexible and differentiated menu of provision to meet young offenders' varied and complex learning needs, including informal education, personal support and access to a learning coach;
- f) have a clear understanding of their role in commissioning and securing provision from external agencies including the voluntary sector and community-based providers;
- g) ensure that each young offender's ILP includes access to a full and appropriate provision for 25 hours per week;
- h) ensure that each young person has opportunities to participate, and have their views taken into account in identifying appropriate and suitable provision to meet their needs;
- i) ensure that provision is available to the YOT to fully meet the needs set out in the ILP; and
- j) work with the young person and with other agencies as appropriate to monitor take-up of the provision.

13.17 In order to resource the activity described above, it will be necessary for appropriate financial arrangements to be made between the LEA and the school last attended by the young offender.

13.18 LEAs and schools should develop, consolidate and sustain good working links and communications with their local Children's Partnership for 0-10 year olds, Young People's Partnership (YPP) for 11-25 year olds, statutory and voluntary youth services and 14-19 Networks, as well as the relevant YOTs.

13.19 LEAs and schools need to work co-operatively with YOTs and other agencies to ensure that the skills of all those working to meet the education and training needs of young offenders are highly valued and regularly updated.

13.20 There is a place for voluntary sector and community based providers in meeting some young offenders' education and training needs; LEAs and schools will be expected to work with other partners to facilitate this where appropriate.

13.21 In order to ensure consistency of the delivery of education for young people serving custodial sentence and sentences in the community, the Youth Justice Board has developed a National Specification for Learning and Skills. The specification has been adapted by the Youth Justice Board for the specific context of Local Authority Secure Children's Homes (LASCHs) and Secure Training Centres (STC). Local authorities should have regard to these specifications in delivering education to young people in their care.

13.22 Although statements of SEN do not apply in custody, there is an expectation that young people with statements are dealt with according to the SEN Code of Practice by the individual institutions supported by the Youth Justice Board.

Managing the transition from custody to community

13.23 The National Specification establishes the promotion of learning and the development of skills as a secure establishment's core task. Its primary function is to ensure that young people are fully able to reengage with the learning process back in their communities.

13.24 If suitable, full-time education training or employment placements are not available to young people on leaving custody then the likelihood of re-offending will be increased significantly. It is essential, therefore, that every effort is made while young people are in custody to prepare them for being able to access, participate in, and make sustained progress in a suitable education, training or employment. It is also essential that there is continuity of subjects, coursework, learning materials, and accreditation between the learning skills and experience in the Youth Offending Institution and provision in the community. These objectives require Youth Offending Institutions to develop stronger links, via the Youth Offending Teams, with education providers and support services, including 14-19 Networks.

13.25 A key factor in easing the re-integration process is a pre-release visit to the receiving school, college or training provider. Young people may also benefit from contact with staff in the secure establishment after they have been released into the community to complete their Detention Training Order.

The Audit Commission, Youth Justice 2004, A review of the reformed youth justice system.

The Youth Justice Board, National Specification for Learning and Skills, 2002

The Youth Justice Board, Youth Justice and Schools, 2006

14. Young carers

14.1 Young carers are young people who take responsibility for someone who is ill, disabled, experiencing mental distress or is affected by substance use, or who has a substantial responsibility for caring for a sibling.

14.2 It is estimated that there are more than 3,000 young carers of school age in Wales and, in some cases, the responsibilities they have often affect their education and social life.

14.3 In referring cases to the education welfare service, school staff should be sensitive to children's fears that parents may be seen as unable to cope and that they might be 'put into care'. Young carers may also be anxious about being teased by their peers if details of their home circumstances are revealed. In some cases school may be the only place where they can share their difficulties - for example where parents do not wish others to know of their mental illness. Schools should also work with local authorities and voluntary agencies to ensure that they are fully aware of the range of help available to young carers.

14.4 Schools and LEAs should also be aware that a young carer may have extra burdens through acting as an interpreter in families where English is not the main language or where a relative has hearing or speech difficulties. A young carer's responsibilities may include sign language and interpretation. Qualified interpreters should be used to communicate with children and their families when required.

14.5 The Welsh Assembly Government has produced a training resource for schools - Caring for Young Carers - to help schools identify, approach and help young carers. Caring for Young Carers identifies some of the effects of caring on young people including:

- problems at school, with completing homework and in getting qualifications;
- missing out on out-of-school educational opportunities such as school clubs, visits and holidays;
- missing school or experiencing difficulties due to being tired, worried or being bullied;
- isolation from other children and other family members;
- lack of time for play, sport, or leisure activities;
- depression, anxiety, low self-esteem and difficulty in forming relationships.

National Assembly for Wales, 2004, Caring for Young Carers: A Training Resource for Schools

15. Lesbian, gay, bisexual and transgender pupils

15.1 Lesbian, gay, bisexual and transgender pupils may be at particular risk of being bullied by their peers. Stonewall, as part of their Education for All campaign, highlight that 4 in 5 secondary school teachers say that they are aware of verbal homophobic bullying. Education for All also highlights that lesbian and gay pupils are more likely to leave school at 16 despite achieving marks that merit continuing with their education. Within their peers homosexual adolescent males, in particular, have a higher rate of suicide, self-harming behaviours, substance misuse and mental health problems. Staff inexperience and parental disapproval are factors which may hinder schools in tackling homophobic bullying.

15.2 The Education for All, Tackling Homophobia in Schools provides a 10-point plan to develop an inclusive culture:

- acknowledge and identify the problem of bullying
- develop policies that recognise the existence of homophobic bullying
- promote a positive social environment
- address staff training needs
- provide information and support for pupils
- integrate sexual orientation into curriculum planning
- use outside experience
- encourage role models
- don't make assumptions
- celebrate achievements.

15.3 Further information is contained on the Stonewall website and in Circular 23/2003: Respecting Others, Part 2.

15.4 Sexual orientation is specifically addressed as an issue within the Personal and Social Education Framework. National Assembly for Wales Circular 11/2002: Sex and Relationships Education in Schools highlights the need for the subject of sexual orientation to be discussed in an honest, sensitive and non-discriminatory manner.

15.5 Schools should be aware of the possibility that some pupils may require additional support to enable them to understand fully their feelings on their sexual orientation or to deal with the negative views of others.

Stonewall (2005) Education for All: Tackling Homophobia in Schools

16. School refusers and school phobics

16.1 No clear definition exists amongst practitioners for distinguishing between school refusers and phobics. For this reason the term school-refusal is used in this part to cover both terms. Schools may find it useful to consider the distinction between pupils who are refusing school and those who are 'truants' as made by the National Association of School Psychologists (NASP).

School refusers/school phobics	'Truants'
Pupils stay in close contact with their parents or caregivers	Lack of anxiety about not being in contact with parents
Frequently (although not always) anxious and fearful	Lack of anxiety about missing school
Become very upset or become ill when forced to go to school	When forced to go to school pupils may behave in an inappropriate way

16.2 Chronic school-refusal can result in family distress and, if left untreated, may result in:

- academic deterioration
- poor peer relationships
- school or legal conflicts
- avoiding work or college
- panic attacks
- agoraphobia
- adult psychological or psychiatric disorders.

16.3 School-refusal can result from a number of school and home factors. The National Foundation for Education Research (NFER) have identified a number of these:

- **The size and layout of the school.** Pupils can be anxious about moving around the school, coping with long crowded corridors and going into specific places such as the canteen or classroom.
- **The structuring of the school day.** Pupils can be anxious about unstructured or uncontrolled time, the journey to and from school, break times and lunch times.
- **Conflicts with teachers.**
- **Transition periods.** For example, there can be difficulties when pupils move from primary to middle or secondary school, or at the options stage in secondary school. Pupils can also be anxious with new pupil groupings.

- **Fear of specific subjects.** This may be particularly common for PE, where pupils might have a low body image and inhibitions about getting changed in front of others
- **Academic pressures.** Pupils may be struggling with the work, particularly at the end of key stages.
- **Bullying** or perceived bullying.
- **Friendship problems.** This may be particularly evident in adolescence and for girls.
- **Inappropriate provision.** 'the wrong child in the wrong school'
- **Repeated absence** - the knock-on effect of repeated absence.

16.4 School-refusal may also arise due to factors outside the school such as:

- psychological problems in the parent affecting the child (e.g. depression);
- family breakdown, separation and divorce;
- traumatic events at home such as bereavement;
- violence and abuse in the home;
- separation anxiety experienced by the child;
- situations where the child is required to look after a younger sibling;
- inadequate parenting, lack of organisation and of sustained support;

School strategies to support school-refusing pupils

16.5 To identify and support school-refusing pupils, schools should put in place strategies for identifying non-attendance and should take early action in consultation with parents and other agencies, as appropriate.

Best practice for addressing school-refusal

16.6 Research by the NFER points to a number of best practices adopted by schools to support pupils experiencing school phobia. These include:

- allowing pupils to start school later and finish school earlier;
- using different school entrances;
- collection by a parent at lunchtime;
- provision of a 'safe place' for pupils who could not face crowded classrooms;
- provision of extra support in class;

- buddy systems - support in school from named pupils;
- gradual reintegration - including individually tailored part-time timetables

16.7 Some schools provide a separate support unit for pupils who are refusing school. Separate units provide a 'safe' environment and provide the opportunity for vulnerable pupils to support each other.

16.8 Where school-refusal is diagnosed as a medical condition, such as depression or acute anxiety, provision for schooling should be treated in the same way as for children who are unable to attend school due to illness. See Part 11 of this section.

Legal implications

16.9 The educational welfare services' main role is to improve school attendance, and are able to take legal action where necessary. This however would not be an appropriate route in the case of school-refusal as emphasis should be on putting in place the necessary support and planning reintegration into mainstream schooling dependent on the success of the support.

National Foundation for Educational Research, 2003, School Phobia and School Refusal: Research Into Causes and Remedies

17. Pupils who perform or who have employment

17.1 Pupils who perform frequently or are employed are at risk of disengagement from school due to underachievement from having other priorities which result in their not spending sufficient time in school or studying at home.

17.2 Leave of absence shall not be granted to enable a pupil to undertake employment (whether paid or unpaid) during school hours except:

- employment in pursuance of arrangements made or approved under the Education (Work Experience) Act 1973[7];
- employment for the purpose of taking part in a performance within the meaning of section 37 of the Children and Young Persons Act 1963[8] under the authority of a licence granted by the local authority under that section; or
- employment abroad for a purpose mentioned in section 25 of the Children and Young Persons Act 1933[9] where a licence has been granted under that section by a police magistrate as defined in paragraph (9) of that section.

17.3 Where leave of absence is granted under the above provisions it is vitally important that schools are fully aware and monitor the expected burdens as well as the times at which the pupils are expected to leave and return to school. If they have any doubts over the nature of the employment/performance they should refer the matter to their Child Protection Co-ordinator and/or education welfare service.

17.4 The Children (Performances) Regulations 1968 were introduced to give local education authorities licensing control over performances so as to protect children's health, welfare and education. LEAs' duties are set out in the National Assembly for Wales's 'Child (Performances) Regulations 1968 - Good Practice Guidance for Local Education Authorities' (2006).

Annex 2.i

Education for young parents

Annex 2.i Education for Young Parents

1. Introduction

1.1 Wales has the highest rate of teenage pregnancy in Western Europe. The latest available figures (2004 - provisional) show that the pregnancy rate for girls aged 15-17 is 45.1 girls in every 1000. This reduced from a figure of 48.0 in 2000, but despite an encouraging decrease, births of around 900 per year to girls aged under 18 represent a major challenge to the Welsh education system. Research evidence indicates clear links between poor educational attainment and school-age parenthood. Studies have shown that most school-age mothers and fathers leave school at 16 with few or no qualifications.

1.2 There is considerable evidence that school-age parents are more likely in adult life to have lower incomes, to be on income support and to be disadvantaged in the labour market. Poor educational attainment and lack of qualifications are major contributory factors. The importance of pregnant pupils and young mothers receiving support to continue their education cannot be over-estimated.

1.3 The Welsh Assembly Government aims to:

- reduce the rate of school-age pregnancy in Wales
- ensure that young parents have access to education, training and employment, to reduce their risks of long term social exclusion.

1.4 This guidance is part of the drive to achieve the second of these aims. It provides information for schools and local education authorities (LEAs) in supporting girls of compulsory school age who become pregnant, and advice on supporting young fathers and young fathers-to-be. It does not deal with reducing conception rates or sex education, which is covered in the Sex and Relationships Education in Schools guidance.

1.5 The guidance covers the following elements:

- LEAs' duties
- Responsibilities of schools
- Parental duties
- Working with other agencies
- Education out of school
- Childcare
- Home-school transport
- School-age fathers

2. LEAs' duties

2.1 The Education Act 1996 places a duty on LEAs to “make arrangements for the provision of suitable education at school or otherwise than at school for those children of compulsory school age who, by reason of illness, exclusion from school or otherwise, may not for any period receive suitable education unless such arrangements are made for them”. In fulfilling their statutory obligations under section 13 and 19, LEAs have powers which can be used to provide support to young mothers and mothers-to-be. LEAs should work together with social services, schools and wider partnerships to provide support for the mother, both during pregnancy and after the baby is born.

2.2 LEAs have a general duty to contribute towards the spiritual, moral, mental social and physical development of the community by ensuring that efficient education is available to meet the needs of the population in their area. In exercising their various powers and duties under the Education Acts they are to have regard for the general principle that, if to do so is compatible with efficient instruction and training, and not unreasonably expensive, pupils are to be educated in accordance with their parents' wishes (see part 6 of this annex). This means that LEAs should not impose one policy for all but should consult the pupil, their parents or carers and their school to secure a package which is suitable to their age, ability, aptitude and individual needs, including any special educational needs they may have.

2.3 Section 14 of the Act requires LEAs to secure that sufficient schools providing appropriate primary and secondary education are available for all pupils in their area.

2.4 “Suitable education” is defined by section 19(6) as efficient education suitable to the age, ability, aptitude and to any special educational needs the child or young person may have. It is for LEAs to decide what is suitable, after consultation with a particular child's parents, in accordance with their own policies and having regard to this guidance. However, what constitutes “ suitable education” in each case is to be determined purely by educational considerations and not by reference to the resources available to the LEA (see *R v East Sussex County Council, ex p Tandy* [1998 EL R 251]). LEAs cannot decide not to arrange any education, or make arrangements which do not provide suitable education for that child.

2.5 When a pupil is dually registered in a PRU and a school, the school cannot take her off the school roll without the permission of the LEA (Education (Pupil Registration) Regulations, 1995).

2.6 Under section 19(4) LEAs have powers to arrange provision otherwise than at school for “young persons”, defined in section 579(1) as a person over compulsory school age but under 18. This can be used in support of the education of young mothers and mothers-to-be between the ages of 16 and 18.

Pupils with statements of special educational needs (SEN)

2.7 Pupils with statements who become pregnant should be treated in the same way as other pupils under the LEA's pregnancy policy. However, the LEA may need to review the statement under section 328 of the Education Act 1996 and the Education (Special Educational Needs) (Wales) Regulations 2002 in order to ensure, for example, that the placement named and the non-educational provision set out in the statement remain appropriate. Guidance is given on reviewing statements in the SEN Code of Practice for Wales.

Nominated official for young parents

2.8 An LEA officer should be nominated to be responsible for young parents in school. This will be the specialist reintegration officer in areas that have them.

Data collection

2.9 LEAs have a responsibility to collect data on participation and achievement of all pupils out of school (see Section 5), including any young parents. It is also good practice for LEAs to collect separate data on the attainment and attendance of young parents in mainstream schools in order to ascertain the effectiveness of their provision. Their transition to further education or employment should also be monitored and recorded. For monitoring purposes, this data should be broken down by ethnic background. For ease of communication between agencies the format in which this data is collected should complement as far as possible any other data sets in use. All data must be collected and stored in accordance with the Data Protection Act 1998.

3. Responsibilities of schools

3.1 Circular 1/2004 makes clear that pregnancy is not a reason for exclusion from school. Health and safety should not be used as a reason to prevent a pregnant pupil from attending school and schools should ensure that the health and safety of a pregnant pupil is not compromised. Under no circumstances should a school invite a pupil to take a leave of absence in order for them to be sheltered from gossip or bullying.

3.2 Any problems of bullying should be addressed in the normal manner in line with the school's discipline policy (see the Welsh Assembly Government guidelines on anti-bullying, "Respecting Others" for more information).

3.3 There is no evidence that keeping a pregnant pupil or school age mother in school will encourage others to become pregnant. Effective personal and social education (PSE) can alert teenagers to the risks and realities of early parenthood and can be used to encourage understanding of young parents' situation amongst the other pupils, taking care not to reinforce negative stereotypes. Further information on Sex and Relationship Education in Schools is available in Welsh Assembly Government Circular 11/2002.

3.4 The school's aim should be to keep a pregnant pupil or young mother of compulsory school age in learning. This means keeping the pupil on the school roll, even if they may not be able to attend for a period of time, and keeping up to date with their progress. Schools should also work with the LEA in identifying a suitable time to re-integrate her into full-time education, FE college, or suitable unit.

3.5 If a head teacher has good reason to consider that the school is no longer a suitable environment for the education of a pregnant pupil or young mother of compulsory school age, the head teacher should discuss this with the pupil, her parents or carers, the LEA and the pupil's adviser (if she has one). All of these parties should be involved in deciding the most suitable provision for that young person. If the health of the young mother is the reason for the school no longer being a suitable environment to continue their education then health professionals should be consulted.

3.6 It is not unusual for a young woman to become more motivated about her education as a result of pregnancy and a desire to plan for the future. As set out in paragraph 2.9 of this annex it is good practice for schools to share data with their LEAs on the achievement of pregnant pupils and school-age mothers.

If the school becomes aware that a pupil is pregnant

3.7 The Welsh Assembly's guidance on Sex and Relationship Education in Schools (Section 6) states that schools should be clear about the boundaries of their legal and professional roles and responsibilities. The guidance highlights the need for a clear and explicit confidentiality policy, contained within the sex education policy, to ensure good practice throughout the school which both pupils and parents understand. This policy should deal with the processes for dealing with disclosure of pregnancy.

3.8 The policy should be drawn up in consultation and should reflect the views of all school staff, pupils, parents and the needs of the school community. It must be kept up to date and be available for inspection including by parents. All school staff and visiting speakers should be trained in the contents of the policy and in particular newly qualified teachers should be made aware as soon as possible after joining a school.

3.9 All school staff and visiting speakers should ensure that they act consistently with the school confidentiality policy. Teachers are not legally bound to inform parents or the head teacher of any disclosure by

pupils unless the school's confidentiality policy requires them to do so. Where a member of school staff is informed by a pupil that they are, or may be pregnant, they should encourage pupils to inform their parents or carer. Where it is clear that a pupil is unwilling to do so they should seek consent from the pupil for any disclosure to an appropriate individual and should make clear that they cannot offer or guarantee pupils unconditional confidentiality.

3.10 A member of staff who finds out that a pupil is pregnant should refer the pupil to a designated teacher within the school, who should ensure that the pupil receives full information about services in their local area, knows how to access them and has the opportunity to talk through the options available to her. Services provided through the Young People's Partnerships should allow young people to gain provision from medical through to advice and counselling support. In the case of young women under 16, the designated child protection teacher will need to consider whether there is a child protection issue to be addressed. In such cases, designated child protection teachers should liaise with their nominated LEA officer to consider contacting the appropriate external agencies with responsibility for safeguarding and promoting the welfare of children, such as social services. This should be consistent with policies and procedures of the local Area Child Protection Committee (ACPC) and the LEA. Welsh Office Circular 52/95: Protecting Children from Abuse: the Role of the Education Service contains further guidance. In particular, if the designated teacher has a concern about a pupil's health or development, they can seek advice from the nominated LEA officer, the local social services department or the NSPCC.

3.11 Where a member of staff is made aware that a pupil may be pregnant they should make clear that they cannot guarantee unconditional confidentiality and that if confidentiality has to be broken, the pupil will be informed first. School staff should make a note of the discussion recording the time, date, place and individuals present as well as what is said and pass this to the designated child protection teacher. A young woman who is considering adoption or has decided not to continue with the pregnancy or who has already had a termination should also be offered access to relevant support services.

3.12 Schools should promote the services of the school nurse, health visitors, local clinics and other medical facilities as far as possible as the first port of call for all advice on medical matters, including pregnancy.

3.13 In providing support for pregnant pupils, the pupil should be advised that the head teacher and nominated LEA officer will need to be informed so that arrangements can be made for her continuing education. The head teacher should respect the young woman's wishes on confidentiality, in line with the school policy. A member of school staff should assist the young woman and take responsibility for her continuing education. The head teacher should make sure that the pregnancy is dealt with sensitively by teachers and pupils within the school.

3.14 The school should ensure, where possible, that the young woman continues to benefit from learning as long as possible during pregnancy and beyond by exploring all opportunities for curriculum support available within the LEA's arrangements including education out of school. There may be times when the pregnant pupil is unable to attend school or other educational establishment for health reasons, but would still be able to study. In these circumstances the school should provide work for the pupil to do at home. The school should try to maintain continuity of learning when the young woman is absent for the birth, especially for those studying for academic awards. It may be appropriate for the head teacher to use their discretion to disapply the National Curriculum in order for the young woman to maintain progress in her core subjects (See Section 3).

3.15 A pupil who becomes pregnant is entitled to no more than 18 calendar weeks' authorised absence to cover time immediately before and after the birth of the child. Should the pupil fail to return within this period she should continue to have access to support from the school, LEA and a personal adviser to help and encourage her return to education when ready. If health allows, schools should encourage pupils to return to education with the minimum of interruption within the best interest of the parents and the new-born child. If the pupil is able to return to education before 18 weeks then LEAs should provide a suitable form of education, whether this is in mainstream school or otherwise.

3.16 After the maximum length of authorised absence, the school should follow the guidance on absence set out in Section 4. It must be made clear to both pupil and her parents/carers, that parenthood, by itself, is not a reason to be excused from education. Provided that appropriate education and free childcare facilities are available, any pupil who still fails unable to attend education will be liable to the same legal action as any other pupil. Absence for antenatal and parenting skills classes, and if the baby is ill, should be classified as "authorised", both for the mother and father.

3.17 If the school finds out, from the Education Welfare Service or other agency, that a pupil who is not attending school is pregnant, the school should arrange a meeting with the pupil, her parents or carers, personal adviser if she has one and the LEA (reintegration officer) to discuss how her educational needs are to be met.

3.18 If a young woman looked after by an authority (Looked After Child) becomes pregnant, the designated teacher for looked after children should be involved in discussions and review of the care plan for the young person to ensure that her educational needs are considered alongside her other needs. This is particularly important in avoiding disruptions when studying for academic and vocational awards.

3.19 As with any pupil who has spent time out of school, a school age mother who has done so should have an individual reintegration plan and panel. (See Part 6 of Circular 1/2004 for more details on reintegration.)

3.20 Schools should be supportive of both parents in their responsibilities for caring for their child.

Requests for emergency contraception

3.21 As far as possible schools should promote the services of the school nurse, health visitors, clinics and other health facilities as the means of accessing all health services, including requests for emergency contraception. These issues should be addressed within sex and relationships education (SRE).

3.22 Any teacher who receives a request from a pupil for emergency contraception should follow the school's confidentiality policy on this aspect, which should be specifically covered. If permissible under the policy, the teacher should refer the pupil to a designated teacher, who will ensure that she is put in contact with the appropriate medical facility. As contact will need to be made within the space of a few hours, if the designated teacher is not available then the head teacher will need to be contacted to perform the same function.

3.23 Pupils should be encouraged as far as possible to inform their parents of their situation but if the pupil specifically requests that his/her parents are not informed and this is consistent with the school's confidentiality policy, the decision to inform parents will be left to the medical practitioner to decide.

4. Parental duties

4.1 Section 7 of the Education Act 1996 requires parents to secure education of their children of compulsory school age either by regular attendance at school or otherwise. Parents of pupils who are school-age parents are obliged therefore to ensure that their child attends the provision arranged by the LEA. LEAs will need to work closely with the pupil and their wider family to ensure that they benefit from the continued learning opportunities available.

5. Working with other agencies

5.1 All LEAs should maintain links with other organisations who may be involved in supporting young parents or mothers-to-be, particularly social services departments and those providing health services under the Young People's Partnerships. Many LEAs employ reintegration officers to help pupils to get back to education. It is particularly important that these officers link effectively to local strategies and with the designated member of school staff.

5.2 Cymorth, the Children and Youth Fund is administered through the Children and Young People's Partnerships within each local authority. Cymorth aims to provide a network of targeted support for children and young people within a framework of universal provision, in order to

improve the life chances of children and young people from disadvantaged families. According to local partnership priorities, Cymorth can fund work with young people to help avoid pregnancy, and work with those who are pregnant or who have young children to ensure the best possible outcomes for the child. In addition, in certain specific areas the Flying Start programme is becoming available from January 2007 onwards. This will provide a range of services to families with children aged 0-3 building on previous Sure Start programmes, including health visiting, language and play programmes, parenting programmes, and free high quality childcare for two year olds. More information can be obtained through the local Children and Young People's Framework Co-ordinator.

Advice and guidance

5.3 The developing work on Learning Pathways for 14-19 year olds ('Learning Country: Learning Pathways 14-19') will be an important aspect of how advice, support and guidance is provided to young parents. Guidance was released in 2006.

5.4 A great deal of support and information is already available to young people through a variety of sources, including form and subject teachers, learning coaches, careers advisers, mentors, youth workers, families, friends and the media. Every effort should be made to ensure that young parents are provided with this form of support.

5.5 In areas with high rates of teenage pregnancy there may be a number of other agencies working with young parents, and where appropriate, other workers may take on the lead personal advisor role.

5.6 High quality, impartial information, advice and guidance services for young parents and parents-to-be will be an important element in enabling young people to take advantage of any developments and to make informed and realistic choices. The Assembly currently supports a number of web-based information services including CLiC, National Grid for Learning Wales (NGfL Cymru), ELWa-NC, LearnDirect and the planned Careers Wales Online that will be vehicles for taking forward the provision of information, advice and guidance to young people about the opportunities available to them. Young people also have a right to impartial, high quality advice on career choices from Careers Wales advisers.

Local strategies and consultation with young people

5.7 Local Young People's Partnerships (YPPs) are required to establish a variety of sustainable mechanisms to enable them to access as wide and diverse a range as possible of young people in the area and engage them effectively in developing appropriate provision. This will include ethnic minority young people, young people who are marginalised, disaffected, excluded from school or in hard-to-reach groups such as young care leavers, young people with special needs, young parents, young homeless people, young asylum seekers, young travellers, young carers, gay and

lesbian young people and other similar groups. Young people who do not currently use the available services need to be given opportunities to give their views, as well as those who do. Innovative methods of consultation and participation need to be considered. Where practicable, YPPs should build upon existing consultation and participation arrangements in partner organisations.

5.8 Schools are required to have school councils in place by November 2006 and these will represent another forum for developing schools policies on all aspects of inclusion, including the provision for young parents.

6. Education out of school

6.1 LEAs have a duty to provide “suitable” education to pupils who are unable to attend school. “Suitable” education is described in law as suitable to the age and ability, aptitude and any SEN the child may have. For young mothers or mothers-to-be, the young woman’s school would normally be expected to oversee her education, including setting and marking work while she is away. The aim, where possible, should be a return as soon as possible to full-time time education, a FE college or a suitable unit. In some cases providing tuition at home may be the most appropriate approach.

6.2 Where the pupil has become pregnant in Year 11, time may not allow for reintegration into mainstream. In that case the aim should be to encourage the young woman to consider further education or other suitable post-16 provision. In some cases it may be appropriate to consider redoing the school year. The availability of childcare facilities should be taken into account in considering the options (see Part 7 of this annex). Decisions should be taken in the light of individual needs and the appropriateness of the environment. If the young woman is absent from school with a pregnancy-related illness, Welsh Assembly Government Circular 57/94 on the Education of Sick Children applies. Reintegration officers and personal advisers will provide a route for re-engaging young mothers who have dropped out of the system altogether.

Pupil referral units

6.3 Links with mainstream school should be maintained for pupils in PRUs. Young mothers or mother-to-be will remain on the roll of their mainstream school, unless they have been excluded for other reasons (Circular 1 and 1A /2004). As with all pupils, the aim, where possible, should be a return as soon as possible to full-time time education, a FE college or a suitable unit. It is important that standards are maintained at PRUs and that young mothers have tailor-made provision which will enable them to catch up. Some PRUs specialise in the education of young mothers and these units usually have childcare facilities on-site. The teaching at units should be as broad as possible and in order to achieve this consideration should be given to drawing teaching staff from a consortium based in schools, other units and FE colleges

Parenting skills

6.4 Where possible the opportunity to provide young parents, including fathers, with parenting skills should be taken in order to equip them for life beyond the education environment.

Continuing education

6.5 An LEA should normally arrange continuing education for a young person over compulsory school age, but under 18 where:

- a young person is a “year behind” in their schooling, so that when they are over compulsory school age they need to study a further year to complete examination courses; and
- a student has shown a high-level commitment prior to the point when they could no longer attend school.

7. Childcare

7.1 Lack of appropriate or affordable childcare provision can prove to be a significant barrier to participation in education. The reintegration officer, or personal advisor can provide advice to the young woman, young father or young father-to-be about accessing childcare. Families where both grandparents are working, or where a lone grandparent works, may be eligible for the childcare element of the Working Tax Credit for the childcare of their grandchild whilst they are claiming child benefit for that child. Further information about Working Tax Credit is available by calling 0845 609 5000.

7.2 Additional childcare help may be available from the local authority. This will be determined by the policy and priorities of the local authority, particularly in respect of children in need (section 17, Children Act, 1989).

7.3 The fact that a young woman under 16 is pregnant or has a baby does not automatically mean that she or her baby is a “child in need”. This will need to be assessed individually by social services departments. Services can be provided if they are essential to safeguard and promote the welfare of mother and baby or if one of them is disabled. Local authorities are required to provide appropriate day care for “children in need” in their area (section 18, Children Act, 1989).

7.4 Local authorities may help to arrange or to fund such provision, or both. The Cymorth grant supports a Children's Information Service in every local authority area, that should be the main source of information about local childcare provision. For more information about local childcare provision please get in touch with the local Children's Information Service or the local Early Years Development and Childcare Partnership. (In some areas the functions of this Partnership are taken by the Children's Partnership.)

8. Home-school transport

8.1 Transport for this group will have a positive impact on attendance. LEAs must provide free transport if they consider it necessary to enable a pupil to attend school, and they may help other pupils with fares. LEAs must also publish annually their policy on free and assisted transport. LEAs have considerable scope to decide when transport is necessary. Free transport is always necessary for a pupil of compulsory school age who attends the nearest suitable school if it is beyond walking distance. Where no statutory provision applies, it would be good practice for authorities to provide assistance with transport in circumstances where, for example, a General Practitioner certifies that the pupils stage of pregnancy is such that they are no longer able to walk to school.

9. School-age fathers

School should acknowledge the additional needs that school-age fathers and fathers-to-be may have. If a member of staff finds out that a pupil is a father or a father-to-be they should follow the same procedure as when they find out a pupil is pregnant. If the school thinks it appropriate, they should consider what flexibility they can offer to the timetable and curriculum. Schools may consider it necessary to help a boy to have access to a counsellor in some circumstances or help from other agencies. Project and organisations operating under the banner of Young People's Partnerships should also support young fathers.

National Assembly for Wales, Circular 17/2006: Learning Pathways 14-19 Guidance II

National Assembly for Wales, Circular 1/2004 and 1(a)/2004, Exclusion from Schools and Pupil Referral Units

National Assembly for Wales, Circular 23/2003, Respecting Others: Anti-bullying Guidance

National Assembly for Wales, Circular 11/2002, Sex and Relationships Education in Schools

National Assembly for Wales, 2000, Strategic Framework for Promoting Sexual Health in Wales

National Assembly for Wales, 2000, Working Together to Safeguard Children

Welsh Office Circular 52/95, Protecting Children from Abuse: The Role of the Education Service

Section 3

A Whole-School Approach to Behaviour and Attendance



Section 3: A Whole-School Approach to Behaviour and Attendance

1. Introduction

Why a whole-school behaviour and attendance policy matters

1.1 School behaviour and attendance policy shapes the school ethos and makes a statement about how the school values and includes all the people in it. Positive behaviour and attendance are essential foundations for a creative and effective learning and teaching environment in which all members of the school community can thrive and feel respected, safe and secure. A well- implemented policy is an important factor in gaining pupils' and parents' confidence in a school and in attracting and retaining good quality and well-motivated staff.

1.2 The individual elements covered in this section are:

- Teaching and learning
- Roles and responsibilities
- Code of conduct
- Support systems for pupils
- Support systems for staff
- Support systems for parents
- Transition between primary and secondary schools
- Consultation
- Monitoring and evaluation

Legal requirements for school behaviour policies

1. Section 61 of the School Standards and Framework Act 1998 requires a governing body to ensure that its school pursues policies designed to promote positive behaviour. In particular it:
 - a. Requires a governing body to make and review a written statement of principles to guide the head teacher in determining measures for promoting positive behaviour
 - b. Where the governing body wants particular measures introduced or particular issues address, requires the governing body to notify the head teacher and enables it to give further guidance.
2. In carrying out these functions the governing body must:
 - a. Have regard to guidance given by the National Assembly for Wales; and
 - b. Before making or revising its statement of principles, consult the head teacher and parents and carers.
3. The head teacher must determine measures (which may include a code of conduct and its application) designed to secure an acceptable standard of behaviour and to promote self-discipline, proper regard for authority and respect for others. In particular these measures should aim to prevent all forms of bullying among pupils.
4. These measures should be consistent with the statement of principles made by the governing body and any specific notification or guidance it has given. These may go a long way towards defining an acceptable standard of behaviour. In so far as they do not, the head teacher is responsible for defining the acceptable standard.
5. The measures determined by the head teacher must be published as a written document, made generally known within the school and to parents and carers and, at least once a year, brought to the attention of all pupils, parents and carers and staff.

1.3 Inspection reports show that schools are most effective where the behaviour policy is applied consistently. A well thought-out policy lays the foundation for such consistency. The law requires schools to have a written behaviour policy (see box above). Given the interconnectivity of approaches needed to tackle behaviour, attendance and bullying issues there should be clear links between the separate policies and there is no reason why schools might not combine the 3 policies into 1 document. Schools should consider whether such an approach would further develop a whole-school practice and reduce bureaucratic burdens. There also need to be clear links between these policies and any others on aspects such as school improvement plans, inclusion, participation, equal opportunities and curriculum.

1.4 The Narrowing the Gap Report (2002) commissioned by the Welsh Assembly Government to look at lessening the gap between the highest and lowest attaining schools recommended that schools should evaluate their strategies in the following four areas to see how effective they were and how they could be improved: literacy; behaviour management; attendance and Key Stage 2/3 transition.

Designing an effective policy

Each school needs a policy for its own circumstances which should cover how the school promotes excellent attendance and acts to tackle poor attendance as well as promoting high standards of behaviour. It should set out:

- underlying principles;
- a code of conduct for pupils;
- how positive behaviour and regular attendance will be encouraged;
- how race, disability and other equality issues will be addressed;
- arrangements for implementing policy and supporting staff and pupils;
- monitoring and reviewing the policy.

1.6 It should show how account is taken of the different needs of different groups of learners.

1.7 No policy will be effective unless it is framed in the context of the school working with its community, both inside and outside the school. A policy needs collective support. That means actively involving governors, staff, parents and carers and pupils from all the school's communities in developing and revising a school-specific policy. It means drawing on the school's wider community, including the local authority, partner and collaborating schools, external agencies and the voluntary sector.

1.8 Consistency also implies clear guidelines for all staff on implementation. It also means practical advice to parents and carers on how they can help. These could be covered by associated documents, e.g. staff handbooks and home-school agreements, and any leaflets produced by the school or LEA.

1.9 The checklist which follows suggests a sequence for drafting a policy which covers the issues in this section. The behaviour and attendance policy should be part of a collection of policies, on, for example, race and disability equality, learning and teaching, inclusion, equal opportunities and SEN.

Checklist for creating, implementing and revisiting policy		See paragraphs:
How does your policy answer these questions?		
1.	What are the principles underlying the policy and how do they apply to the whole school community?	
2.	How do these principles relate to the school's overall aims and the rest of its curriculum?	
3.	How does the policy promote effective learning and teaching about positive behaviour and regular attendance?	
4.	How does the policy promote effective prevention and response to incidents of bullying?	
5.	What are the roles and responsibilities of governors, staff, pupils and parents/carers in promoting positive behaviour and regular attendance?	
6.	How does the school set high standards of behaviour and attendance for pupils?	
7.	How does the policy tie-in with the school's approach to promoting emotional well-being?	
8.	How are rewards used to encourage positive behaviour and regular attendance?	
9.	How are sanctions used to encourage positive behaviour and regular attendance?	
10.	What support is available for pupils whose misbehaviour or attendance reflects significant learning or personal problems?	
11.	What support and training is available to help staff manage challenging pupil behaviour and absence?	
12.	What support is available for parents who wish to learn more about how to improve behaviour and support attendance?	
13.	How are staff, parents/carers and pupils involved and consulted when the policy is formulated or revised?	
14.	What resources does the school invest in improving behaviour and attendance?	
15.	How is the policy monitored and reviewed? How do you know that it is fair?	
16.	How does the policy link with the school's other policies e.g. school improvement plans, teaching policies, race and disability equality, SEN?	

Principles

1.10 A school's behaviour and attendance policy should be seen as an integral part of its curriculum, as all schools teach values as well as knowledge and skills. It must be based on clear values - such as respect, fairness and inclusion - that will also be reflected in the school's overall aims and its social, moral and religious education programmes. These values should be the basis for the principles underlying the school's behaviour and attendance policy. Thus the policy will make particular reference to how pupils with additional learning needs (ALN) - for example, those with special educational needs (SEN), those with physical or mental health needs, migrant and refugee pupils, and looked-after children - are supported and included and the steps which the school will take to avoid a disproportionate number of behaviour and attendance issues arising related to ALN pupils. (see Section 2 for more details).

1.11 The policy should tie in with the school's general approach on promoting the emotional well-being of its pupils and addressing any mental health problems of individual pupils. The policy could also refer to the fact that pupils may become vulnerable through events such as bereavement, divorce or separation.

1.12 Where the school is part of the Healthy Schools Network and/or is an Eco School, it should also tie in with the philosophies and approaches developed as part of its involvement in those schemes. Behaviour and attendance should be seen as intrinsically linked to general school improvement and clear links therefore need to be made to school development plans.

1.13 The policy should refer explicitly to the positive duty to promote race and disability equality and the specific duty to assess policies for their impact on pupils by racial group and the general duty requirement to take action to tackle inequalities and discrimination that are identified. All schools' behaviour policies must make clear that racist harassment will not be tolerated and must say how staff and pupils should deal with it.

1.14 The principles should include promoting self-discipline and respect for others, and the importance of listening to all members of the school community including the learners.

1.15 The principles should be relevant to every member of the school community, including staff and parents/carers, and the whole policy should be subject to full consultation with the school community, including staff and parents and carers. The principles should also cover behaviour towards each other, incorporating or providing a clear link to the school's anti-bullying policy. More information on developing and monitoring anti-bullying policies is contained in National Assembly for Wales Circular 24/2003: Respecting Others.

2. Teaching and Learning

2.1 For schools to be proactive in improving behaviour and attendance, there will need to be an element of the curriculum through which the expectations in the policy are explicitly translated into learning and teaching. (This is in addition to expectations of learning behaviour, which will permeate the curriculum.) How this happens should be included in the policy. For example development of pupils' social, emotional and behaviour skills could be achieved through a structured programme in Personal and Social Education teaching or within the pastoral programme. Pupils with more challenging behaviour may benefit from a period of support in anger management, or positive leadership skills.

2.2 Many schools have found that initiatives to develop children's emotional health and literacy and problem-solving skills have proved highly beneficial in improving behaviour and attendance as well as attainment levels. These may be specific initiatives focused on those currently experiencing problems or wider whole-school initiatives.

2.3 The way in which all members of the school community teach and learn from each other, by example and by explanation, when behaviour and attendance is unacceptable is also influential. This is an essential background to any sanctions that may be applied. In these practical strategies for intervention, full use should be made of support from the wider community of the LEA (particularly the Education Welfare Service), the police, multi-agency teams, Careers Wales other schools etc.

2.4 The school's learning and teaching policy will support staff in teaching approaches which promote positive behaviour and attendance. Schools also need to make strong links with LEA behaviour support services who can provide additional training and support (see below).

3. Roles and responsibilities

3.1 A behaviour and attendance policy should make it clear that promoting positive behaviour is the responsibility of the school community as a whole. If it is to be implemented comprehensively, it should also define specific roles, including that of:

- a. the **governing body** in defining the principles underlying the school's behaviour and attendance policy;
- b. the **head teacher** in framing a policy which establishes an environment that encourages positive behaviour and regular attendance, discourages bullying and promotes race and disability equality, and, with other members of the senior leadership team, organising support for implementing the policy;

- c. **staff** (including support staff and volunteers as well as teachers) in ensuring that the policy is consistently and fairly applied, including to all groups and communities, that pupils are taught how to behave well and are encouraged to attend punctually and regularly. As well as providing mutual support and in modelling the high standards of behaviour and punctuality expected from pupils;
- d. the **governing body, head teacher and staff** in ensuring that all aspects of the school's behaviour and attendance policy and its application promote equality for all pupils. This should be backed up by monitoring of rewards and sanctions, to ensure that their distribution does not detract from equal opportunities principles. The Race Relations (Amendment) Act 2002 helps to ensure that policies and practice address the needs of all communities through giving public bodies a statutory duty to promote race equality;
- e. **pupils** in shaping and promoting the school's code of conduct and supporting staff and other pupils. This could include being involved in peer mediation and counselling schemes, as well as reporting incidents of bullying, and other misbehaviour or reasons for truancy. Effective policies pay attention to the pupils' priorities and draw upon consultation with them. School councils have a key role to play and in particular would usefully raise the issue of bullying each year and discuss the progress that has been made in tackling it;
- f. **parents and carers** in taking responsibility for their child's attendance, and their behaviour inside and outside the school working in partnership with the school to maintain high standards of behaviour and attendance, and in contributing to the policy through consultation;
- g. key **LEA officers** such as education welfare officers assigned to the school and members of behaviour support services in their role as advisers supporting the behaviour and attendance of all pupils and specialised support work for individual pupils; and
- h. the **school's partners** in external organisations such as social services, health services, Careers Wales, the police and voluntary organisations.

The LEA's Role

3.2 An effective LEA works with schools to encourage review of their behaviour policies and support practice across the whole school. It does this in a number of ways including through the work of behaviour support services, which support both individual pupils and wider school practice. In a number of areas, LEAs also manage school-based multi-disciplinary teams who support schools with high numbers of pupils with complex emotional and behavioural needs.

3.3 LEAs should work with schools to develop referral systems and ensure that the effectiveness of these are regularly monitored and amended appropriately with full consultation. LEAs also have a key role to play

in the provision of advice and training to all school staff on behaviour management of pupils, both within the classroom and the general school environment

3.4 From 2006/07 LEAs are required to have Single Education Plans (SEP). SEPs set out LEAs' strategies for the education of children with behavioural difficulties. The emphasis of these local plans is on building good practice, early intervention, working with parents, and collaborating with specialist support services. (see National Assembly for Wales guidance: Children and Young People: Rights to Action, Single Education Plan: 2006-08)

3.5 The Estyn report, Behaviour Management Training, 2004, highlighted the need for an increased link between behaviour support services and school improvement initiatives. It is vitally important, therefore, that LEAs ensure that links between these two aspects are covered in their plans and that they take account of their overall inclusion strategy.

3.6 The Estyn Report also highlighted the need for LEAs to improve the level of performance management information and use of this to evaluate the effect of their interventions, particularly the effectiveness of their behaviour management training in schools.

3.7 LEAs also have statutory duties in the exclusion process. All exclusions should be reported to the LEA as set out in the Assembly Government's guidance on exclusions (Circular 1 and 1A /2004). The LEA is often involved in the exclusion review process and has responsibility for the appeal process.

3.8 In cases where a pupil has been permanently excluded from school, the LEA is responsible for making arrangements for the pupil to continue receiving a suitable full-time education.

Cross border working

3.9 If a pupil who lives in a different LEA to the school is permanently excluded, they become the responsibility of the LEA in which they live and the LEA in which they live should take the lead in any action necessary to improve their behaviour. In the case of a fixed term exclusion, where the pupil lives in a different LEA, the LEA where the pupil attends school should take the lead in any LEA-level action necessary to improve the pupil's behaviour e.g. in offering a parenting contract or applying for a parenting order. In such cases, the LEA where the pupil lives and the LEA where they attend school will need to work closely together. This will particularly be the case if a parenting order is made as the most appropriate and convenient parenting programme may be located in the LEA where the pupil lives.

3.10 LEAs are advised to draw up protocols setting out the basis under which cross border working will take place.

4. Code of conduct

4.1 A school's policy must set explicit standards of behaviour and attendance. That should be the purpose of the rules that form the code of conduct for pupils. The purpose of the code should be to promote positive behaviour, so it should not be a list of prohibitions. The code should only include rules that have a rational justification and that the school will enforce. These rules should be expressed in positive terms (for example, 'we take care of our school and everything in it' rather than 'pupils must not damage school property'). They should cover expectations of attendance, punctuality and behaviour in the classroom and around the school.

4.2 Poor or irregular attendance interrupts teaching and learning for everybody and may be linked to general behaviour issues.

4.3 The code should promote regular attendance and be supported by effective measures to tackle non-attendance. Further guidance on attendance can be found in Section 4.

4.4 As with the behaviour and attendance policy itself, it is effective practice to involve pupils and parents in drawing up a code of conduct, and to ensure that all parents/carers, including any who do not speak English, have the opportunity to contribute.

4.5 In some cases, where pupils may have difficulty in understanding the rules within the code of conduct, additional support will be required to help these pupils contribute and adhere to the principles.

Scope

4.6 An effective code of conduct applies throughout the school day as well as before and after school. It provides the basic expectations for positive behaviour in corridors; in bus queues and on buses; at lunchtimes and break times as well as in classrooms.

4.7 In particular it is important that the code of conduct sets out clearly that misbehaviour on a school bus may be deemed to be a breach of school rules. Ultimately it can be grounds for exclusion from school, as set out in National Assembly for Wales Circular 1/2004: Exclusion from Schools and Pupil Referral Units, (Part 1 Section 12).

Rewards

4.8 The code of conduct should be supported by a coherent system of rewards and positive behaviour and regular attendance should not be taken for granted. They should be actively taught and reinforced. Research shows that rewards are much more effective than punishment in motivating pupils.

4.9 A wide range of rewards should be available and the policy should make explicit reference to how the school will establish a climate where praise and encouragement far outweigh the frequency of punishment and admonition. Praise begins with frequent use of encouraging language and gestures in lessons and around the school so that positive behaviour, punctuality and regular attendance are instantly recognised. This is no less important where this is the norm in the school.

4.10 A more formal reward system of credits, merits and prizes can be used to recognise and congratulate all pupils when they set good examples or show improvement in their own behaviour or attendance. Letters to parents and carers and special privileges are amongst many particularly effective ways of demonstrating praise for good behaviour and attendance. Particular attention should be paid to those who have been associated with poor behaviour or have been less likely to meet standards so that it is not always the same ('good') pupils receiving praise and rewards. The award of rewards should be monitored by ethnicity, gender, SEN etc. Any patterns revealed should lead to appropriate action.

4.11 In establishing a culture of praise in the school, the policy should articulate ways in which all staff can be alert to recognising the positive in pupil behaviour. Suitable arrangements could include:

- regular monitoring of reward systems and inclusion of a report on this in the annual school behaviour and attendance audit;
- ensuring that all pupils have access to opportunities for praise and that praise is given for personal improvement;
- a wide range of formal rewards e.g. 'Congratulations' and 'Good News' postcards home, letters to parents and carers which are personalised, publishing rewards around the school, certificates which recognise positive contribution to the school community, celebration assemblies involving parents/carers etc.;
- frequent reminders in staff briefings, assemblies etc. about the importance of celebrating success so that when, for example, success in a sphere outside the school has been achieved, some pupils who might not usually receive praise for positive behaviour are singled out for recognition; and
- incentive schemes to recognise pupils' attendance achievements. These could include offering attendance certificates or prizes, either for individual pupils or groups of pupils (classes or year groups). Such schemes need to strike the right balance between rewarding pupils with outstanding attendance records and those achieving substantial improvement in their attendance.

Sanctions

4.12 Schools need a scale of sanctions for misbehaviour, and lateness and alerts/warnings for poor attendance. The policy should explain the reasons why these sanctions are necessary. Effective sanctions are designed to promote positive behaviour and attendance rather than punish miscreants. They are most useful when seen by everyone as a deterrent. If sanctions have to be frequently applied they are clearly not being effective. Sanctions are best dealt with on the spot by the member of staff concerned. This means that all staff must be aware of the school's policies and have been given sufficient training in their application.

4.13 As with rewards, the most effective sanctions are simple admonishments backed up by the authority of staff within the school. Consistency is essential and the policy should identify how all staff will be encouraged to use reprimands sparingly and fairly. The use of sanctions should be monitored by ethnicity, gender, SEN etc. Any patterns revealed should lead to appropriate action.

4.14 The authority of the school should be supported with a range of sanctions for breaches of the code, ranging from letters to parents and carers, loss of privileges, a variety of forms of detention right up to exclusion for the most serious misbehaviour. Annex 3.ii provides guidance on the law governing detentions. The behaviour and attendance policy should set out the school's policy on exclusion and needs to be consistent with guidance set out in National Assembly for Wales Circular 1/2004: Exclusions from Schools and Pupil Referral Units.

4.15 Sanctions are more likely to promote positive behaviour and regular attendance if pupils see them as fair. The guidelines for implementing the school's behaviour and attendance policy should therefore advise staff to:

- make it clear that they are condemning the behaviour not the person;
- avoid early escalation to severe sanctions, reserving them for the most serious misbehaviour;
- avoid whole group sanctions that punish the innocent as well as the guilty;
- take account of individual circumstances. For example, punishing a pupil who is late to school because he/she looks after younger siblings will only serve to exacerbate what is already a difficult situation. It would be preferable to use the school referral system to put in place support to improve his/her punctuality;
- encourage pupils to reflect on the effects of misbehaviour or absence of others in the school community, as part of everyday teaching and discussion.

4.16 If at any time it proves necessary to physically restrain a pupil for their own or others' safety then school staff will need to ensure that they comply with the guidance set out in Welsh Office Circular 37/98: The Use of Reasonable Force to Control or Restrain Pupils.

5. Support systems for pupils

5.1 In addition to regular teaching and learning about positive behaviour and regular attendance, and the support of a well organised and caring school community, some pupils will need extra support to help manage their behaviour and attendance. The policy should include how the school will support these pupils and work to pre-empt escalating behaviour problems, truancy and unauthorised absence. More specifically there should be reference to the procedures that the school uses to identify early those pupils most at risk, to draw up a support plan and to establish and review a support programme.

5.2 A range of strategies for early intervention could be identified within the policy including:

- regular pastoral reviews to identify pupils most at risk, included as part of any regular academic progress reviews. In particular, review of all pupils in year 9 to assess any additional support required before they move into Key Stage 4 (see Annex 3.iii for more information). This will be considered in the development of Learning Pathways for 14-19 year olds;
- implementing Pastoral Support Programmes for those pupils in danger of disengagement or exclusion (see Annex 3.iii);
- programmes of short courses on specific elements of social, emotional and behavioural skills;
- contact with parents on the first day of any unexplained absence and discussion between the pupil and staff responsible for their registration;
- contact with parents in the early stages of a problem, rather than when a learner may be close to exclusion;
- referrals for specialist advice from agencies linked to the school, either for the individual (e.g. Educational Psychology Service) or in more general terms (e.g. LEA Behaviour Support Team);
- referrals to a separate unit for a short period of additional support outside the usual classroom environment. This may be in the form of a 'nurture group' where pupils attend a separate unit for a short time each day to prepare them for the school day. This is largely used for primary school pupils but is increasingly being used for Key Stage 3 pupils;

- homework clubs for pupils requiring extra support with their learning, particularly if their home environment is not conducive to learning;
- parent/carer consultations and family sessions;
- one to one counselling with a trained specialist or support from learning coaches/mentors or trained teaching assistants;
- circle time to discuss problems. This is more often used for primary school pupils but, with appropriate support and training, can also be used for groups of secondary pupils experiencing difficulties;
- a 'managed move' to another school for pupils who are in imminent danger of being permanently excluded; and
- many of the learners who are referred to external agencies will have SEN. For more information on supporting pupils with additional learning needs see Sections 1 and 2 and the SEN Code of Practice.

5.3 Some schools have produced a directory of support services and, if accompanied by a full list of procedures for securing additional support, this could be a particularly useful section in a staff handbook as an appendix to the policy.

5.4 Referral of individual pupils to the LEA for more specialised advice may often lead to alternative provision for pupils, involving out of school provision, either on a full or part time basis. Schools will need to ensure that they keep fully in touch with pupils who remain on their roll and receive such provision. Further information on out-of-school provision is contained in Section 5.

6. Support systems for staff

6.1 All staff should be encouraged to deal with minor and occasional misbehaviour and poor attendance at the time and wherever it occurs in the school. One of the purposes of a behaviour and attendance policy should be to explain how staff will be empowered to manage misbehaviour and poor attendance of a more serious nature. Regular professional development on behaviour and attendance is important. However, support must be available where staff feel unable to cope. A school's behaviour and attendance policy should make its support systems for both staff and pupils clear. In particular:

- staff who are having difficulty with a class or group should know where to seek support. This should include advice and support from senior colleagues, particularly any with a specific role in providing advice on behaviour, and training in behaviour management. The policy should ensure that good quality training is available and that appropriate materials and links to LEA behaviour support services are provided; and

- staff who need advice on managing the behaviour and attendance of individual pupils should know to whom to turn. Responsibilities for providing this support should be clearly identified in the policy, including, in school attendance cases, when and how a referral to the LEA Education Welfare Service should be made. Pastoral or support staff should follow up individual pupils and analyse attendance data to identify trends for individual pupils, classes or year groups which can then enable the school to target their efforts. It is good practice for schools to analyse statistically reasons for non-attendance. A sound grasp of the reasons given will enable schools and Education Welfare staff to deploy resources effectively in order to reduce absence.

6.2 Where a pupil has been referred to another member of staff about their behaviour, a judgement should be made about whether the behaviour in question is:

- straightforward misconduct, in which case action could be no more than supporting the member of staff in applying an appropriate sanction and agreeing with all parties how a recurrence will be avoided;
- a symptom of significant underlying problems, including learning and/or social and emotional difficulties, in which case, so that the problem is diagnosed and treated, the policy should outline the role of specified staff in this process. This will include responsibility for gaining the support of external agencies (e.g. Educational Psychology, Education Welfare Service, Behaviour Support Services, Child and Adolescent Mental Health and Social Services).
- the result of provocation through bullying or racist harassment. Where racist harassment is the source, the school should have in place clear procedures for recording such behaviour, for reporting to parents and carers, and supporting the victim and working with the perpetrator. Procedures should also be in place to record incidents of homophobic bullying or bullying of learners with disabilities or SEN.

6.3 The policy should also identify the resources that the school is investing in promoting positive behaviour and attendance. This could include senior staff time as well as more specialised resources like Learning support units and training provision. Staff should be given guidance and support on race equality issues that relate to behaviour; this should support them in being sensitive to the needs of different groups of minority ethnic pupils.

7. Support systems for parents

7.1 It is important to gain parents' and carers' support to the school's behaviour and attendance policy at the time of admission to the school when they may be agreeing to a Home/School Agreement.

7.2 Parents are responsible for notifying the school of their child's absence. However, it is good practice for schools to contact parents on any day a pupil of compulsory school age is absent without explanation, including cases where a pupil misses lessons after registration. This makes it clear to pupils and parents that unauthorised absence is taken seriously. By contacting the parent the school also ensures that the parent is aware that the child is not in school, enabling the parent to take steps, where necessary, to establish that their child is safe. It is important that staff carrying out first day absence calls receive proper training. Experience has shown there is a real opportunity for such staff to encourage parents to send pupils to school when they have been reluctant to do so. It is important that the staff learn how to challenge parents rather than accept inappropriate reasons for absence.

7.3 In addition to involving parents at all stages in their child's education and in particular gaining their support for effective positive behaviour teaching and learning, parents may also benefit from the opportunity to share some of the training for school staff in behaviour and attendance improvement. However, the school's expectations of parents should not be taken for granted but be made explicit so that parents understand and are enabled to participate as fully as possible.

7.4 For example, good practice is emerging in both primary and secondary schools of offering voluntary parenting courses, often delivered by external agencies. Where such classes are offered to all, schools report increased engagement by parents and improved behaviour and more regular attendance from pupils. A behaviour and attendance policy should include reference to how the school will support the development of these parenting skills.

7.5 Opportunities for engagement should be created for those parents who are either hard to reach or feel culturally excluded or would not normally take an active part in the training or other support strategies in the school attendance improvement. However, the school's expectations of parents should not be taken for granted but be made explicit so that parents understand and are enabled to participate as fully as possible.

7.6 The involvement of parents should, where possible, be facilitated through encouragement and co-operation. However, where this has not proved possible it may be necessary to consider the use of legal powers. The legal provisions available to pursue case of non-attendance are described in Section 4. New provisions under the Anti-Social Behaviour Act 2003 (Parenting Contracts for behaviour and attendance and Parenting Orders for behaviour) are contained in Annex 3.i.

8. Transition between primary and secondary schools

8.1 The transition between primary and secondary school represents a major change for most pupils and research shows that many experience a loss of motivation and a slowing down of their progress. It is important therefore that attendance and behaviour policies of secondary schools

identify year 7 pupils as in particular need of support. Secondary schools and their feeder primary schools need to work together to put in place arrangements to make the transition as smooth as possible, by sharing pupil information.

8.2 Estyn's report published in 2002, 'Aiming for Excellence in Key Stage 3', concluded that primary and secondary schools usually have good pastoral links with most pupils visiting their secondary school during year 6 and receiving close support during their first few weeks in secondary school. The main recommendation of the report was to improve the 'educational' transition between primary and secondary schools. Further publications in the 'Aiming for Excellence' series have exemplified many of the benefits that transition planning brings to schools:

- A Survey of Welsh as a second language in Key Stage 2 and Key Stage 3 and Transition (Estyn 2004).
- Bridging the Gap - Developing and using bridging units to support effective transition from Key Stage 2 to Key Stage 3 (ACCAC/Welsh Assembly Government/Estyn, 2004)
- Changes in Teaching and Learning Promoted by the Aiming for Excellence programme 2005-2006 (Estyn, 2006) (Estyn website publication), includes a chapter on Transition that describes some current practices.
- Moving On ... Effective Transition from Key Stage 2 to Key Stage 3 (Estyn/Welsh Assembly Government/ACCAC, 2004)
- Moving On ... Improving Learning, Effective Transition from Key Stage 2 to Key Stage 3 (Estyn/Welsh Assembly Government/ACCAC, 2004) (Estyn website publication)
- Raising Standards in Literacy and Numeracy in Key Stage 3 (BBC Wales/Estyn/Welsh Assembly Government/ACCAC, 2002) - bilingual video package
- Raising Standards in Information and Communication Technology in Key Stage 3 (BBC Wales/Estyn/Welsh Assembly Government/ACCAC, 2004) - bilingual video package
- Raising Standards: Transition from Key Stage 2 to Key Stage 3 (BBC Wales/Estyn/Welsh Assembly Government/ACCAC, 2004) - bilingual video package.

8.3 The Education Act 2002 introduced a Wales only provision for the National Assembly for Wales to require the governing bodies of maintained secondary schools and their feeder primary schools, jointly, to draw up transition plans. Legislation came into force in September 2006 which will require secondary schools and their feeder primary schools to have transition plans agreed by September 2007 to support the transition of pupils moving from primary to secondary school in September 2008.

8.4 Guidance is being provided for governing bodies which sets out, amongst other things, areas to be addressed in a transition plan. These include information about pupils' achievements and attainment, attendance and behaviour. This information should supplement statutory requirements met through the Common Transfer System.

9. Consultation

9.1 To be fully effective, behaviour and attendance policies need support from the whole school community, so consultation is essential. The law requires a governing body to consult the head and parents and carers before making or revising its statement of principles. But general support is more likely if all staff are actively involved in developing the code of conduct as well as agreeing underpinning principles.

9.2 It is essential also to involve pupils in drawing up the policy. This could be done through school councils. Alternatives would include discussion in tutor groups or personal and social education lessons. Parents and carers have a critical part to play by supporting the policy through reinforcement at home. Steps should be taken to consult parents and carers from all communities widely, for example, through presentations/discussions at parent evenings, and parent/staff association events etc. Particular attention needs to be paid to parents who may be harder to reach, for example by ensuring that they have access to information in the home or community language. Discussion of the policy with parents when their children first attend a school is valuable in ensuring that the views of parents and learners have informed the eventual policy.

9.3 See Section 1 for more information on working with parents and young people.

10. Monitoring and evaluation

10.1 A regular audit of behaviour and attendance is one way of measuring the effectiveness of a policy. As part of monitoring, schools will want to know that their behaviour policies work fairly and should therefore monitor the distribution of rewards and sanctions by gender, ethnicity and ALN. Monitoring of the policy should be an integral part of more general monitoring of all aspects of inclusion (see Section 1) and will help in planning for future staff training.

10.2 Monitoring needs to assess the impact of the operation of policies on pupils, parents and staff from different racial groups, and to refer to evaluating the impact and acting on the results of evaluations. The school should record all racist incidents and parents and governors should be informed of such incidents and the action taken to deal with them. Governing bodies should inform local education authorities annually of the pattern and frequency of any incidents. The report of the Stephen Lawrence Enquiry defined a racist incident as 'any incident which is perceived to be racist by the victim or any other person'.

Further Reading – see also list at end of Section 4 on attendance

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Annex 3.i

Parenting Contracts and Parenting Orders

Annex 3.i: Parenting Contracts and Parenting Orders New Measures Introduced under the Anti-social Behaviour Act 2003

1. Context and purpose of the measures

1.1 Section 19 of the Anti-social Behaviour Act 2003 sets out new provisions in England and Wales for governing bodies and LEAs to enter into parenting contracts in cases of exclusion from school or truancy. Under Section 20 of the Act, LEAs can also apply for parenting orders for exclusion from school. The powers and regulations came into force in Wales in May 2006.

1.2 The Anti-social Behaviour Act also introduced new provisions for governing bodies and LEAs to impose fixed penalty notices for truancy and exclusion. There are no plans for these to be introduced in Wales.

1.3 Power to impose parenting orders in response to truancy is already available to courts under section 8 of the Crime and Disorder Act 1998 for parents convicted under section 443 or 444 of the Education Act 1996. This guidance only covers the new measures. Guidance on parenting orders for truancy will be covered in separate Welsh Assembly Government guidance on school attendance law.

1.4 Parenting contracts and parenting orders are important additions to the interventions available to promote better school attendance and behaviour. Improving behaviour and attendance is essential to improve children's educational prospects and to avoid putting them at risk of criminal or anti-social behaviour.

1.5 These measures are intended to help ensure that parents take responsibility to ensure their children regularly attend school and that their behaviour improves. As such, it is important that professionals involved in applying the measures are aware of the different types of strategies and support that will be appropriate in engaging different parents.

2. Parenting Contracts

Overview

2.1 If a pupil fails to attend school regularly or is excluded from school, the LEA or governing body of the school may consider whether it would be appropriate to offer a parenting contract to the parent.

2.2 A parenting contract is a formal written agreement between a parent and either the LEA or the governing body of a school and should contain:

- a statement by the parent that they agree to comply for a specified period with whatever requirements are specified in the contract; and

- a statement by the LEA or governing body agreeing to provide support to the parent for the purpose of complying with the requirements of the contract.

2.3 Entry into a parenting contract is voluntary. The parent cannot be compelled to enter into a parenting contract if they do not wish to do so. Equally, there is no obligation on the LEA or governing body to offer a parenting contract in cases of non-attendance or exclusion.

2.4 Parenting contracts will, however, often be a useful tool in identifying and focusing on the issues behind the non-attendance or misbehaviour and in developing a productive relationship with parents to address these issues.

2.5 The LEA or governing body should be responsive to the needs of the parent in deciding what type of support they will provide. The issues behind truancy and misbehaviour can be complex and the type of support required will depend on each individual case.

2.6 The LEA or governing body may agree to provide support in the form of a parenting programme. The contract may specify that the parent is required to attend the sessions of any such programme. There is a wide range of providers of parenting programmes including voluntary organisations, youth offending teams and LEAs. In assessing the nature of the counselling or guidance programme in which the parent should take part, the LEA or governing body should consider who will administer the sessions, the training and experience of the facilitators including their ability to engage with parents, the curriculum used, whether classes will be group or individually-based and whether there are particular cultural and social factors to be considered.

2.7 Failure to comply with the parenting contract cannot lead to action for breach of contract or for civil damages. There is no direct sanction for a parent's failure to comply with or refusal to sign a parenting contract. However, if the pupil's irregular attendance or misbehaviour continues or escalates to such a level where a prosecution is appropriate, the court will be required to take this failure or refusal into account in deciding whether to make the order.

2.8 All those defined as a parent under section 576 of the Education Act are parents for the purposes of these provisions with the exception of local authorities who have parental responsibility as a result of being named in a care order ("corporate parents") who are not included here. Parenting contracts can apply to each and any parent coming within the definition.

2.9 A parenting contract can be used in conjunction with a Pastoral Support Programme and is not intended to replace the excellent practice that already exists in this area, but instead provides an additional mechanism which is more focused on the potential of the parent to improve their child's attendance or behaviour. There is nothing to prevent an LEA or school entering into an agreement (either formal or informal) with a parent in relation to their child's attendance or behaviour at any time. Parenting contracts are not intended to replace existing practice but simply to provide an additional option which has the backing of statute.

Circumstances in which a parenting contract might be pursued

2.10 In considering whether the necessary conditions for a parenting contract are fulfilled, LEAs and school governing bodies should have regard to all their statutory duties.

2.11 A parenting contract may be used in cases of truancy where a pupil has failed to attend regularly at the school at which he is registered or has been excluded from school, whether for a fixed term or permanently.

2.12 The purpose of a parenting contract is to improve the pupil's attendance or behaviour at school and to address any underlying issues. It is not to be seen or used as a punitive measure against the parent. Nor will it be appropriate in all cases. A parenting contract will be an appropriate course of action where the parent is willing to address their child's truancy or behaviour, but needs support to do so effectively.

2.13 Parenting contracts can apply to parents of pupils of:

- a community, foundation or voluntary school or a community or foundation special school;
- a maintained nursery school; or
- a pupil referral unit;

Assessing when a parenting contract is appropriate

2.14 The LEA or governing body of a school should take into account a number of issues before deciding to enter into a parenting contract. These include whether other agencies are already involved in working with the pupil and family, whether a parenting contract would complement or join-up this work, the type of support that might be helpful to the parent and how a parenting contract arranged by the LEA or governing body will be funded.

Making contact with other agencies involved with the pupil and family

2.15 The pupil and family may already be in contact with or receiving support from other agencies - for example, social services, the youth offending team or a voluntary organisation. Before the LEA or the governing body of a school decides to enter into a parenting contract, they should identify and consult other agencies involved with the pupil and their parent to ascertain any underlying issues that should be taken into account when deciding whether a parenting contract would be appropriate and the types of support that could usefully be included if it is.

2.16 A multi-agency approach is necessary to ensure that all work being carried out with the pupil and the parent fits well together and avoids duplication.

Parenting contracts in different circumstances

2.17 Section 19 of the Anti-social Behaviour Act 2003 sets out provisions for governing bodies and LEAs to enter into parenting contracts in cases of exclusion from school or truancy. Section 25 of the Anti-social Behaviour Act 2003 enables youth offending teams to enter into parenting contracts in respect of criminal conduct and anti-social behaviour.

2.18 Governing bodies and LEAs should consider in each case whether the contract should cover both exclusion and truancy and/or criminal conduct and anti-social behaviour. If the youth offending team agrees that the order should cover these areas, they would usually, depending on the circumstances of the case and local arrangements, be the lead agency in bringing the application and supervising the order. Local protocols will need to be agreed about cooperating and supplying resources for such cases.

Types of support that might be included in a parenting contract

2.19 Parents will often be unaware of the different types of support available and the LEA or governing body should provide information about this and give contact details of appropriate national and local agencies and helplines. Other useful support might include family group conferencing, peer mentoring, parenting classes, literacy classes, benefits and drugs/alcohol advice, provision of a key link worker for the parent and help with transport to and from school. This list is not exhaustive.

Funding a parenting contract

2.20 The party entering into the parenting contract with the parent (namely the LEA or the governing body of a school) is responsible for bearing the costs of any support provided under a parenting contract.

2.21 The cost of a parenting contract will be largely dependent on the type of support provided. LEAs and schools are encouraged to use parenting contracts innovatively, making use of existing resources where appropriate. This might include, for example, the facilities of the local school, the local Citizens Advice Bureau, on-site learning mentors, educational psychologists, behaviour support services, an existing parenting peer group, or asking another parent to act as a mentor.

At what point should the contract be arranged

2.22 In cases of truancy, attendance should be assessed over a period of not less than 4 weeks during term-time before a parenting contract is arranged.

2.23 In cases of exclusion, the parenting contract should be arranged as soon as possible after the exclusion and completion of any exclusions review and appeal process.

2.24 In the case of permanent exclusions this would be:

- the date by which it is known that the parent does not wish to lodge an appeal against the head teacher's decision to exclude, which has subsequently been upheld by the governing body. This would be the date set out in the letter sent to the parent by the governing body (covered in existing guidance, Circular 1/2004), informing the parent of their decision to uphold the permanent exclusion, as the date by which time the parent must have notified the LEA that they wish to lodge an appeal; **or**
- the date upon which the Independent Appeal Panel endorses the decision to exclude.

2.25 In the case of fixed-term exclusions the date on which the review process is complete would be:

- the date upon which the governing body endorses the head teacher's decision to exclude; **or**
- if the exclusion is not considered by the governing body, the date on which the exclusion began.

2.26 For a pupil referral unit, the review process is complete when the LEA endorses the decision of the teacher in charge to exclude; or if the LEA does not consider it, the date on which the exclusion began.

Duration of contracts

2.27 There is no specified time limit for contracts in the Anti-social Behaviour Act so this is a question of what is reasonable and effective. The 12-month limit for parenting orders can be taken as the limit normally applying to contracts as a matter of good practice. There will normally be requirements relating to the pupil's behaviour or attendance in addition to the provision of some sort of support, which would normally last for under 3 months. It will often be desirable, however, to maintain some level of support after the contract has come to an end and schools and LEAs will need to consider how to ensure that such support is sustainable after the end of the contract.

Delivering the contract

2.28 Responsibility for delivering the LEA's or school's part of the contract and for helping to manage its overall outcome must be allocated to an officer of the LEA or a member of the school's governing body. Alternatively the governing body may choose to delegate the responsibility to the head teacher who may delegate to a senior member of staff.

2.29 Delivering the contract will involve regular contact with the parent to discuss progress and any problems in meeting the contract's requirements. It will also involve contact with other interested agencies such as the provider of a parenting programme.

Contacting parents and drawing up a parenting contract with them

2.30 Once all agencies involved with the family have been consulted, the governing body or LEA should arrange a meeting with the parent to discuss the pupil's non-attendance and any related issues. In contacting the parent, the governing body or LEA should give consideration to the best way to approach the parent, bearing in mind that some parents may find it harder to engage than others. Ideally all parents falling within the definition should be invited to attend, whether resident with the child or not. However, it will be a matter of judgement for the governing body or LEA to consider which parents should attend and whether it would be appropriate for parents to attend separate meetings.

2.31 Depending on the pupil's age and understanding, the pupil should also be invited to attend the meeting.

2.32 The LEA or governing body should write to the parent before the meeting outlining what a parenting contract is and making clear that it is not a punitive or compulsory measure, but intended to support the parent and improve the pupil's attendance or behaviour.

2.33 At the meeting, the LEA or governing body should explain the purpose of the meeting and the parenting contract and why they feel it may be helpful. The parent should be asked to outline their views on the pupil's behaviour and/or attendance at school, any underlying issues, how they believe these should be tackled and what they think of the idea of a parenting contract. They should also be given an opportunity to specify the type of support which they would find helpful. Parents will often be unaware of different types of support and the LEA and governing body may need to list or summarise the different types of support available in the area to stimulate this discussion. Once again, depending on the pupil's age and understanding, the pupil should be encouraged to contribute to this discussion. A similar discussion should take place in respect of the requirements with which the parent will be expected to comply to ensure that any requirements specified in the contract are realistic and address the issues behind the non-attendance or behaviour. The aim should be to work in partnership in order to improve the behaviour or attendance of the child.

2.34 Once the requirements and support elements of the contract have been agreed, the governing body or LEA and the parent should write up the contract together and sign it. The contract should be in Welsh where preferred, and written in language that the parent can easily understand (including a translation to other languages where necessary). One parenting contract may be arranged with all parents, or in circumstances where it is desirable to have different requirements for each parent, a separate parenting contract could be arranged for each parent.

2.35 The contract should strike an effective balance between specific and general requirements. General requirements are normally clearer about aims whereas specific requirements should be clear about exactly what the parent must do.

2.36 If the parent fails to attend the meeting without good reason or notification, further attempts should be made to contact them and arrange a meeting. A letter would be appropriate in these circumstances. All such attempts should be recorded.

2.37 The specified requirements for the parent under s19 (4) (a) of the ASB Act should be devised to prevent further truancy or poor behaviour in school which might lead to a further exclusion. Examples of specified requirements will depend on the particular circumstances of the case but may include: ensuring that the pupil attends school or alternative provision punctually and regularly, attending meetings with the school or LEA, signing weekly behaviour reports and ensuring that the pupil does not contact certain pupils. This list is not exhaustive.

2.38 Where there is separate work being carried out with the pupil (for example, through a pastoral support programme) it may be desirable for the contract to support this or include work involving the parent and pupil together.

2.39 A further requirement will normally be that the parent attends some form of guidance or counselling programme based on an assessment of the parent's needs. This might typically consist of a parenting support or parenting education programme but could be any form of support that might help the parent improve their child's behaviour or attendance at school. In assessing the nature of any counselling or guidance programme, the LEA or governing body should consider who will administer the sessions, the training and experience of the facilitators including their ability to engage with parents, the curriculum used, whether classes will be group or individually-based and whether there are particular cultural and social factors to be considered.

2.40 The governing body or LEA's side of the contract is a statement that it agrees to provide the parent with support for the purpose of complying with the requirements and should specify the types of support that will be provided under the contract. It should also include the processes and timing of expected outcomes and reviews of progress.

2.41 The parent and a representative of the governing body or LEA (preferably the person who will deliver the governing body or LEA's part of the contract) must sign the contract and all parties should be given a copy. It may also be appropriate to give a copy to other agencies working with the family.

Parents who refuse to enter into a parenting contract or with whom it is impossible to agree a contract

2.42 Parenting contracts are voluntary, but the LEA or governing body should make all efforts to engage with the parent to negotiate a parenting contract if it considers that it would be appropriate and helpful to the parent to do so. If a parent refuses to enter into a contract then the LEA officer

or member of the governing body/senior school staff responsible for overseeing the contract should seek constructively to meet all legitimate concerns and ensure that a written record is kept of all efforts to negotiate a contract. This would include whether the parent was at least willing to meet to discuss the possibility and, if so, what was said.

2.43 If a parent refuses to enter into a contract or fails to agree to an appropriate contract, the LEA or governing body may consider the alternative courses of action available. For example, in cases of exclusion, an application for a parenting order may be made immediately if the child has been excluded permanently or in the future should the child's poor behaviour continue to the point where a second fixed-term exclusion occurs and, in cases of truancy, an LEA may consider prosecution. The LEA officer or member of staff responsible for liaising with the parent should inform the parent that this action may be taken. They should also make clear that, on an application for a parenting order, the court is required to take into account the refusal to enter into a parenting contract under section 21(a) of the Anti-social Behaviour Act and that the refusal may be presented in evidence in the event of a prosecution for irregular attendance.

2.44 In deciding whether a parenting contract might be appropriate, the LEA or governing body should consider all the issues behind the non-attendance or exclusion, in particular whether attendance and behaviour may be improved through working with the parent and providing support to them and, if so, what form this support should take.

Dealing with breaches

2.45 The LEA or governing body (or head teacher on behalf of the governing body) should be working with the parent to gain their co-operation and compliance with the contract but will have to judge whether any breaches are reasonable and whether the contract remains useful and should continue.

2.46 There is no liability in tort or contract for breaching a parenting contract.

2.47 However, in cases of exclusion from school, failure by the parent to comply with the contract would be a relevant consideration for the LEA in deciding whether to apply for a parenting order and, in deciding whether to make a parenting order, the court must take into account any failure by the parent to comply with the requirements specified in a parenting contract.

2.48 Similarly, in cases of truancy, failure to comply with a contract may lead the LEA to consider prosecuting the parent for failing to ensure their child attends school regularly in which case evidence that the parent failed to comply with the contract could be presented to the court.

2.49 It is therefore important that any breach of the contract is recorded so that it can be presented to the court when it becomes necessary.

2.50 Every breach discovered should have a response. Upon learning of a breach the LEA officer or member of the governing body/senior school staff responsible for overseeing the contract should contact the parent within one working day to seek an explanation for the breach. If the explanation is reasonable and the contract is still proving useful then this should all be recorded and the contract should continue as normal. If the explanation shows that the contract is proving difficult to comply with through no fault of the parent, then a meeting should be arranged with the parent to review the contract and amend it, if appropriate.

2.51 If no explanation is given or the LEA officer or member of the governing body/senior school staff responsible for overseeing the contract is not satisfied with the explanation, they should serve the parent with a warning, which may be in the form of a letter, and keep a record of this. If there are further breaches, the LEA officer or member of the governing body/senior school staff responsible for overseeing the contract should arrange a meeting with the parent to review the contract and how it can be made to work. The parent should be reminded that if a contract fails the LEA may seek to apply for a parenting order in cases of exclusion either immediately or if a further exclusion occurs or in cases of truancy the LEA may seek to prosecute the parent under section 444 of the Education Act if the parent continues to fail in their duty to ensure their child attends school regularly. They should also be informed that a court would consider the parent's level of compliance with a contract when deciding whether to make an order and would be likely to take this into account in any truancy prosecution.

2.52 In the light of this meeting, it should be decided whether the non-compliance is undermining the contract to the extent that it is no longer useful in which case an alternative course of action would need to be decided upon. The decision and reasons for that decision should be recorded. This can be used in any future application for a parenting order in cases of exclusion or in any truancy prosecution.

Liaison between the head teacher, governing body, LEA and other agencies involved

2.53 Parenting contracts require the party entering into the contract to fund any cost of the supportive element of the contract. In the context of a school, this will be the governing body (which has control of the school budget under the School Standards Framework Act 1998). Therefore it is the governing body's name that must appear on the contract and the governing body that will have ultimate responsibility for the parenting contract.

2.54 The governing body may delegate responsibility for parenting contracts to the head teacher and the head teacher may commit funds on behalf of the governing body where the governing body has chosen to delegate this power. However, the overall policy decision of whether parenting contracts should form part of the school's attendance and behaviour policies must remain with the governing body.

2.55 Regardless of whether the school or LEA enters into a parenting contract, it is important that both the LEA and the school are aware of the fact that a parenting contract has been entered into with the parent. The LEA and the school should liaise prior to entering into any parenting contract in order to share information about the pupil and family and any other agencies that might be involved with the pupil and family. If other agencies are identified, the school and LEA should consult them to discuss any underlying issues and to consider the types of requirements and support that might usefully be included in the contract itself.

2.56 In cases of **permanent exclusion** from school, it will usually be the LEA that will consider arranging a parenting contract in relation to the pupil. In most cases, the excluded pupil will be the responsibility of the LEA until arrangements can be made for the pupil to continue their education elsewhere.

2.57 The governing body of any school which takes in an excluded pupil may also consider arranging a parenting contract if it wishes, but is under no obligation to do so. However, in accordance with the law on admissions, a school may not require a parent to sign a parenting contract as a condition of their child being accepted by the school. The school from which the pupil is excluded and the LEA should ensure that all relevant information on any existing parenting contracts is transferred to the new school.

How parenting contracts fit with school attendance legislation

2.58 As outlined earlier, section 444(1) of the Education Act 1996 provides that a parent commits an offence if his or her compulsory school age child who is a registered pupil fails to attend school regularly. It is the commission of that offence that can trigger the use of a parenting contract. The proof required that the offence has been committed is the same as that which would be required for a prosecution for the strict liability offence under section 444(1) of the Education Act 1996 i.e. that the child has failed to attend regularly unless the parent can show one of the following defences:

- the pupil's absence was authorised by the school (see Section 4);
- the pupil was ill or prevented from attending by any unavoidable cause;
- the absence was on a day exclusively set aside for religious observance by the religious body to which the parent belongs;
- the school is not within walking distance of the child's home and the LEA has made no suitable arrangements for:
 - the child's transport to and from school;
 - boarding accommodation at or near the school; or
 - enabling the child to attend a school nearer their home

- the parent can show that their trade or business requires them to travel, and the child has attended school as regularly as the nature of the trade or business allows, and the child has attended school for at least 200 sessions during the preceding twelve months.

2.59 If it appears that the offence under section 444(1) of the Education Act 1996 has been committed and none of the defences outlined above applies, consideration can be given to making a parenting contract.

3. Parenting orders in cases of exclusion from school

Overview

3.1 Power to impose parenting orders in response to truancy is already available to courts under section 8 of the Crime and Disorder Act, 1998 for parents convicted under section 443 or 444 of the Education Act 1996. This guidance only covers the new measures, guidance for parenting orders for truancy is covered separately.

3.2 Where a pupil is permanently excluded from school or receives more than one fixed term exclusion within 12 months, the LEA may apply to the court for a parenting order.

3.3 Parenting orders compel parents who have been unwilling or unable to engage on a voluntary basis to address their child's poor behaviour in school by providing support including parenting classes.

3.4 The parenting order consists of 2 elements:

- A requirement for the parent to attend counselling or guidance sessions (e.g. parenting education or parenting support classes) where they will receive help and support to enable them to improve their child's behaviour. This is the core of the parenting order and can last for up to 3 months;
- A requirement for the parent to comply with such requirements as are specified in the order. This element can last up to 12 months.

3.5 Parenting orders available in cases of exclusion from school are civil orders available on application to the court. Unlike the parenting orders imposed in attendance cases, they do not follow prosecution for a criminal offence. A pro forma application for a parenting order is attached at the end of this Annex.

3.6 The LEA is responsible for making an application for a parenting order and for all costs associated with it including the costs of the parenting programme, which may form part of the order.

3.7 The court can impose a parenting order on any or all parents coming within the definition (see definition in the Introduction) and their consent is not required.

3.8 All parenting orders must be supervised by a 'responsible officer'. This could be an officer of the LEA, a head teacher or a person nominated by the head teacher. However, neither a head teacher nor a person nominated by him could be named in the order if they have not consented.

3.9 If the parent fails to comply with an Order, then breach proceedings must be considered. If proven guilty of breaching a parenting order, the parent is liable for a fine not exceeding level 3 (currently up to £1000). In considering the level of fine, the magistrates must take into account the means of the parent to pay. The court may also consider any other sentence available for a non-imprisonable offence.

Circumstances in which a parenting order might be pursued

3.10 In considering whether the necessary conditions for a parenting order are fulfilled, LEAs and school governing bodies should have regard to all their statutory duties.

3.11 An LEA may apply to a magistrates' court for a free-standing parenting order when:

- a pupil has been excluded from school for a second fixed-term within a period of 12 months; or
- a pupil has been permanently excluded from school.

3.12 Parenting orders can apply to parents of pupils of:

- a community, foundation or voluntary school or a community or foundation special school;
- a maintained nursery school; or
- a pupil referral unit.

Assessing when a parenting order is appropriate

3.13 A parenting order is only appropriate where the exclusion has been made in response to serious misbehaviour.

3.14 Serious misbehaviour would include, for example: continual disruptive behaviour in the classroom, threatening behaviour, verbal abuse, assault (including sexual assault), damage to school property, theft from an individual or from the school, supplying an illegal drug and carrying an offensive weapon or replica. Bullying (including homophobic and racist abuse) could also constitute serious misbehaviour. This list is not exhaustive.

3.15 In deciding whether a parenting order might be appropriate, the LEA must make a judgement about whether parenting is a significant factor in the pupil's misbehaviour, whether a parenting programme could remedy this and what other requirements might be useful in an order to address the pupil's behaviour.

3.16 An application for a parenting order can be made in respect of one or more persons who come within the definition of parent.

Parenting orders in different circumstances

3.17 Section 26 of the Anti-social Behaviour Act 2003 enables youth offending teams to apply for parenting orders in respect of criminal conduct and anti-social behaviour. LEAs should consider in each case whether the order for exclusion should also cover criminal conduct and anti-social behaviour. If the youth offending team agrees that the order should cover these areas, they would usually, depending on the circumstances of the case and local arrangements, be the lead agency in bringing the application and supervising the order. Local protocols will need to be agreed about cooperating and supplying resources for such cases.

Timing of an application for a parenting order

3.18 An application for a parenting order must be made after the date upon which the exclusion review and appeal process ends.

3.19 In the case of a permanent exclusion, the date on which the appeal process is complete would be:

- the date by which it is known that the parent does not wish to lodge an appeal against the head teacher's decision to exclude, which has subsequently been upheld by the governing body. This would be the date set out in the letter sent to the parent by the governing body (covered in current exclusions guidance), informing the parent of their decision to uphold the permanent exclusion, as the date by which time the parent must have notified the LEA that they wish to lodge an appeal; **or**
- the date upon which the Independent Appeal Panel endorses the decision to exclude.

3.20 In the case of a fixed-term exclusion, the date on which the review process is complete would be:

- the date upon which the governing body endorses the head teacher's decision to exclude (or the LEA in the case of a PRU); **or**
- if there is no consideration by the governing body (or the LEA in the case of a PRU), the date on which the exclusion began.

3.21 If there is no parenting contract in place, the LEA has 40 school days to carry out any necessary assessment, prepare their evidence and make the application to the court. Applications should be made as soon as possible within this time limit to allow for quick and effective intervention.

3.22 If the parent has already entered into a parenting contract (or is offered and accepts a parenting contract in respect of the exclusion in question which subsequently proves to be ineffective), the LEA may make an application for a parenting order within 6 months of the date on which the contract was signed.

Liaison between the head teacher, governing body, LEA and other agencies involved

3.23 Although only the LEA can apply for the parenting order and the final decision as to whether the application is appropriate will rest with the LEA, the head teacher may in the case of fixed term exclusions, where the child remains a registered pupil at the school, ask the LEA to apply for a parenting order where he or she considers that this may have a positive impact on the pupil's behaviour, preventing further fixed term exclusions or permanent exclusion.

3.24 Making any application for a parenting order in cases of exclusion from school will require close collaborative working between the school and the LEA. LEAs should also make checks to find out what other agencies are involved with the family and should consult them to ascertain existing interventions, discuss any underlying issues and consider the types of requirements that might usefully be included in the parenting order.

Costs

3.25 LEAs are under no obligation to apply for a parenting order in cases of exclusion from school. Nor will it be appropriate in all circumstances.

3.26 Where an application for a parenting order is made, the LEA will have to cover the costs of making the application and the costs associated with any order made including the costs of any counselling or guidance programme.

Making the application

Applications must be made in accordance with the Magistrates' Courts (Parenting Order) Rules 2004 (SI 2004/247) which specify the form of application that should be used. A copy of the specimen application form for a parenting order is included at the back of this annex.

Evidence that the pupil has been excluded and that the exclusion was made in response to serious misbehaviour at school

3.27 In addition, the LEA will need to prepare evidence in support of their application. Evidence that the pupil has been excluded from school should take the form of a statement by the head teacher of the school, the minutes of the governing body (where applicable) and, in the case of permanent exclusions where the parent lodges an appeal, the minutes or decision letter of the independent appeal panel hearing.

3.28 Supporting evidence might include witness statements from witnesses who saw the incident or physical evidence where appropriate.

Evidence that making the order would be desirable in the interests of preventing any further poor behaviour in school which may lead to exclusion

3.29 The court has discretion to consider all the circumstances of the case in deciding whether it is desirable to make a parenting order including the evidence of parents and other witnesses in court. The assessments of the pupil and their parent by the LEA and details of the LEA's ability to deliver the parenting programme should be presented to support the application.

3.30 The LEA should also provide evidence of any experience of trying to engage the parent through a parenting contract. Magistrates are obliged to take into account any parental refusal to enter into, or failure to comply with, a parenting contract. This evidence is relevant to the consideration of whether the order is desirable in the interests of preventing further poor behaviour in school which may trigger an exclusion. If the parent will fully engage with support offered on a voluntary basis, a parenting order would not usually be desirable.

Procedural Points

Providing information about family circumstances

3.31 Before making a parenting order where the pupil is under the age of 16, the court must obtain and consider information about the parent's family circumstances and the likely effect of the order on those circumstances.

3.32 The LEA should be prepared to provide information about the parent's family circumstances. The LEA could submit a report along with the application for the parenting order. Alternatively, the court could rely on an oral report in court (e.g. where the family circumstances are known to the LEA), or ask questions of the parent or of the pupil if they are present in court. The format in which this information should be presented will be for the court to determine and will depend on the circumstances of the case.

Children in the care of the local authority or living in local authority accommodation

3.33 Parenting orders in cases of exclusion from school apply only to parents as individuals and not to corporate bodies. Therefore this type of parenting order cannot be made against local authorities in respect of looked after children (i.e. children in the local authority's direct care). They will however apply to foster parents.

Parental attendance at court

3.34 Magistrates' courts, including youth courts, have power to enforce parental attendance at court, where appropriate, by issuing a summons. It is desirable to ensure all parents falling within the definition (see definition in the Introduction) attend court and that all parents are involved in any parenting intervention.

Requirements of parenting orders

3.35 The requirements specified in the parenting order or in directions given under the order should, as far as practicable, avoid any conflict with the parent's religious beliefs and any interference with the times at which the parent normally works or attends an educational establishment. A balance will need to be struck between imposing requirements that address the problems which led to the imposition of the parenting order and these other issues.

Counselling or guidance programme

3.36 The core requirement of a parenting order is that the parent attends a counselling or guidance programme (e.g. a parenting support or parenting education programme) as specified in directions given by the responsible officer. This requirement must be imposed in all cases when an order is made (except where the parent has previously received a parenting order) and the programme can last for up to three months. The arrangements for meeting this requirement should be as flexible as possible, not least to take account of the availability and timing of such a programme.

3.37 The counselling or guidance programme may be provided by the responsible officer or by another provider, such as the local authority social services department or a local voluntary sector organisation working with parents. There is a wide range of parenting programme providers. The LEA should be aware of what provision exists in its area and in neighbouring authorities (for cross-border cases).

3.38 The court will decide the length of this requirement. It should be such as to allow for a sufficient number of weekly sessions. Experience suggests that this should be no less than 6 or 7 two-hour sessions. The period of up to three months for this requirement must run concurrently with the overall length of the order and any specific requirements but, taking account of the availability of an appropriate counselling and guidance programme, does not have to run from the date the order is made.

3.39 If the only requirement to be included in the order is to attend a counselling or guidance programme then the court can still make the order last for twelve months if it considers it reasonable to do so to allow for the possibility of the order being breached and varied to require the parent to attend a new counselling or guidance programme.

3.40 The responsible officer will need, in consultation with the provider of any parenting course or group where appropriate, to make an assessment about the nature of the counselling or guidance programme in which the parent should take part. In making this assessment the responsible officer should consider who will administer the sessions, the training and experience of the facilitators including their ability to engage with parents, the curriculum used, whether classes will be group or individually-based and whether there are particular cultural and social factors to be considered.

3.41 During the course of the parent's attendance at the counselling or guidance programme the parent, the responsible officer and the programme provider (if different) will need to consider the progress which is being made - the frequency of this will depend on the extent to which the responsible officer is directly involved in the delivery of the programme. The parent might also find it helpful to be involved in some voluntary follow-up work when the order has been completed; this might involve attending a parent support group or similar activity.

Residential requirement

3.42 A parenting order can include a residential course but only if two conditions are met:

- that the attendance of the parent at a residential course is likely to be more effective than their attendance at a non-residential course in preventing their child from engaging in a repetition of the behaviour which led to the making of the order; and
- that any likely interference with family life is proportionate in all the circumstances.

3.43 This is designed to ensure that any residential component to a parenting order would be proportionate under Article 8 of the European Convention on Human Rights - right to respect for private and family life. LEAs should therefore consider whether there would be a breach of Article 8 and, if so, whether that is justifiable.

3.44 If an LEA wishes to recommend or apply for a parenting order with a residential component they should provide evidence that these conditions are met. An example would be where the parent's home life is so chaotic that they need a structured setting where sustained counselling and guidance can be undertaken.

3.45 In order for the court to decide whether any likely interference with family life is proportionate LEAs will need to inform the court what the programme will be. It need not be continuous. A small number of residential weekends structured within a wider non-residential programme may be suitable. Arrangements for the care of the child (and any siblings and dependants) will be a crucial consideration. Voluntary attendance by the child and siblings may be desirable as intensive family work can be particularly effective.

Specific requirements

3.46 The court may also include in a parenting order a requirement for the parent to comply for a period of not more than 12 months with such requirements as are specified in the order.

3.47 The LEA should make a recommendation to the court as to how long the parenting order should be imposed for. This will depend on the circumstances of the case. In many cases it will be desirable to recommend to the court that the parenting order should last for the full 12 month period. The imposition of a parenting order for this time period is more likely to bring about a sustained improvement as a consequence of the ongoing support and monitoring delivered through the order.

3.48 The requirements specified in the order may be such as the court considers desirable in the interests of preventing any repetition of the behaviour which led to the pupil being excluded from school in the first place. Although discretionary, it is likely to be appropriate to include requirements relating to the supervision of the pupil in order to address their behaviour. The LEA should recommend to the court what these requirements should consist of. Possible requirements might include: setting and reinforcing agreed boundaries at home; ensuring the pupil's regular attendance at alternative provision; signing regular behaviour reports or updates; attending regular meetings with the pupil's education provider.

3.49 The requirements imposed under this element of the order will need to be tailored to address the problems which caused the court to make the parenting order and should, if possible, be linked to any work being undertaken by the LEA or school with the pupil.

3.50 When deciding on specific requirements it is important to consider that breach of the order is a criminal offence. It is therefore vital to ensure that the requirements are specific, measurable and clear enough for a parent to know when they are breaching them and for the responsible officer to be able to monitor the parent's compliance.

Managing parenting orders and further court involvement

Role of the responsible officer

3.51 A parenting order must specify a responsible officer who, in the case of an order made following exclusion from school, will usually be an officer of the LEA, a head teacher or a member of staff nominated by the head teacher.

3.52 The responsible officer will provide or arrange for the provision of the counselling or guidance programme, and will supervise any other requirements included in the order. The responsible officer will also need to identify and liaise with other agencies involved with the pupil or family (e.g. social services, the youth offending team, any voluntary organisations) to ensure that all interventions fit together well and are complementary.

3.53 In deciding who is best placed to act as the responsible officer for a parenting order, the LEA should take into account the skills that will be required to supervise the order properly and the time commitment required. The responsible officer will need to be sensitive to the needs of the pupil and the parent. Ideally they should have training, experience or a qualification in social work issues, a knowledge of education law, policy and practice and some familiarity with court procedures. In most circumstances the responsible officer will be an officer of the LEA.

3.54 Head teachers may only accept responsibility for acting as a responsible officer (either themselves or through a member of the school staff) where they have consulted and received the backing of the school's governing body. In considering whether it would be appropriate for a member of school staff to act as the responsible officer, head teachers should have regard to the time commitment, skills and experience necessary to supervise the order effectively (as set out in paragraph 3.53 above). LEAs may only designate a head teacher or a person nominated by the head teacher to be the responsible officer if they are satisfied that the school's governing body is supportive of this arrangement.

3.55 It is good practice for the initial contact between the responsible officer and the parent to take place before the end of the next working day after the order is made. The initial meeting should be an opportunity for the responsible officer to explain further to the parent the nature of the parenting order, its purpose and how it will work in practice (and provide them with a copy of the order). The practical details of the requirements will need to be set out, the monitoring arrangements described and the consequences of failure to comply with any requirements explained. If the counselling or guidance programme under the order are to be provided by someone other than the responsible officer, a pre-meeting between the parent and that person should take place no more than two weeks before the sessions are due to start.

3.56 The success of the relationship between the parent and the responsible officer will be a key feature of the successful completion of the order. Whilst the requirements of the parenting order are in force, the responsible officer should maintain regular contact with the parent. This should enable the responsible officer to determine the extent to which the parent is complying with the requirements set by the court. If the requirements are proving difficult to comply with through no fault of the parent, the responsible officer may consider the need to apply to the court for the order to be varied.

Variation and discharge

3.57 While a parenting order is in force the court which made the order may, on the application of the responsible officer or the parent, vary or discharge it. Under Rule 114 of the Magistrates' Courts Rules 1981 (inserted by Rule 4(4) of the Magistrates' Courts (Miscellaneous Amendments) Rules 1998), application is by complaint. These are civil

procedures and are governed by sections 51-57 of the Magistrates' Courts Act 1980 and Rules 4 and 98 of the 1981 Rules. These sections and Rules deal with, amongst other things, the issuing of summonses and the non-appearance of the parties.

3.58 The order can be varied either by inserting in the order (in addition to or in substitution for any of its provisions) any provision that could have been included in the order if the court had then had the power to make the order and were exercising that power, or by cancelling any provision included in the order. Parenting orders may be varied for a number of reasons, for example, where the family moves to another area or where the requirements are not proving effective.

3.59 Where an application for the discharge of a parenting order has been dismissed, no further application may be made without the court's consent. This is largely to prevent spurious or repeat application

Dealing with appeals and breach of an order

Appeals

3.60 Where a parenting order in a case of exclusion from school has been made, any appeal against the order should be made to the Crown Court.

Breach

3.61 The parenting order is primarily designed to help and support the parent in addressing their child's behaviour. The responsible officer should be seeking to secure and maintain the parent's co-operation and compliance with the requirements of the order to ensure that it is successfully completed, and will need to make a judgement about what is reasonable in all the circumstances of the case.

3.62 If a parent fails to comply with a requirement of the order, it is good practice for the responsible officer to make contact with the parent within one working day by visit, telephone or letter. If there is no acceptable reason for the non-compliance, the responsible officer should give the parent a written warning and if possible a warning in person.

3.63 If the parent has good reason for the failure to comply with the requirements of the parenting order, it may be appropriate for the responsible officer to consider whether to apply to the court for the terms of the order to be varied.

3.64 In the event of more than one unacceptable failure to comply within a period of three months, the responsible officer should meet the parent to review the order and how it can be made to work. In the light of this discussion the responsible officer should consider whether the failure to comply should form the basis of a prosecution.

3.65 If a prosecution is brought, there will be a hearing to determine whether the parent is guilty of failing without reasonable excuse to comply with a requirement of a parenting order. In all cases this will be heard in the adult magistrates' court, except when the parent is under 18 where it would be more appropriate for the case to be heard in a youth court. The hearing will provide an opportunity for the parent to explain why a failure to comply with a requirement of the order has occurred.

3.66 If the parent is convicted, they will be liable to a fine not exceeding level 3 on the standard scale (currently up to £1,000). The court will also have available to it an absolute or conditional discharge, probation order or curfew order. The imposition of a community sentence would be subject to the restrictions set out in sections 6 and 7 of the Criminal Justice Act 1991. Courts cannot re-issue parenting orders in breach proceedings but the original order will continue to be valid.

3.67 Under section 127 of the Magistrates' Court Act 1980 there is a six-month time limit for bringing breach proceedings. Proceedings can be brought after an order has expired. They will however be most effective when brought as soon as possible after the breach is discovered and completed within the life of the order. This will allow the Court more options, for instance to vary the order to require the parent to attend a new parenting programme and fulfil specific requirements to exercise control over their child. The penalty for breach could be a fine or community sentence dependent on the parent attending a new programme and meeting other requirements.

Specimen Application Form for a Parenting Order

Application for Parenting Order (Anti-social Behaviour Act 2003, section 20)

_____Magistrates' Court
(Code)

Date:_____

Child or young person:_____

Child or young person's address:_____

Child or young person's age:_____

Parent:_____

Parent's address:_____

which is in the area of [] Local Education Authority

Parent:_____

Parent's address:_____

which is in the area of [] Local Education Authority

Applicant Local Education Authority:_____

It is alleged that:

(a) the child or young person has been excluded from school on disciplinary grounds; and

(b) the prescribed conditions are satisfied in that [insert details].

[The parent(s) entered into a parenting contract on [date].] [It is alleged that the parent(s) have failed to comply with the parenting contract, a copy of which is attached to this application form.

Short description of alleged failure to comply with parenting contract:

Evidence of this alleged failure to comply is attached.

[It is alleged that the parent(s) have refused to enter into a parenting contract.]

[The child or young person is under 16. Information as to the family circumstances of the child or young person is attached.]

[It is alleged that:

(a) the attendance of the parent at a residential course is likely to be more effective than their attendance at a non-residential course in improving the child's or young person's behaviour; and

(b) any interference with family life which is likely to result from the attendance of the parent at a residential course is proportionate in all the circumstances.

The court is requested to order that the counselling or guidance programme may include a residential element.]

Short description of the counselling/guidance programme to be attended by the parent(s):

Further requirements to be included in the order:

Annex 3.ii

Detention : the Law and How to Apply It

Annex 3.ii: Detention: the law and how to apply it

1. Introduction

1.1 Detention is one of the sanctions schools can use in cases of serious misbehaviour. Section 5 of the Education Act 1997 gives schools authority to detain pupils after the end of a school session on disciplinary grounds.

1.2 For the purposes of this guidance, keeping a pupil in during a mid-morning or mid-afternoon break is not considered a detention but as one of a range of sanctions available to a school. As such the sanction should be included as an option within a well-communicated behaviour policy and be consistently and fairly applied as with any other sanctions.

1.3 All schools, except independent and non-maintained special schools, have clear legal authority to detain pupils without the consent of the parent. There is no risk of a legal action for false imprisonment if a pupil is kept at school after the session without parental consent. This covers both lunchtime and after school detentions. However, before a school introduces detention as a sanction, the head teacher must make all parents and carers, pupils and staff aware that teachers may use detention. Parents and carers of pupils admitted during the school year must also be told about the policy. If the head teacher has made all reasonable efforts to make the policy known, parents and carers should not be able to challenge the lawfulness of detention because they were unaware of it.

1.4 The law safeguards children's and parents' legitimate rights, and ensures reasonable limits on detention for children who misbehave. Schools do not have an unqualified right to impose detention: detentions must be reasonable and proportionate to the offence. Detentions may be imposed by a head teacher or another teacher specifically or generally authorised to do so. They should take account of:

- the child's age;
- any special educational needs;
- any religious requirements; and
- whether the parent can reasonably arrange for a child to get home from school after the detention.

2. Written notice

2.1 A school must give at least 24 hours' written notice of a detention to the parent, so allowing time for the parent to raise any problems. A notice to a parent should say:

- that their child has been given a detention;
- why detention was given; and

- when, where and for how long the child will have to remain at school.

2.2 Parents and carers objecting to a detention should present the relevant facts for the school to take into account. Examples of such facts would be:

- that the detention is on a day of religious observance for the family;
- concern about the length and safety of the walking route between the school and the child's home; and
- the need for transport home if the parent cannot collect the child that day or make reasonable alternative arrangements.

2.3 The detention could be revoked altogether or deferred because of the parent's representations.

3. Parental complaint about detention

3.1 The head teacher, or other authorised teacher, may decide the child should have a detention despite the parent's representations. However, a parent who remains dissatisfied can complain to the head teacher and the governing body under the school's normal complaints procedures (although there will usually not be time to consider the complaint until after the detention has taken place). However, there is no right of appeal. A governing body has no power to overturn a decision if they consider a complaint before the detention takes place.

3.2 A parent concerned about either the principle of detention or how it is used can raise these concerns with the head teacher or the governing body, or both.

4. Method of notifying the parent

4.1 The law allows notice of a detention to be given to a pupil's parent in various ways including:

- handing it to the parent;
- delivering or posting it to their last known address; and
- any other effective method such as 'pupil post', with a telephone call to the parent, or a fax or perhaps e-mail.

4.2 It should normally be unnecessary for a head teacher to have to arrange for notice of detention to be served personally on the parent or to obtain acknowledgement of its delivery. This would mean that a school could never reasonably detain a pupil whose parent deliberately avoided receiving the notice or refused to respond to it. If the head teacher has given the parent, whom the school believes has custody of the child, 24 hours' written notice of a detention, the head teacher should assume that the parent has received this even if there has been no response.

5. Period of notice

5.1 The minimum period of written notice is 24 hours because delay in imposing a detention weakens its effect.

5.2 In practice the 24 hour requirement will normally mean a parent hearing more than a day in advance. For example, for a detention imposed on a Monday, the earliest that detention could take place would be after school on the Wednesday. This ought to allow enough time for parents and carers to make reasonable arrangements for transport, if necessary.

6 Who should receive the notice

6.1 Written notice must be given to the parent. Notifying one person who has parental responsibility for a child, even if more than one person has custody of the child, should be adequate. A head teacher who knew that a child of separated parents and carers lived with the mother, would comply with the requirement by giving notice only to the mother, but arguably not by giving notice to the father alone. The Courts could be expected to apply a common sense approach to the notice requirement. If a head teacher had taken all reasonable steps to give notice to the parent with whom the child lived, it is doubtful whether a Court would be sympathetic to a false imprisonment claim based simply on the fact the head teacher should also have given notice to someone else.

7. Failure to attend a detention

7.1 If a pupil fails to attend an after-session detention for a disciplinary offence without reasonable excuse, the head teacher should decide how to deal with the absence and the original misbehaviour, normally with a more severe sanction.

8. Circumstances for not detaining a pupil

8.1 For certain children a detention might never be reasonable, however bad their conduct. For example, an after-school detention could probably not reasonably be imposed on a child who lived far from school, if the pupil's only means of travelling home was on a bus leaving at the end of the school day and there was no other way the pupil could get home. However, the onus is on parents and carers to demonstrate any unreasonableness about the proposed detention. Simple inconvenience to parent or pupil in making alternative transport arrangements would not be sufficient reason to withdraw the detention. If after-school detention is not possible, the head teacher (or other authorised teacher taking the detention) could consider detention at lunchtime or another suitable sanction.

9. Responsibility for travel arrangements

9.1 Although the school must have regard to the availability of suitable travel arrangements after a detention, the responsibility for making those arrangements lies with the parent. The school does not have to pay.

10. Detaining young children

10.1 In law, there is no reason why a young child, including one under compulsory school age, should not be given detention. However, it could be difficult to justify the detention of a very young child as the pupil's age would be one of the special circumstances which the head teacher must by law consider.

11. Responsibility for care and safety of children detained

11.1 Teachers have a duty to take reasonable care of pupils at school. If a child is injured because a teacher is negligent, the parent could take an action of negligence against both the teacher responsible and the employer (either the LEA or the governing body) under the legal principle of vicarious liability. Schools should also consider carefully the issues of supervision where a single child is detained.

11.2 A child injured going home from school after being kept in detention could theoretically have a claim in damages against the school if the child or parent could prove that:

- The school's duty of care extended to ensuring the child could get home safely;
- In the circumstances of the case they had negligently failed to carry out that duty; and
- the injury was a direct result of that negligence.

11.3 If, for example, an unsupervised young child was knocked down crossing a busy road outside the school after a detention, but someone at the school would normally have supervised the child crossing the road at the end of the school day, this could be negligence.

11.4 However, the LEA or governing body would not necessarily be liable for any accident that happened to the child on the way home after a detention. To succeed in a negligence action, the child or parent would have to prove all three points in paragraph 11.2 above.

12 Early morning, Saturday and holiday 'detentions'

12.1 The law allows schools to use detentions other than at lunchtime or after school. For Saturday morning, early morning, or holiday detentions that pupils attend voluntarily, there can be no question of false imprisonment. Such detentions depend on the co-operation of the pupil and parent.

13. Use of time

13.1 The time a pupil spends in detention should be used constructively and to best effect. Teachers should consider appropriate work for pupils to undertake during the detention.

14. Records

14.1 Schools should keep a written record of any detention and the reasons for imposing it, in case parents and carers bring a legal challenge.

Annex 3.iii

Pastoral Support Programmes

Annex 3.iii: Pastoral Support Programmes

1.1 Pupils who do not respond to school actions to combat disaffection may be at serious risk of permanent exclusion or criminal activity. Such pupils may need longer-term intervention to keep them from dropping out of school altogether and not realising their potential. It is crucial that schools identify such children and working together with other relevant services, devise a strategy to address the child's future through the preparation of a Pastoral Support Programme. The following advice is intended as a framework within which each school would implement a PSP.

1.2 The guidance in this Annex should be read alongside that in Sections 3 and 5 on whole-school approaches to behaviour and attendance and the provision of education otherwise than at school. Guidance on educating and reintegrating excluded pupils, contained in National Assembly for Wales Circular 1/2004: Exclusion from Schools and Pupil Referral Units also needs to be taken into account.

Main principles

1.3 The Pastoral Support Programme (PSP) is a school-based intervention to help individual pupils to better manage their behaviour and to identify any support mechanisms which need to be put in place. The PSP should identify precise and realistic behavioural outcomes for the child to work towards.

1.4 From May 2006, schools have also been able to agree Parenting Contracts under the Anti-social Behaviour Act 2003. These are intended as an extra tool to use alongside PSPs and not as a replacement. (see Annex 3 i)

1.5 All pupils at risk of exclusion or disengagement from mainstream schooling must have additional support considered, as outlined in the SEN Code of Practice, and consideration whether an Individual Education Plan (IEP) is required.

1.6 The LEA officer responsible for monitoring exclusions, the school Special Educational Needs Co-ordinator (SENCO), any key worker associated with the pupil and the education welfare service should be notified that a pupil is at serious risk of permanent exclusion. The school should have already assessed the needs of the pupil, and have adopted a graduated response that has drawn on the wide range of expertise in the school. External support, either from statutory or voluntary agencies, should have already been sought. The PSP requires the school to liaise with service providers and must allow sufficient time for them to respond.

1.7 A PSP does not replace the special educational needs assessment process, although it might well form part of SEN planning for pupils with emotional and behavioural difficulties and be integrated with IEPs.

1.8 The PSP acts as a detailed record for governing bodies and LEAs about the nature, the outcome of, and interventions with, pupils. It must be submitted to the governors in the event of a request to exclude a pupil permanently as evidence of what the school has done to avoid exclusion.

1.9 A PSP is intended as a means of providing additional support to avoid exclusion and must not be developed with the sole aim of excluding a pupil.

1.10 A nominated staff member should oversee the PSP. The plan should be short and practical with administration kept to a minimum. A school's SENCO should be included in discussions on the PSP along with other partners as appropriate.

1.11 For pupils aged 14 and over the PSP should be an integral part of the support elements of the pupil's 14-19 Learning Pathway.

Implementation of a Pastoral Support Programme

1.12 When the school or the LEA identify that a PSP is needed, the school should call a meeting of all those involved, including a representative of the LEA, representatives of any other agencies involved and the parents of the pupil. The pupil should also be invited to attend. The school should identify what strategies it can use to support the pupil, and the LEA and any other agencies should advise what they can offer to support the pupil. The PSP must identify the cause of concern and set out precise and realistic behavioural outcomes the child is to work towards.

1.13 Any arrangement for part-time provision out of school must be established through a PSP. The PSP must make clear what work the pupil is expected to do and its purpose. All out-of-school placements, and those which are internal to the school, must focus on the specific needs of the pupil, academic and social and must have as their objective the re-integration of the pupil into the mainstream as soon as practicable.

1.14 It is desirable to manage all primary pupils in their schools. It may be necessary to place young pupils for part of their week or specified times in provision away from the main school. The pupils need to be aware that this is a supportive measure allowing them an opportunity for them to stay in their mainstream school in the long run. If the pupil is in full-time alternative provision, such as a pupil referral unit, but still on the mainstream school's roll, an appropriate member of the school staff should visit the pupil on a regular basis to monitor their progress.

1.15 In constructing a PSP, schools should liaise with all relevant agencies and consolidate planning and monitoring meetings wherever possible. Partner agencies include:

- Key officers from **the LEA**, usually educational psychologists, education welfare officers and behaviour support teams.
- **Social Services Departments** may be able to resolve home problems that contribute to irregular attendance or behavioural difficulties at school. Such links will be essential for pupils who are looked-after,

who are young carers, or where a child is on the protection register. For looked after children the child's social worker should be fully involved in the preparation of the PSP and this should form an integral part of the Personal Education Plan so that the targets and outcomes are known to Social Services (See Section 2 for more guidance on looked after children and use of PEPs);

- **Health services** may be able to help where medical or other problems are impacting on attendance and behaviour, for example medical and psychological advice would be important in supporting schools and the Education Welfare Service in assessing and dealing with cases of school phobia;
- **Housing Departments** can help to resolve accommodation difficulties or uncertainties that may be contributing to problems at school. A stable home environment is particularly important if a young person is to progress. The Housing Department also has an important role in helping to track children's whereabouts;
- **Voluntary organisations and Youth Services**, both statutory and voluntary, can help to support young people in and out of school. Youth workers might, for example, carry out intensive support work with an identified group of non-attenders;
- **Careers Wales** can play a valuable role in helping young people to make informed decisions and in ensuring that they do not drop out of learning at 16. They can also provide support through the Youth Gateway, individual mentoring support, personal development programmes, work related education/experience and education business activity. Children with PSPs are likely to need group discussions and opportunities to discuss ideas with a careers adviser;
- **Community minority ethnic groups** can help schools with mentoring programmes and provide advice and guidance on framing PSPs.

1.16 In drawing up a PSP, the school staff, in conjunction with others, should consider the needs of the pupil taking into account the following:

- health;
- home circumstances;
- learning needs and attainment levels;
 - literacy and numeracy skills
 - other additional learning needs
- educational history;
- significant personal relationships;

- relationships with staff or fellow pupils, or both;
- significant events;
- individual perceptions of all involved;
- specific behaviours and any patterns; and
- attendance

1.17 The strategies which could be considered to address the needs of the pupil might include the following:

- lunch-time and after school homework clubs, and other forms of study support;
- disapplying the National Curriculum to free up the time necessary for specific learning activities;
- a mixed course of activities - often provided by voluntary organisations;
- changing the child's teaching set or class;
- seating arrangements;
- identifying a "buddy" who supports the child from within their own peer group;
- older pupils and adults to act as mentors, after suitable training;
- staff to be given guidance on behaviour management specific to the pupil;
- specialist support, e.g. counselling for bereavement or alcohol or drugs dependency which is likely to require outside support and expertise;
- jointly registering the pupil at the school and a PRU providing the opportunity to benefit from the PRU's expertise while remaining at the school, aiding full re-integration later. Both primary and secondary pupils could take this option, full or part time - the latter is preferable for primary pupils; and
- a managed move to another school - with the agreement of the pupil's parents and the receiving school. A fresh start, with the opportunity to develop new relationships, can have a positive impact on a child's progress.

Agreement of PSPs with parents

1.18 As far as possible all PSPs should be agreed and signed by parents. As some parents may not be comfortable with meeting with large groups it may be necessary to involve only a small number of partners in the

final agreement meeting, although they should all be involved in the development of the plan. Choosing an appropriate venue for the meeting is also important as some parents may not be comfortable, for example, in attending a large meeting room in a school. A neutral venue may be more conducive to co-operative discussion.

1.19 Where possible the PSP should be signed at the time of the discussion when it is finally agreed and the parents should leave with the signed version. This will help to avoid any communication problems around amendments to the plan, although should not be used as a reason for not adapting the PSP at a later date to ensure that it better fits the needs of the pupil.

Review of the PSP

1.20 The PSP should be reviewed on a regular basis - at least every six weeks and more frequently initially - to ensure that it remains relevant to the pupil's needs. For pupils receiving education out-of-school the review should consider whether full reintegration to mainstream schooling is feasible and the timescale for this to happen.

Progress Check in Year 9

1.21 It is important that schools identify pupils at serious risk of permanent exclusion before they move into Key Stage 4. All secondary schools are encouraged to put in place arrangements for a progress check in Year 9. It is for schools and LEAs to decide how to carry out progress checks but they should consider the factors highlighted in paragraph 1.16 to assess whether the pupils are particularly at risk.

1.22 The progress check might be led by a school-based EWO, educational psychologist, or other designated officer within the LEA. Other agencies such as Careers Wales might be involved in the progress check. All children identified as at risk of permanent exclusion should have a PSP in place by the end of Year 9. For those pupils continuing to have difficulties in Year 11 it will be particularly important to liaise with local agencies such as Careers Wales and youth services to help a smooth transition to post-16 education and training. As Learning Pathways develop the Learning Coach will also have a significant role for pupils aged 14 and over.

Section 4

Attendance



Section 4: Attendance

1. Introduction

1.1 This section deals with specific issues on attendance and is split into 3 parts:

- the school's role in dealing with non-attendance
- the LEA's role in dealing with non-attendance
- working in partnership

Detailed information regarding registration practices and codes can be found at Annex 4.a.

Attendance cannot be thought of in isolation and this section should be read in conjunction with other elements of this guidance, particularly Sections 1 to 3.

1.2 Attendance in schools needs to remain a priority to ensure that children and young people are given the chance to achieve that of which they are capable. The statistical links between attendance and achievement are very strong. Reaching the highest levels of attendance is particularly challenging in areas with high levels of deprivation. However the Narrowing the Gap report showed that strong and effective leadership in schools can make a large difference to attendance levels in all areas.

1.3 As well as helping young people to achieve their potential, active follow-up of non-attenders is a key element in their protection and helping to avoid their being involved in criminal activity. Pupils not attending school on a regular basis are far more likely to commit crime. A Home Office study of 171 young offenders showed that 86% of them had truanted from school.

1.4 Non-attendance can be a sign of significant problems in the home environment, such as abuse, and schools need to ensure that they are actively involved with pursuing the reasons for non-attendance and cases and making the appropriate links with external organisations.

1.5 The Assembly Government wishes to increase the level of early intervention on non-attendance cases. To assist this process, attendance data was collected from primary schools for the first time in 2002/03 and target setting has been extended to primary schools.

1.6 Schools and LEAs also need to be aware of new legislation and arrangements governing the transition from primary to secondary school as this is a key time for pupils where the changing circumstances may contribute to increasing levels of absence among some young people. This is described in more detail in Section 3, part 8.

The legal background

Under **Section 7 of the Education Act 1996**, the parent is responsible for making sure that their child of compulsory school age (5-16) receives efficient full-time education that is suitable to the child's age, ability and aptitude and to any special educational needs the child may have. This can be by regular attendance at school or by education otherwise (the parent can choose to educate their child at home).

If it appears to the LEA that a child of compulsory school age is not receiving a suitable education, either by regular attendance at school or otherwise, they must begin procedures for issuing a **School Attendance Order** under Section 437 of the Education Act 1996.

If a child of compulsory school age who is registered at a school fails to attend regularly at the school then the parent is guilty of an offence under **Section 444(1) of the Education Act 1996**.

Since March 2001 there has been a further offence where a parent, knowing that their child is failing to attend regularly at school, fails without reasonable justification to cause him to attend (Education Act 1996, **Section 444(1A)** as amended by the Criminal Justice and Court Service Act 2000). This offence requires proof that the parent knew of their child's non-attendance and failed to act. Under this aggravated offence a warrant can be issued compelling a parent to attend court and conviction can lead to a custodial sentence.

Section 444(ZA) of the Education Act 1996 (as inserted by section 116 of the Education Act 2005) will extend the circumstances in which a parent can be prosecuted for failing to ensure that a child for whom he is responsible attends regularly to include alternative provision that has been made for the child.

An LEA must consider applying for an **Education Supervision Order (ESO)** before prosecuting a parent (Children Act 1989, Section 36). An LEA may apply for an ESO instead of or as well as prosecuting the parent.

For further details please see the following documents:

- Education Act 1996
- Education Act 2002
- Education Act 2005
- Children Act 1989
- Crime and Disorder Act 1998

The special position of **Traveller families** is also recognised in law (section 444(6), Education Act 1996). Traveller parents are protected from conviction if the parent can demonstrate that:

- he or she is engaged in a trade or business of such a nature as requires travel from place to place;
- the child has attended at a school as a registered pupil as regularly as the nature of that trade or business permits;
- the child, where aged six or over, has attended school for at least 200 sessions (half days) during the preceding twelve months.

1.7 While the parent is primarily responsible for ensuring their child attends their registered school regularly, where school attendance problems occur, the key to successfully resolving these problems is engaging the child through collaborative working between the parent, the school and the LEA.

1.8 Schools and LEAs should work with parents and pupils as far as possible to encourage attendance and provide any necessary additional support, before taking forward any prosecution.

1.9 Further detail on aspects of attendance law are on the Assembly Government's Inclusion and Pupil Support web pages.

2. The school's role in dealing with non-attendance

2.1 Outside of the home, it is often at the school level that the biggest direct influence can be brought to bear on raising levels of attendance. Absence from school undoubtedly has a detrimental effect on a pupil's progress and attainment. Therefore schools need to monitor and support pupils to maintain regular school attendance. Senior management and all teaching staff should work to raise the level of enjoyment and commitment to learning among pupils and in promoting a positive school environment where pupils are keen to attend.

2.2 Schools are required to take an attendance register twice a day; at the start of the morning session and once during the afternoon session. The register shows whether the pupil is present, engaged in approved educational activities off site or is absent. In addition, where a pupil is of compulsory school age, the register must show whether the absence was authorised by the school or unauthorised.

2.3 Authorised absence is where the school has either given approval in advance for the pupil to be absent from school, or where an explanation offered afterwards has been accepted by the school as satisfactory justification for absence. Only schools, and not parents, can authorise an absence, and schools must consider whether the reason for absence is reasonable before doing so. Any absence that is not authorised by the school should be recorded as an unauthorised absence. Detailed guidance on registration practices and codes can be found at Annex 4.i.

2.4 Where possible and practicable schools should use electronic packages to record attendance. Electronic registration enables more effective and efficient monitoring of attendance on a daily basis as well as allowing the identification of longer-term trends in absence which can be used to inform school policy and practice. Electronic packages which automate the contacting of parents to inform them of their child's absence have also proven effective in reducing absence and locating children and young people. More information on the use of electronic packages to monitor attendance is contained in The National Foundation for Education Research's report 'Review of Electronic Software to Monitor School Attendance', published in September 2005.

2.5 All schools should have effective systems and procedures for encouraging regular school attendance and investigating the underlying causes of poor attendance, which should be set out in an attendance policy. The attendance policy should also set out the circumstances in which the school will consider entering into a parenting contract. The systems should be reviewed regularly and modified, where necessary, to reflect the circumstances of the school.

2.6 Schools' attendance policies should clearly set out staff roles and responsibilities for dealing with attendance and should link to the school's behaviour and bullying policies. Parents and pupils should be consulted on the policy; it should reflect the LEA's attendance strategy; and should be endorsed by the school governors. The head teacher is responsible for the operational management of the attendance policy.

2.7 Schools should make pupils and parents aware of the school's attendance policy and should be encouraged to cooperate with the systems and procedures that the policy describes.

2.8 Schools should have systems and procedures for:

- registering pupils, including the length of time registers should be kept open;
- categorising absence;
- collating and analysing attendance data to identify trends and enable action to be taken;
- determining in which exceptional circumstances leave of absence will be granted for holidays during term-time and how pupils should make up time lost through holidays;
- monitoring attendance and punctuality for all lessons;
- dealing with late arrivals;
- dealing with unauthorised absence:
 - when contact will be made with parents;
 - how and when standard letter systems will be used;
 - what measures will be taken to re-engage disaffected pupils;
 - what measures will be taken to ensure pupils complete work which has been missed;

- what rewards/incentives will be used to encourage attendance; and
- what sanctions will be taken including the circumstances in which the school will consider entering into a parenting contract.
- referring cases to the LEA (i.e. when, how and by whom);
- reintegrating pupils who have been absent (e.g. providing pastoral support, the role of a learning support unit, using learning/peer mentoring - see Part 6, Circular 1/2004: Exclusion from Schools and Pupil Referral Units for more information on reintegrating excluded pupils).

Target setting

2.9 New regulations came into force in Wales on 1st February 2006 setting out the requirements on schools to set targets on school attendance. The Education (School Performance and Unauthorised Absence Targets) (Wales) (Amendment) Regulations 2006 were introduced under Section 53 of the Education Act 2002, which amended Section 63 of the SSFA 1998 and introduced 3 main changes:

- targets to be set on total absence rather than unauthorised absence;
- primary schools to be required to set targets on school attendance; and
- for targets to be submitted to the LEA.

2.10 Evidence shows that there is variation in the recording of absences as authorised or otherwise, and of the difficulties faced by schools in following up absences, to establish whether an absence is unauthorised. Setting targets on total absences would counteract these inconsistencies, and reflect that any absence from school has the potential to impact on the future fulfilment of the potential of children and young people in Wales.

2.11 Extending the requirement to primary schools also ties in with the Assembly Government's aim to increase the emphasis on detecting and tackling non-attendance at an earlier age. This approach was recommended by the Attendance Task and Finish Group in its report of February 2003.

2.12 Under the new regulations governing bodies of every maintained school (other than a special school established in a hospital) will be required to set targets for the reduction of all absences of the day pupils at the school. They require the following targets for total absences to be set and submitted to the LEA by no later than the 31st December in each school year:

- A final target for the next school year;
- A reviewed target for the school year next but one (to be reviewed in light of actual outcomes in the previous school year); and
- A provisional target for the school year next but two.

2.13 Regulations also place a duty on schools to publish within the annual report for every school year the following information:

- Actual absence rate in the relevant school year;
- All absence targets (as outlined above); and
- A statement setting out the extent to which the actual absence rate met the final target set for the same school year.

2.14 Data will continue to be collected on both authorised and unauthorised absences to enable schools to continue to target their action to tackle attendance issues, and to aid in early intervention.

2.15 To enable LEAs to set realistic targets it is essential that they have access to information on all school-level attendance targets. This would also enable LEAs to provide feedback to schools on their proposed targets and allow for consistency of approach to target setting across the authority. For this reason the Regulations require governing bodies to communicate their absence targets to the LEA by 31st December each year.

2.16 Wherever possible schools and LEAs should work together to develop acceptable targets, however LEAs may request a revision to targets set by school governing bodies if they are not satisfied with the original targets. If the revised targets submitted by the governing body still fail to satisfy the LEA then the LEA should set the target for the governing body.

Monitoring attendance levels

2.17 It is important that schools closely monitor absences so that any patterns of non-attendance are identified and early action taken to address the underlying causes.

2.18 Pastoral or support staff should follow up individual pupils and analyse attendance data to identify trends for individual pupils, classes, year groups and specific groups such as Traveller and Gypsy children, children looked after by the local authority, young carers and black and minority ethnic pupils. This can then enable the school to target its efforts.

Early intervention

2.19 Attendance problems are often a symptom of some underlying cause. The school should investigate whether there are any school or home factors (or both), which are affecting the pupil's school attendance.

2.20 Wherever practicable, action should be taken by the school to improve a pupil's attendance and investigate and address any underlying cause of problems, such as bullying, experience of racism, caring responsibilities, ill-health, unmet special educational needs (SEN), or unidentified SEN or disability before considering whether to make a referral to the LEA.

Schools can undertake a range of actions to overcome attendance problems. These will depend on the pupil and their circumstances and will involve working closely with the parent. For example:

- early discussion of unauthorised absence between the pupil and the teacher responsible for their registration;
- meetings between the school, parents and the pupil to establish the reasons for unauthorised absence;
- consideration of whether attendance problems could be related to an unidentified SEN and, as appropriate, provision of extra support at School Action, School Action Plus or request for a statutory assessment;
- meetings with parents to discuss strategies in school and at home which encourage regular school attendance;
- engaging the parent in a parenting contract;
- consideration of timetable and subject choice with regard to engaging the pupil;
- use of Learning Mentors to build positive relationships with pupils and parents;
- use of Peer Mentors to provide a social support network;
- use of methods of encouraging/rewarding good or improving attendance.
- use of methods for discouraging absence (i.e. placing the pupil on report, letters home);
- extra help with work missed;
- in-school counselling;
- use of an advocate;
- where a pupil is at risk of failure at school through long-term disaffection the head teacher should establish a pastoral support programme for the pupil. (See Annex 3.iii)

Contact on the first day of absence

2.21 Schools should emphasise parents' prime responsibility for ensuring attendance by asking parents to inform them as soon as possible if their child will not be attending school on a particular day. If a pupil is absent without explanation, school administrative staff should, wherever possible, contact the parents that same day, including in cases where the pupil skips lessons after registration. A declared and active policy of first day contact makes clear to pupils and parents that absence is a matter of concern and will be followed up. By contacting the parent the school also ensures that the parent is aware that their child is not in school enabling the parent to take steps, where necessary, to establish that their child is safe. It would normally be expected that this work would be undertaken by school administrative staff or volunteers.

Parentally-condoned unauthorised absence

2.22 Parentally-condoned unauthorised absence is a serious problem in some schools. Although requiring a different response to child-initiated truancy, it amounts to the same thing: the unauthorised absence of a pupil of compulsory school age.

2.23 By law, only the school can approve absence, not parents. School staff need not accept a parental explanation for a child's absence, whether written, telephoned or given in person, if they doubt the explanation. And it is for schools to judge whether the explanation given is satisfactory justification for the absence.

2.24 Any further investigation should be handled sensitively, but if after this questions remain (or where no satisfactory explanation is forthcoming), the absence must be treated as unauthorised. Where parentally-condoned unauthorised absence appears to be a problem with a particular pupil, schools should involve the Education Welfare Service at an early stage.

2.25 Excessive amounts of authorised absence can also seriously disrupt continuity of learning and encourage disaffection. School staff should therefore look out for emerging patterns of authorised absence by individual pupils or groups of pupils.

2.26 Schools should explain to parents through the Home-School Agreement how to notify them when a pupil is absent. Some parents, for example those whose first language is not English, or who have a disability, may have difficulty in providing notes or using the telephone. Schools might suggest that such parents make alternative arrangements, either through a neighbour, a community worker or elder sibling to notify a child's absence. In order to comply with race and disability equality legislation, it is important for schools to ensure that there is equal access to information. Consequently this may mean providing appropriately translated material to ensure that no ethnic group is disadvantaged or providing information in other formats for those with disabilities.

2.27 There is no legal requirement for parents' notes to be retained by a school. But if a pupil attends irregularly and there is a possibility of legal action, it would be sensible to keep the notes for up to three years. The information could be used in Court.

Possible strategies to adopt

2.28 Evidence shows that tackling absence is likely to be most effective through adopting a number of different approaches. Those which schools have found helpful in improving attendance include:

- use of IT to improve monitoring of attendance (particularly where there is a problem with post-registration truancy);
- raising the profile of attendance through home-school agreements, parents' evenings, school newsletters, or other communications;

- regular reminders to parents of school procedures for notifying absence, and of school policy on issues such as family holidays in term time;
- attendance checks, scheduled or unscheduled. This is particularly effective in monitoring post-registration truancy;
- assigning responsibility for attendance issues to a senior member of staff;
- pupil pass schemes confirming that children have authority to be out of school (particularly helpful in areas where truancy watch schemes are operating);
- group work with irregular attendees and with their parents.

Post-registration truancy

2.29 Missing lessons after registration can have just as serious an effect on a pupil's progress as full-scale truancy. It can also erode discipline in a school. If post-registration truancy is a problem, head teachers can arrange for class registers to be taken at the beginning of each lesson. Periodic spot checks may also be a useful strategy, as well as lesson-by-lesson reports on the attendance of particular pupils, which are more readily undertaken through the use of electronic registration.

3. The LEA's role in dealing with non-attendance

3.1 LEAs are under a duty to ensure that a child for whom they are responsible is receiving a suitable education either by regular attendance at school or otherwise (section 437 Education Act 1996). The service responsible for carrying out the LEA's duty is often known as the Education Welfare Service (EWS) and staffed by Education Welfare Officers (EWOs). References to the EWS or EWOs should be taken to mean any service or individual carrying out the LEA's duty under section 437.

3.2 Education Welfare Officers should build an effective working relationship with schools to resolve attendance problems by:

- working closely with schools to define their role and responsibilities surrounding school attendance;
- defining the EWS's roles and responsibilities;
- ensuring that policies and operational practices are shared between the EWS and schools;
- agreeing arrangements for referral, regular review, monitoring and evaluation; and
- agreeing procedures for resolving enquiries.

3.3 The LEA must work with schools to ensure that school registers are kept up-to-date and are accurately completed. Where legal action is taken against the parent only unauthorised absence can be considered by the court because by definition any authorised absence has been approved by the school.

3.4 The LEA should set out the amount of support that schools can expect from the Education Welfare Service. The support should be based on clear and straightforward criteria. Any formula for EWS resource allocation should take into account the extent of absence from school and the number of pupils on the school roll.

3.5 Each school maintained by the LEA should have a named EWO who is responsible for liaison with the school. LEAs should monitor carefully the use of all different types of intervention strategies to assess whether they are effective and appropriate.

3.6 When a case is referred to the LEA, the EWO should make an assessment of the case and work closely with the pupil and their family as well as the school to resolve issues surrounding their poor school attendance. This may involve making home visits and securing a problem-solving dialogue between home and school.

3.7 The EWS should consider and attempt to resolve any possible factors that may be contributing to school attendance problems. Documentary evidence should be kept to prove that the Education Welfare Officer has undertaken casework to address possible reasons for non-attendance. This should also include evidence of action taken by the school.

3.8 The EWS should engage other agencies where appropriate. It may be that the pupil is a child in need (section 17 of the Children Act) and with parental agreement a child and family meeting with relevant professionals may assist the family and the pupil. There are legal (e.g. data protection requirements), professional and gate-keeping restrictions on obtaining help and/or information from other agencies such as the Benefits Agency, health trusts and social services departments. Under section 27 of the Children Act 1989, an authority whose help is requested will comply with the request if it is compatible with their own statutory or other duties and obligations and does not unduly prejudice the discharge of any of their functions.

Target setting and plans

3.9 Local education authorities are required to set targets for attendance at primary and secondary schools within their Single Education Plans. The Plans were introduced for 2006/07 under the Children Act 2004 and are due to be subsumed within an overall Children and Young Person's plan from 2008/09. Single Education Plans should also set out the LEA's strategy for providing support to schools on improving pupil attendance rates as part of its overall strategy on raising standards.

4. Working in Partnership

4.1 There are a number of individuals and organisations that may be able to assist in various ways with resolving poor attendance problems. These include: educational psychologists, health workers, social services

departments, traveller education services, Careers Wales, child and adolescent mental health services (CAMHS), learning mentors, SEN Coordinators (SENCOs), youth offending teams (YOTs), behaviour support teams, cultural, faith and community groups and the police. This list is not exhaustive and schools and LEAs should endeavour to make links with all relevant organisations in their area.

4.2 Where intervention at school-level fails to bring about an improvement in school attendance, a referral to the LEA must be made. The types of actions to be taken at school level and the trigger for referral to the LEA should be set through negotiation between the school and the LEA. Schools should work closely with the Education Welfare Service to establish a clear protocol for referral.

4.3 All schools, including independent schools, must inform the LEA at agreed intervals of the name and address of any registered pupil who fails to attend the school regularly or has been absent continuously for ten or more school days. Schools should provide details of the strategies they have used to address the problem, the reason for the absence, if known, including where the absence in question is covered by a medical certificate, whether it has been authorised by the school, or results from a dual registration arrangement. The LEA's responsibility is usually exercised through the Education Welfare Service and its Education Welfare Officers. It is important that EWOs check maintained school attendance registers at regular intervals.

Cross-border working

4.4 Where the pupil lives in a different LEA, the LEA where the pupil attends school should take the lead in any LEA-level action necessary to improve the pupil's attendance. In such cases, the LEA where the pupil lives and the LEA where he or she attends school will need to work closely together. This will particularly be the case if a parenting order is made following prosecution as the most appropriate and convenient parenting programme may be located in the LEA where the pupil lives. It may also be the case that the two authorities may fall into two different magistrates' court areas. In this case the schooling authority would need to take any prosecution of parents to the magistrates court covering the pupil's home and is likely to need the assistance of the home authority in doing so.

4.5 LEAs are advised to draw up protocols setting out the basis under which cross-border working will take place.

Community-based action against truancy

4.6 Schools, local authorities, police and other community groups can work together on:

- truancy sweeps in designated areas such as shopping centres;
- leaflet campaigns focused on parents (especially in areas where parentally-condoned absence is a problem);

- publicity stands in local shopping centres;
- advertising campaigns on local buses;
- pupil pass schemes;
- truancy hot lines; and
- “truancy-free zone” posters displayed in shops and information packs for staff in shops.

4.7 Such schemes, if carefully planned and implemented, have positive benefits in that they:

- focus public attention on the problem of unauthorised absence, and encourage community ownership of it;
- help to remind parents of their responsibilities;
- attract significant media attention and help to publicise the important work of those charged with enforcing attendance; and
- foster closer links between agencies concerned with the welfare of children.

4.8 Use of a power available to the police under the Crime and Disorder Act 1998 to remove truants found in public areas to school or such other place as is designated by the LEA, can strengthen truancy sweeps and similar activities.

4.9 Good practice guidance on running truancy sweeps is contained on the Assembly Government’s Inclusion and Pupil Support web pages. The following may also be useful sources of good practice on improving attendance in schools.

Audit Commission, Missing Out - LEA management of school attendance and exclusion

Hallam, Susan. Heinmann. Improving School Attendance (1996)

NFER - Raising Attendance, Volumes 1 and 2

Reid, Ken. Truancy Short and Long Terms Solutions (2002)

Reid, Ken. Tackling Truancy in Schools (2000)

Reid, Ken. Truancy and Schools (1999)

Annex 4.i

Registration practices and codes

Annex 4.i - Registration practices and codes

1.1 Schools must keep two registers: an admission register, which serves as the school roll, and an attendance register. The admission register should include details of pupils from the date they have been admitted to the school. In other words, a pupil becomes a “registered pupil” when they first physically attend the school.

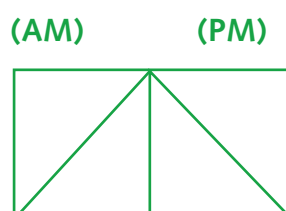
1.2 Attendance registers must be called twice a day: at the start of the morning session and once during the afternoon session. Most schools call their afternoon registers at the beginning of the afternoon session, but some may do this at the end of the day. Schools doing the latter should make sure that adequate arrangements are in place to ensure children do not drift away from lessons between registrations. They should also make sure that children can be accounted for in an emergency and that a child who leaves the school premises at lunchtime would not go unnoticed. Mechanisms should also be in place to monitor the whereabouts of pupils, particularly 14-19 year olds, attending another site.

1.3 The register must show whether each pupil is present, engaged in an approved educational activity off-site, or absent. In addition, where a pupil of compulsory school age is absent, the register must also show whether the absence was authorised by the school or unauthorised. Authorised absence means either the school has given approval in advance; or that a satisfactory explanation has been given afterwards (the absence should be classified as unauthorised until that time). Both registers need to be up-to-date, so that schools can account for all their pupils, particularly in an emergency.

Marking pupils as Present

Code	Includes
/ \	Pupils on the admissions register who are present at the start of each session

1.4 An oblique stroke is widely used in hand-written registers to record pupils who are present at registration (usually with a stroke in the reverse direction for the afternoon session as shown in the diagram below). This can continue to be used if schools wish. For summarising data and in electronic registration systems, ‘present’ markings should be recorded as ‘/’ or ‘\’ as follows:



1.5 A pupil receiving medical treatment on site (e.g. in a special school) should be marked as present.

Approved Educational Activities (treated as Present)

1.6 Since 1998, pupils who are attending an approved educational activity away from school premises can be marked as such in the register, rather than as an 'authorised absence'. An 'approved educational activity' must be:

- approved by a person authorised by the proprietor of the school,
- of an educational nature (including work experience and sporting activities) **and**,
- supervised by a person authorised by the proprietor or head teacher of the school.

[as set out in regulation 7(4A) of the Education (Pupil Registration) Regulations 1995]

1.7 'Approved educational activity' is treated as a 'present' marking when attendance data is analysed or published.

1.8 The 1995 regulations require that the nature of an 'approved educational activity' is also recorded. The following codes should be used for recording approved educational activities.

Code	Includes
D	Part-time or short-term attendance at another school or Pupil Referral Unit; Attendance at alternative education programmes e.g. run by the LEA or a voluntary organisation Part-time or short-term home tuition - essentially any approved flexible education programmes or alternative tuition (formal or informal)
R	Sporting activities (organised by the school or where a pupil is representing the school) Field trips Educational visits Other activities where a pupil is representing the school
W	Work experience Attending interviews e.g. for work placements and college/university places.

D - Formal or informal flexible education arrangements that are approved by the school

1.9. This would include pupils who are registered in more than one educational establishment e.g. dual registration in a mainstream school and a Pupil Referral Unit. Both institutions share responsibility for the pupil. Failure to attend either institution, as instructed, without good reason is unauthorised absence.

1.10 It also includes pupil who are on flexible education programmes - such as part-time attendance at college or attendance at an off-site voluntary project. It would also include pupils who are on extended work experience as part of a flexible education programme.

1.11 This does not, however, include traveller pupils who are attending more than one school at which they are registered. An authorised absence must be recorded for these pupils at the school they are not attending.

1.12 “Flexi-schooling” is the term used for a system whereby children are partly educated at school and partly educated elsewhere, usually at home. The nature of home education is that it often does not follow strict timetables or the patterns of a normal school day. Families like the flexibility of having their children undertake educational activities in the evening and at weekends e.g. attending sports clubs as part of a physical education programme.

1.13 Educational Activities that take place outside the normal school day are not recorded in the statutory attendance register. Off-site activities which take place during the school day can be recorded as approved educational activity but only if the activities meet the legislative requirements and the school has received confirmation that the activity took place during the session in question. Sessions which the child is expected to attend the school are marked in the normal way.

1.14 If the child was not undertaking educational activity, he/she should be recorded as authorised absence using code C (see page 5). If the school is notified the child was ill, attending a medical or dental appointment, on a family holiday or was absent for some other reason then the appropriate absence code should be used. Schools should therefore make arrangements to exchange attendance information with the family.

R - Attendance at or participation in approved sporting activities; field trips; educational visits; or other activities in which pupils are representing their school.

1.15 Schools are encouraged to treat sporting and other activities they have not organised or where pupils are not representing the school, as ‘authorised absences’ (if the absence is approved by the school).

W - Work experience and interviews, e.g. for work placements or university/college places.

1.16 These activities must be approved by the school and supervised by a person who is authorised by the school. Where absence for the purpose of an interview has been agreed, it should be made clear that the pupil will be expected to return promptly after completion of the appointment. School staff should normally ask for advance notice and proof of the appointment e.g. a letter of invitation.

Unauthorised Absence

1.17 Any absence that is not authorised by the school should be recorded as an unauthorised absence. Under the Education Act 1996 prosecutions for unauthorised absences can only be pursued on the basis of unauthorised absences.

Code	Includes
O	Any absence for which a satisfactory explanation, in the school's view, has not been provided
L	Late arrivals – after close of registration

O - unauthorised absence for the duration of a morning or afternoon session

1.18 If school staff have reason to doubt that an explanation offered about a particular absence is genuine, the absence should be treated as unauthorised. All absences are to be treated as unauthorised until schools have agreed that a satisfactory explanation has been given, which should normally be within one day. It is important that schools have consistent procedures in place for pursuing explanations and for amending registers.

L - Late arrivals - after close of registration

1.19 Schools should actively discourage late arrival and be alert to emerging patterns of late arrival that may provide grounds for prosecution. Schools should have a policy on how long registers should be kept open to cater for late arrivals. A period of 30 minutes from the beginning of registration to the formal closing of the register would be reasonable, but schools are free to set shorter periods if they wish. In circumstances such as bad weather or public transport difficulties, or where prior notice of late arrival is given, schools may keep the register open for longer periods. Keeping registers open all morning or afternoon is unacceptable. Where prior notice has been given that a pupil will be late for a justifiable reason or where the lateness is due to exceptional, unavoidable causes, such as traffic accident or sudden family illness, it would be appropriate to record the absence as authorised absence.

1.20 Where pupils miss registration and fail to provide an adequate explanation, this will therefore be counted as an unauthorised absence even though the pupil is now on site. Marking of pupils on the register as 'L' for late will highlight the fact that they are at school as they would otherwise be marked as 'O' for unauthorised absence. This is important in the case of emergencies such as fire. Where late arrivals are approved as authorised absence their arrival will need to be monitored separately as described in paragraph 1.2 and 1.3 above.

1.21 Schools may also wish to keep a record of pupils who arrive after the start of registration but before it closes. These pupils must be recorded as being present but a separate code may be used to denote that the pupils arrived late but within the registration period.

Authorised Absence

1.22 Authorised absence is where the school has either given approval in advance for the pupil to be absent from school, or where an explanation offered afterwards has been accepted by the school as satisfactory justification for absence. Only schools, and not parents, can authorise an absence, and schools must consider whether the reason for absence is reasonable before doing so. The following codes should be used for authorised absences:

Code	Includes
C	Public performances and employment (licensed under regulations) Family bereavement Days set aside for religious observance Special occasions (in limited circumstances) Absences when Traveller children are attending another school at which they are registered Absences for young carers - for a limited period.
E	Exclusion from school
H	Family holidays, not normally exceeding 10 school days
M	Medical/dental appointments and illness
S	Study leave

C - Authorised absence

1.23 This includes absences for public performances and employment (licensed by the local authority); approved absences for family bereavements; on days set aside for religious observance by the religious body to which the parent/pupil belongs, and special occasions. Parents should be encouraged to give advanced notice.

1.24 Absences for special occasions should be considered carefully by schools and only authorised in exceptional circumstances. Schools should consider the nature of the event; its frequency; whether advance notice was given and the pupil's overall attendance pattern. For example attendance at a family wedding would be acceptable, but absence on a pupil's birthday or shopping trips in school hours should not be authorised by schools.

1.25 Pupils who are travelling and attending more than one school must be counted as an authorised absence and should be included in this category. Schools may also authorise absence, on a limited basis, for pupils who have caring responsibilities in the home e.g. for a sick or disabled relative. The aim should be to plan other arrangements for young carers in order to limit the disruption to their education. Consultation with the Education Welfare Service and Social Services may be appropriate.

E - Exclusion

1.26 This category should include absences due to exclusion from school. A pupil who is excluded for a fixed period remains on roll and on the attendance register, so their absence should be treated as authorised as it results from a decision taken by the school.

1.27 Similarly the absence of a permanently excluded pupil is treated as authorised while any review or appeal is in progress. In the case of a permanent exclusion the pupil's name should be removed from the school roll on the first school day after the day on which:

- the independent appeal panel upholds the permanent exclusion; or
- the independent appeal panel does not uphold the permanent exclusion, but does not direct the pupil's reinstatement; or
- the prescribed period for lodging an appeal has expired and the parent has not lodged an appeal; or
- the parent has, before the expiry of the prescribed period, advised the LEA in writing that he does not intend to appeal.

1.28 The school is responsible for setting work for an excluded pupil who remains on the school roll.

H - Family holidays

1.29 Parents should not normally take pupils on holiday in term time. Under the School Attendance (Pupil Registration) Regulations 1995 schools have the discretion to grant up to ten school days authorised absence for the purpose of family holidays during term time. Each request for holiday absence should be considered individually, taking into account the pupil's age, the timing of the proposed holiday, its nature and parental wishes; the overall attendance pattern of the pupil and their stage of education and progress. Schools should use their discretion sparingly.

1.30 Save in exceptional circumstances a parent shall not be granted more than ten school days leave of absence in any school year.

1.31 Absences authorised under this discretion should be kept to a minimum. Ten school days should not be regarded as the norm. If a school does not agree absence and the pupil goes on holiday, the absence is unauthorised. If parents keep a child away for longer than was agreed, any extra time is unauthorised. Schools may delete from roll a pupil who fails to return within ten school days of the agreed return date unless there is a good reason for the continued absence, such as illness.

1.32 Prolonged absences from school as a result of extended visits to a pupil's country of origin can have a negative impact on the attainment of pupils. This is particularly significant for pupils from the Indian sub-continent and for pupils from Arabic communities living in Wales.

1.33 Pupils will often gain substantial educational benefits from visiting different countries, experiencing different cultures and using different languages. Visits are also an important part of maintaining children's contact with their extended family and strengthening their sense of identity through understanding their heritage and ethnic origins. However, in some cases such visits can have a detrimental impact on pupils' academic achievement and may contribute to feelings of isolation upon return. Pupils should be encouraged to undertake educational activities whilst they are away and report back on their experiences when they return.

1.34 Gypsies and Traveller children may also spend substantial amount of time away from their main 'home' school and may require specific approaches to be taken to support their attendance. This is dealt with in detail in Section 2. The special position of Traveller families is recognised in law. Traveller parents are protected from conviction if the parent can demonstrate that:

- he or she is engaged in a trade or business of such a nature as requires travel from place to place;
- the child has attended at a school as a registered pupil as regularly as the nature of that trade or business permits; and
- the child, where aged six or over, has attended school for at least 200 sessions (half days) during the preceding twelve months.

M - Medical/dental appointments and illness

1.35 Missing registration for a medical or dental appointment is authorised absence. Pupils should be encouraged to make appointments out of school hours. Sight of an appointment card is advisable if a pupil is an irregular attender.

1.36 If a pupil is present for registration but has a medical appointment later, or goes home because of illness, no absence need be recorded for that session.

1.37 Schools should keep a record of pupils leaving or returning to site in case of an emergency. If the authenticity of illness is in doubt, schools and Education Welfare Services can consult the School Health Service, or the pupil's GP.

1.38 A pupil receiving medical treatment on site should be marked as present.

1.39 A pupil who becomes pregnant should be allowed no more than 18 weeks' authorised absence to cover the time immediately before and after the birth of the child. After that time, any absence should be treated as unauthorised. Support should be directed to keeping the pupil in school wherever possible, and to her return to full-time education as soon as possible after the birth (see Annex 2.i).

S - Study leave

1.40 Study leave should be granted sparingly, not exceeding 15 school days and should be for Year 11 only. It is not acceptable for study leave to be recorded as neither present nor absent. The most appropriate time to grant study leave is during the actual examination period itself. If possible the period of study leave should be less than the examination period. Regard should also be paid to the individual pupil's ability to manage study leave and benefit from it. Study leave cannot be counted as 'approved educational activity' as it is unsupervised.

Computerised registers

1.41 Schools may use computers to maintain attendance and admission registers but, in common with manual registers, if the computer package allows, the appropriate change to the original entry in a register and any subsequent correction must be clearly distinguishable. The original entry must not be replaced by the corrected entry. Both the original entry and the correction should be preserved so that, on retrieval, the entries appear in chronological order. Prints of the register must clearly distinguish between the original entry and the corrected entry.

1.42 Schools using computers for attendance registration must make a print of the attendance register at least once a month. As soon as practicable after the end of the school year the printed sheets must be bound into annual volumes and, as with manual registers, retained for a period of not less than four years after the end of the school year to which each volume relates. This would mean that year 11 pupils would have attendance records from year 7. Electronic records should be readily accessible to authorised officers, such as Education Welfare Officers to allow easy checking of individual pupils' attendance patterns

School leaving date

1.43 All young people, including those educated otherwise than at school, are required to remain at school until the leaving date. Since 1998 there is a single school leaving date namely the last Friday in June in the school year in which a child reaches age 16, as set out in section 8(3) of the Education Act 1996. This is also the leaving date for those pupils whose 16th birthday falls after the last Friday in June but before the start of the following school year (section 8(3)(a)). Details about the school-leaving date are given in Welsh Office Circular 49/97 "School Leaving Date for 16 year olds".

1.44 The general expectation is that pupils will complete five years of secondary education. In the small number of cases where a pupil may be eligible to leave school without completing the final year, schools should identify those pupils who may be inclined to leave at the end of the fourth year and work with them and their families to secure attendance for the final year.

Temporary school closures

1.45 Schools may close temporarily for a variety of reasons, including:

- in-service training for teachers;
- very bad weather;
- fire or other serious structural damage;
- major structural work extending into term time; and
- major incident or emergency.

1.46 Schools are not required to take attendance registers when they are temporarily closed.

Deleting pupils from the school roll

1.47 There are clear and strict regulations on the circumstances in which schools can delete pupils from their admissions register. These are outlined in Regulation 9 of the Education (Pupil Registration) Regulations 1995, and amendments.

1.48 Schools should consider the regulations carefully before deciding to remove a pupil from their roll, taking advice from the LEA as appropriate. For removing permanently excluded pupils from roll see 'Categories of authorised absence' above.

1.49 Where a school has made the decision to remove a pupil from their roll, they should notify their LEA.

1.50 If a pupil is to be taken off roll because the child is moving to another area or school, staff should first find out the name and address of the new school and when the pupil will start, confirming this information with the receiving school. School staff should be concerned:

- if the parents do not name the new school;
- if a pupil has 'disappeared' from the area without explanation; and
- if a pupil has not returned to school within ten school days of the agreed return date for a holiday taken in term time.

1.51 If schools are concerned they should alert the area child protection representative (named in local Area Child Protection Committee guidance) without delay. If they have no named contact they should inform the LEA's Designated Child Protection Officer who can make a decision on whether to alert Social Services. Social Services may in turn involve the police. If, however, schools have good reason to believe that a crime may have been committed, they should contact the police directly.

Section 5

Provision of Education Outside the School Setting



Section 5: Provision of Education Outside the School Setting

1. Introduction

1.1 This section sets out the duties on LEAs and schools to provide education outside school settings. Education provided at home by parents is covered separately in Section 6. The section is split into 2 parts:

- The school's role
- The LEA's role

1.2 The guidance contained in this section relates to specific provision required to ensure pupils who by reason of illness, exclusion from school or otherwise may not receive suitable education. It does not relate to general provision outside the school setting for all pupils which is currently being expanded through Learning Pathways for 14 to 19 year olds. Over time, Learning Pathways 14-19 will significantly alter the range of provision outside schools as well as the methods of delivery. The guidance in this section should be considered alongside National Assembly for Wales Circular 17/2006: Learning Pathways 14-19 Guidance II.

Legal background

Section 19 of the Education Act 1996 is the primary legislation relating to the duty on LEAs to arrange suitable education for young people outside of mainstream school. Section 19(1) of the Education Act 1996 (as amended by Section 47 of the Education Act, 1997) provides that:

'Each local education authority shall make arrangements for the provision of suitable education at school or otherwise than at school for those children of compulsory school age who, by reason of illness, exclusion from school or otherwise, may not for any period receive suitable education unless such arrangements are made for them.'

Suitable education is defined as 'efficient' education suitable to the age, ability, aptitude, and to any special educational needs the child (or young person) may have. LEAs decide what is suitable education out of school for a particular child, in consultation with parents, in accordance with the LEA's policies, the efficient use of resources and having regard to this guidance. LEAs cannot decide not to arrange any education or to make arrangements that do not provide suitable education for that child. Under section 4(2) of the Education Act 1996 (as amended by paragraph 10 of Schedule 7 to the Education Act 1997) it is open to the LEA to arrange part-time attendance at a mainstream school as part of a package of measures designed to provide suitable education.

Section 26 of the Children Act 2004 requires local authorities to set out the arrangements for the education of children otherwise than at school in their Single Education Plans. Further guidance about Single Education Plans is set out in National Assembly for Wales guidance: Children and Young People: Rights to Action, Single Education Plan: 2006-08

Section 19(4) of the 1996 Act gives LEAs the power to provide suitable education otherwise to “young people”, that is, a person over compulsory school age but under the age of 18. Under section 19(4) of the Education Act 1996, an LEA may arrange continuing education for a young person over compulsory school age, but under the age of 18.

1.3 LEAs have a duty to provide suitable education for pupils outside the school setting for learners of compulsory school age who might not otherwise receive any education. Suitable education is defined as “efficient education suitable to the age, ability, aptitude and to any special educational needs”, the child or young person may have. The decision is made in consultation with parents, in line with the LEA's own policies and the efficient use of resources.

1.4 Under Section 19(4) of the Education Act 1996, an LEA should arrange continuing education for a young person over compulsory school age, but under the age of 18 where:

- through illness or exclusion from school, a young person is a “year behind” in schooling, so that when they reach compulsory school age they still need to study for a further year to complete examination courses;
- a young person is permanently excluded from school shortly before taking the final part of any public examinations; or
- a student has shown a high level of commitment prior to the point when they could no longer attend school.

1.5 Young people are educated outside mainstream schools for a number of reasons. They may be ill or injured; have been excluded or have emotional and behavioural difficulties; be habitual non-attenders, or be pregnant or young mothers.

1.6 Whilst mainstream schooling should be the objective for the majority of pupils, some pupils may go further in reaching their potential through out-of school provision as these may offer a greater level of contact time and specialist skills. This may be particularly true for those pupils reaching the end of their school career. If full-time provision at a mainstream school is not deemed to be appropriate for a pupil, consideration should always be given as to whether arrangements can be put in place for a pupil to attend on a part-time basis at a mainstream school and the remaining time at out-of-school provision. The amount of time spent within school should be based on the needs of the pupil and should be reviewed on a regular basis.

Provision for excluded pupils

1.7 The majority of pupils educated outside school have behavioural problems and are likely to have been excluded on a fixed-term or permanent basis. The Welsh Assembly Government is committed to ensuring that as many pupils as possible are included in mainstream education and that the main objective should be the reintegration of those pupils who are not. The guidance in this section should be read alongside that on the reintegration of excluded pupils contained in National Assembly for Wales Circular 1/2004 and 1(a)/2004: Exclusion from Schools and Pupil Referral Units.

1.8 Circular 1/2004 emphasises that the aim should be to provide full-time education to all excluded pupils after 15 days of their being excluded, on a permanent or fixed-term basis. This will be 15 days after the head teacher has taken the decision to exclude a pupil. Full-time means offering supervised education or other activity equivalent to that offered by mainstream schools in the area i.e.:

Key Stage 1:	21 hours
Key Stage 2:	23.5 hours
Key Stage 3/4:	24 hours
Key Stage 4(Yr 11):	25 hours

1.9 Provision of full-time education within the above timescale is not always possible for pupils who may have become deeply disengaged from education. Alternatively, their current circumstances may be such, that a rapid reintroduction into full-time education is likely to be unsuccessful. For these pupils the plans for their future education should cover specifically how the move to full-time education is to be achieved.

Provision for pupils with Special Educational Needs (SEN)

1.10 The SEN Code of Practice states that parents may express a preference for the maintained school (but not a PRU or hospital special school) they wish their child to attend. It also states that children with statements of SEN may be educated otherwise than at school because:

(a) the local authority has made other arrangements

or

(b) parents have made suitable arrangements of their own

1.11 The local authority is empowered to arrange for some or all of a child's special educational provision to be made otherwise than at school. Such arrangements could include education in a pupil referral unit, home tuition or education that reflects key stage 4 flexibilities. However, if a pupil's long-term needs cannot be met in a mainstream school, a special school rather than a PRU should be named on a statement of SEN.

1.12 Where a pupil with a statement of SEN is placed in a PRU or other form of education outside the school setting because a place in a mainstream or special school appropriate to meet the needs specified in the statement is not yet available, regular planning and review of the placement is essential, alongside steps to provide the necessary support.

2. The school's role

Avoiding and dealing with exclusion

2.1 A school's prime role in supporting young people in danger of exclusion is to ensure that pupils are retained in mainstream school as far as possible and that they provide any additional needs that they may have. Section 3 of this guidance deals with the main methods which should be employed. In particular, where pupils are at risk of exclusion, schools have a duty to put in place a Pastoral Support Programme (see Annex 3.iii) and to enlist the support of all the agents required to deliver the various elements of the programme. Schools must also liaise at an early stage with LEAs over problems with individual pupils and particularly with behaviour support teams and education welfare services.

2.2 If head teachers consider that exclusion of pupils is necessary then, in the case of fixed-term exclusions, they should ensure that the exclusion is for the minimum possible time and that plans are made for reintegrating the pupil after the end of the exclusion period. All pupils excluded for 10 days or more should have Pastoral Support Programmes.

2.3 **Schools must not ask parents to withdraw their children voluntarily from the school as this denies parents and pupils the right to appeal against the 'exclusion' and often leads to young people being lost to education and training with inherent danger of entering or continuing criminal activity.**

2.4 Where schools ask parents to remove their children from the school at lunchtimes, this constitutes a fixed-term exclusion and counts as a quarter of a day for each lunchtime. The standard procedures as set out in National Assembly for Wales Circular 1/2004: Exclusion from schools and pupil referral units therefore apply.

2.5 Schools continue to have an obligation to provide education for excluded pupils as long as they are still on the roll. The name of a permanently excluded pupil should remain on the school roll until the appeals procedure is completed, or until the time for appeals has expired without an appeal being lodged. It may be removed earlier if the parents and/or pupil give notice in writing that they do not intend to appeal. Further information on the setting and marking of work is given in National Assembly for Wales Circular 1/2004 (Part 1, Section 7).

Dual-registered and part-time pupils

2.6 Where pupils are registered at a school and attend out-of-school for some or all of the week, schools should continue to monitor the education and attendance of the pupils and chase-up regular reviews of their progress. They should also provide any information as is needed by those running the out-of-school provision. Head teachers should liaise with the teachers in charge of PRUs and LEAs to ensure that well-established arrangements are in place for reviewing pupils' circumstances as well as giving sufficient planning time for pupils to enter PRUs or to return to school. Pupils should not turn up at PRUs with little or no warning. See Annex 5.i.

Provision of information to LEAs

2.7 Schools are required to provide certain key elements of information on all excluded pupils to LEAs. They should also provide any other additional information, such as patterns of behaviour and attendance and details of any additional learning needs to ensure that the LEA has sufficient information to adequately plan the future provision.

Working with FE colleges

2.8 Many schools have established very effective links with FE colleges for part-time provision for pupils who are disaffected. This provision is mainly for year 11 pupils but the approach has also been adopted by some schools for year 10 pupils. The use of FE colleges can be very successful in helping young people to mature and come to terms with their particular circumstances, allowing them to become more motivated to learn. This way of working is increasing across all pupils as part of young people's 14-19 Learning Pathways.

Discussion with parents and pupils

2.9 As with all aspects of individual provision, it is vital that schools discuss alternatives to school-based education with parents and pupils as soon as it becomes clear that it is the most appropriate option. They should endeavour to ensure that they are fully aware of the variety of options available to them, particularly part-time provision and that these are clearly communicated to the parents and the child. This will involve liaising with the LEA at an early stage to ensure that they are fully informed of the options currently available.

Pupils with medical needs

2.10 Local authorities provide access to education for pupils who are absent from school on medical grounds. This will cover a wide range of need including children who are terminally ill and young people recovering from accidents. It will also include children and young people with mental health problems. Whatever the circumstances leading to a young person

being admitted to alternative provision for medical reasons there will, almost always, be a continuing role for the school. Schools have a vital role to play in ensuring that pupils who are absent from school on medical grounds have the educational support they need. They should not remove a pupil who is unable to attend school on medical grounds from the school register without parental consent, even during a long period of illness, unless a school medical officer certifies the pupil as unlikely to be in a fit state to attend school before ceasing to be of compulsory school age.

3. The LEA's role

Strategy of provision

3.1 Under the Children Act 2004, LEAs are required to produce Single Education Plans for 2006-07 and 2007-08 which will be subsumed within more general Children and Young Person's Plans from 2008-09. The plans must set out their strategies for raising the standards of education for children and young people not educated in school, supporting those with behavioural difficulties within or outside school and provision for pupils with additional learning needs.

3.2 The Single Education Plan is part of the Assembly Government's strategy to improve outcomes for children and young people through strengthening co-operation across public services and with their voluntary and private sector partners.

3.3 A large number of agents can be involved in supporting a young person for whom out-of-school education needs to be provided. LEAs need to ensure that all such agents are involved in developing strategies as well as in their ongoing delivery and refinement. These would involve Children and Young People's Partnerships, 14-19 Networks, youth services, Careers Wales, youth offending teams, social services, health professionals, and training providers

3.4 Authorities will need to consider the guidance included in this circular in developing their strategies and, in particular:

- provision of full-time and appropriate education for excluded pupils as well as strategies for their reintegration into mainstream education where appropriate;
- the role of pupil referral units and their links to mainstream schools;
- links to FE colleges;
- work with other agencies, including voluntary sector organisations;
- consultation with learners and their families;
- information gathering on individual pupils and sharing this information between different agencies and services; and
- development of a range of Learning Pathways under the 14-19 agenda.

Working with schools

3.5 A key aspect of the LEA's role must be to work with schools to promote positive whole-school approaches and to support individual pupils in order to avoid exclusion (see Section 3). In particular they should offer advice and send clear messages on policy on the following:

- Recognition of problems at an early stage with suitable referral
- The use of PSPs for all pupils in danger of disengagement and exclusion (see Section 3 and Annex 3.iii)
- The unacceptability of 'voluntary withdrawals' (see para 2.3 above)

3.6 A number of authorities in Wales have established authority-wide protocols with all schools to avoid the majority of exclusions by moving pupils to other schools. These 'managed moves' avoid the stigma of exclusion and can allow a more positive relationship to continue with parents and pupils who may otherwise not wish to engage in further discussions. Managed moves must be operated within an environment of collaboration between all parties and undue pressure must not be put on parents to move their children to other schools against their wishes.

3.7 In developing strategies for out-of-school education LEAs must ensure that there is sufficient flexibility to allow individual pupils' needs to be reflected. Pupils must have the opportunity to attend out-of-school provision on a part-time basis combined with part-time attendance at a mainstream school. In order to provide suitable education, LEAs also need to offer sufficient opportunities for pupils who have behavioural problems but are capable of a high level of qualifications, rather than providing them with a standard level of qualifications available at a unit, which may be relatively low.

3.8 LEAs should ensure that all parties are kept fully-informed of the range of options for out-of-school education available to them and how they might access these, either directly or through the LEA. LEAs should have a named officer with responsibility for co-ordinating out-of-school provision and any difficulties which may arise in delivery. Their role should include ensuring that it is clear who has the main responsibility for overseeing the education of pupils as the variety and flexibility of arrangements often means there is scope for misunderstanding who is in the lead.

Quality assurance and standards

3.9 The local authority's duty to provide suitable education may be met by contracting out education (e.g. to the voluntary or private sector, including independent schools, work-based learning providers or FE colleges). However, the local authority remains accountable for the quality of education and should, therefore, satisfy themselves that the quality of provision is of high standard and should establish robust systems to monitor the arrangements on an on-going basis.

3.10 Local authorities cannot delegate their core responsibilities in relation to these pupils. These include responsibilities for health and safety, duties towards disabled pupils under the Disability Discrimination Act 1995, duties under the Race Relations (Amendment) Act 2000. In addition, the local authority has an ongoing duty of care towards all pupils.

3.11 Local authorities therefore need to adopt robust procedures to satisfy themselves that the obligations placed upon them are being met in all forms of education outside school settings. This will mean:

- undertaking an assessment of suitability before placing pupils with new providers;
- drawing up a contract/service level agreement with every provider that details the nature of the arrangement, makes clear the local authority's expectations and reinforces statutory requirements;
- undertaking a initial assessments for each pupil, including a risk assessment;
- ensuring adequate arrangements are in place in relation to insurance cover;
- fulfilling health and safety responsibilities;
- ensuring and monitoring attendance and positive behaviour;
- systems to monitor pupil attendance, behaviour, attainment and reintegration;
- provision of careers advice;
- transparent system of referral and exchange of information;
- ongoing partnership with parents/carers;
- ongoing liaison with original school and other agencies;
- overseeing curriculum content, which should include PSE;
- published arrangements for admission;
- monitoring patterns of placement; and
- systems to collect data and management information to inform performance monitoring.

Monitoring and evaluation

3.12 The monitoring and evaluation of out-of-school provision should form a key element in LEAs' strategies and be included in their Single Education Plans. They need to ensure that new developments are taken on board, that levels of education are of a sufficient standard and that provision represents good value for money. This is becoming increasingly important as the number of providers continues to expand and developments in 14-19 Learning Pathways increase the number of pupils and the amount of time in education outside the school setting.

3.13 A number of indicators should be taken into account in measuring the effectiveness of provision, including:

- unit costs;
- quality of provision - in terms of positive environments and personal development opportunities as well as curriculum delivery;
- attainment levels;
- attendance at school/out of school;
- numbers of exclusions;
- reintegration rates;
- numbers moving on to further education and training or getting jobs; and
- opportunities for appropriate accreditation.

3.14 There is strong evidence that some groups of pupils are over-represented in education outside the school setting. These groups include:

- boys (and in particular boys of African-Caribbean origin);
- pupils with statements of special educational needs;
- children in public care (looked after children);
- children from transient or highly mobile families;
- asylum seekers and refugees; and
- Traveller children and young people.

3.15 LEAs need to ensure that out-of school education for these pupils adequately reflects any need for specialist provision and that strategies include ongoing assessment of the breakdown of pupils being educated outside school and means of addressing over-representation of certain groups.

Types of LEA provision

3.16 There is an increasing range of provision of out-of-school education which include the following:

- pupil referral units (see Annex 5.i);
- further education colleges;
- individual tuition and tuition at pupils' homes or at hospital;
- Youth Gateway;
- work related education;
- training providers;
- voluntary organisations;
- tailor-made packages

Pupil referral units

3.17 Pupil referral units (PRUs) are legally both a type of school and education otherwise than at school. They are intended to provide short-term placements with a view to reintegrating pupils, as soon as practicable, to a primary, secondary or special school or to prepare pupils for transition to further education, training or employment.

3.18 LEAs should review, on a regular basis, the progress of pupils placed in PRUs and in particular whether the needs of pupils who have been placed in PRUs for significant lengths of time are being met adequately.

3.19 The needs of pupils with SEN should be closely monitored to ensure that the PRU meets their needs or whether they require the more specialist provision available in a special school.

3.20 The Estyn Report: Thematic Survey of Pupil Referral Units and Similar Provision (2005) highlighted that the curricula in PRUs had a number of good features but that there were also some important shortcomings. It also highlighted that, in general, pupils received good care guidance and support but that there were shortcomings in health and safety practice and in policies to promote equality of opportunity. The Report also highlighted the need to enhance links between mainstream schools and PRUs as well as LEAs monitoring and evaluation of the quality of provision.

3.21 More detailed information on PRUs is contained in Annex 5.i.

Further education colleges

3.22 Further education (FE) colleges may be an appropriate option for many children in Year 10 or 11. FE colleges are able to provide either part or full-time further education for children of compulsory school age. Some colleges have developed special part-time programmes to ease the transition to post-16 education and training, which are likely to be of particular interest to children with difficulties. The LEA remains responsible for the costs of making provision in the FE sector for excluded pupils, and remains accountable for the performance of their duty to provide education.

3.23 For most young people who are at the beginning of post-compulsory education, a transfer to a sixth form or further education college is likely to be the best option.

Individual tuition and tuition at pupils' homes or at hospital

3.24 Individual tuition, particularly at the pupil's home, is not usually well suited to meeting the needs of children who have been permanently excluded, but is very often an effective way of providing education to sick children. Individual tuition may be useful for excluded pupils in the short-term when carefully co-ordinated with other education services. Some LEAs have found that an integrated PRU/tuition service is a flexible use of resources and gives home tutors professional and social support. It can also help to provide additional curriculum flexibility at the PRU.

3.25 Individual tuition or tuition in small groups is likely to be the only option for pupils who are hospitalised for extended periods.

3.26 The use of internet-based tuition packages is becoming more common, and can be effective in providing education in the home, particularly for sick pupils. The use of such packages should not be used in place of maintaining pastoral support and planning for pupils to be reintegrated into mainstream education.

3.27 As 16 to 18 year olds are more able to work independently than younger pupils, individual tuition may sometimes be suitable for those nearing the end of examination courses. They should however still have access to components of 14-19 Learning Pathways.

Youth Gateway

3.28 Youth Gateway is an integral part of Careers' Wales services and can provide additional support and guidance to identified groups of young people to help them to overcome barriers which inhibit their progression and successful transition into employment training or education. Youth Gateway concentrates its services on those who are disengaged or at danger of disengagement.

3.29 All Careers Wales companies deliver Youth Gateway services to targeted pupils in Key Stage 4, with some also working with Key Stage 3 pupils. Youth Gateway delivers a variety of group work activities ranging from one week of the Pacific Institute 'Go For It' programme (a motivational/goal-setting programme) to weekly sessions over an extended period covering self-development activities and in some cases, a day of high impact activities. In addition all companies offer individual mentoring support.

Work-related education

3.30 Older pupils are likely to benefit from spending one day a week on a work placement, perhaps studying for a vocational qualification. This can help to equip them with broader life skills. Such provision should always be carefully planned and closely monitored. The educational value of work placements of more than one day a week should be carefully considered. Special courses to develop work-related skills run by agencies such as the careers service, youth service and voluntary organisations might also be included in the timetable. 14-19 Networks have a key role to play in expanding the level of provision.

Voluntary Organisations and Other Providers

3.31 Some LEAs contract other bodies to provide education out-of-school, including voluntary organisations and also place pupils in units run by voluntary bodies. Such contractual arrangements can be an

effective way for LEAs to meet their duty to provide education out of school. It is particularly important given the range and number of possible providers that LEAs regularly review the cost-effectiveness of such provision and ensure that appropriate child protection procedures are being followed.

Tailor-made packages

3.32 Often the best approach for a young person will be tailor-made provision based on a combination of the above possibilities, possibly combined with part-time attendance at mainstream school. LEAs should bear in mind the desirability of ensuring that pupils at all key stages, including those who have been permanently excluded, maintain some contact with mainstream education. For pupils at Key Stage 4 this might be through some post-16 provision.

Other types of provision

3.33 There are also a small number of institutions for whom local authorities have no direct responsibility whilst the young person is resident, but for whom they may have some accountability in terms of the wider remit of local authorities in relation to collaboration/liaison with local providers. Local authorities should, however, provide education for pupils with mental health problems who are compulsorily retained in psychiatric units. Local authorities also have clear responsibilities when a young person of statutory school age leaves the institution and needs to access a place in a local school, or to be provided with suitable education.

3.34 Included in this category are secure units, young offender institutions, asylum centres, and therapeutic units. Local authorities with such establishments in their areas should maintain contact with them in order to identify how many young people of statutory school age are in residence, and their home local authorities in order to support appropriate arrangements being made for their transition into future educational provision.

Planning individual provision

3.35 The type of provision for an individual pupil needs to be based on their needs and should be decided in full consultation between all parties, including schools, LEAs, parents, pupils, and those providing the out-of-school provision. Other agents involved in supporting the pupil, such as youth offending teams, Careers Wales, social services and health professionals should also be involved in deciding suitable provision. This process often works best where multi-agency arrangements such as protocols and referral panels are well-established. It is important however that provision is not delayed excessively in waiting for panels to meet.

3.36 Parents of children out of school are often isolated. The parents should be regularly informed of progress and encouraged to help implement the child's plans. The LEA should consider whether the family requires

additional support, such as a resource room or parenting skills training and how this can best be achieved (in particular, which other agencies should be involved).

3.37 All pupils being educated outside school should have regular reviews of their progress and the suitability of their provision. This should be done through establishing a plan for all pupils, the level of detail of which will be dependent on the reason for the need for out-of-school provision and the level of organisations and support involved. Pastoral support programmes (PSP) (see Annex 3.iii) should be in place for all pupils who have been excluded or are in danger of exclusion, whereas less detailed plans may be required for simpler situations, for example for those with a short-term illness. The plan should include a statement on reintegration into mainstream school. In some cases it may be decided at an early stage that reintegration is not possible, for example if an excluded pupil is nearing the end of their school career or a young mother prefers to attend a separate unit before moving on to study at a further education college.

3.38 Reviews should take place at least every six weeks with the results being shared with the main parties involved. The responsibility for carrying out the review should be with the organisation where the pupil spends the majority of their time. In the case where a pupil is not registered at a mainstream school or pupil referral unit (PRU) then the responsibility would rest with the LEA.

Keeping records of individual pupils

3.39 It is vital that LEAs keep records of all pupils being educated outside school, on a part-time or full-time basis. Without this information, LEAs would not be able to establish that they are fulfilling their duty to provide suitable and appropriate education to all young people of compulsory school age. Having comprehensive information is also essential in order to strategically plan out-of-school provision, including the level of resources required.

3.40 Information available on each pupil receiving some form of education outside school, arranged by LEAs should include:

- pupil details;
- location of provision;
- provider details;
- part-time arrangements;
- type and degree of SEN
- support for additional learning needs;
- presence of Pastoral Support Programmes and date of reviews;
- qualifications being taken/achieved; and
- attendance and behaviour.

3.41 LEAs cannot rely solely on information on exclusions provided by schools as young people are not on school rolls for a number of reasons, which can include:

- voluntary withdrawals (see para 2.3);
- they have moved in from out-of-area;
- parents were previously educating at home; or
- they are from Traveller families.

3.42 In order to draw from and inform national and authority-wide data sources, LEAs need to be actively involved in a number of key developments. Keeping in Touch, a key initiative within Extending Entitlement, involves young people's partnerships in Wales in developing and implementing plans to ensure that they are aware of young people's (aged 11-25) current situation. In this way they can be provided with suitable support and information to avoid their being 'lost' to education, training and employment.

3.43 Another key school-based development is the Lost Pupils' Database. This allows schools to find information on pupils who appear at school with little or no warning. It also allows LEAs to enter information on pupils who have left without any warning, notwithstanding any follow-up work needed in such cases by education welfare services, social services and other organisations. The Lost Pupil's Database is linked to the work currently being undertaken in Wales to develop and share electronic information on individual learners. Further guidance on tracking 'lost' pupils is contained within more general guidance on pupil records released during 2006. See National Assembly for Wales Circular 18/2006: Educational Records, School Reports and the Common Transfer System - the keeping, disposal, disclosure and transfer of pupil information

3.44 Attendance records need to be kept for pupils attending outside school provision. This will become increasingly important as the amount of time and variety of provision increases under the development of Learning Pathways.

Estyn, Thematic Survey of Pupil Referral Units and Similar Provision, 2005

National Assembly for Wales Circular 17/2006:

Learning Pathways 14-19 Guidance II

National Assembly for Wales Circular 1/2004 and 1(a)/2004:

Exclusion From Schools and Pupil Referral Units

National Assembly for Wales, 2006: Children and Young People:

Rights to Action, Single Education Plans: 2006-08

National Assembly for Wales Circular 18/2006:

Educational Records, School Reports and the Common Transfer System - the keeping, disposal, disclosure and transfer of pupil information

NFER, An Evaluation of Alternative Education Initiatives, 2003

Welsh Office Circular 57/94, The Education of Sick Children

Welsh Office Circular 34/97, Supporting Children with Medical Needs

Annex 5.i

Pupil Referral Units

Annex 5.i: Pupil Referral Units

1.1 Pupil Referral Units (PRUs) are maintained by LEAs and are specially organised to provide education outside the school setting for pupils who might not otherwise receive a suitable and appropriate education.

1.2 This Annex provides guidance on the main issues to be considered in maintaining PRUs and should be read alongside the more general guidance on education otherwise than at school provided in Section 5.

1.3 Also of interest is Estyn's Thematic Survey of Pupil Referral Units and Similar Provision in Wales, published in 2005.

1.4 A PRU is not a mainstream or special school, but is legally both a type of school and education otherwise than at school. These units are diverse in terms of the number and type of pupils catered for, the typical length of the stay, arrangements for admission and transfer to other education, and the nature of the curriculum and length of the school day.

1.5 Local authorities operate different models of PRU provision, developed to meet local circumstances and in line with local policies. Models of provision by local authorities that may be included in the blanket term "PRU" include:

- provision on a single site;
- provision on several sites under a single management structure;
- peripatetic Pupil Referral Service (particularly in rural areas);
- "e-learning" provision using ICT and web-based resources;
- hospital and home teaching services, or discrete parts of a service which provide education in a unit or school-type setting;
- some hospital provision;
- separate provision for young mothers / pregnant pupils; and
- umbrella provision to register pupils who follow individual programmes.

1.6 Due to their size, their rapidly changing role and the type of pupils they receive, it is impracticable to apply to PRUs the full range of legislative requirements that apply to mainstream and special schools. The key differences relate to the curriculum offered in PRUs, premises requirements, dual registration, and the relative duties of LEAs, teachers in charge, and the management committee of the unit.

1.7 A PRU must have an SEN policy and child protection procedures.

The PRU Management Committee

1.8 LEAs are expected to set up a management committee for PRUs and for this to be made up of between seven and thirteen members who reflect the multi-agency nature of the provision. Membership might include:

- head teachers from maintained schools within the LEA;
- officers from the LEA with knowledge or experience of working with young people with behavioural difficulties;
- representatives of the social services departments and local health board;
- the teacher in charge of the PRU;
- other PRU staff;
- Special Educational Needs Co-ordinators;
- parents of pupils currently or previously attending the PRU;
- governors from local schools;
- representatives of voluntary or community organisations;
- representatives from local businesses, colleges/universities, Youth Service, Careers Wales, local FE college, youth offending team or the police.
- elected Members of the Authority.

1.9 Management committees may cover a number of PRUs - a 'portfolio PRU' to ensure better co-ordination of its education of children out of school. Permission is required from the National Assembly prior to establishing a joint committee.

1.10 The management committee has a role in a PRU's arrangements for:

- admissions
- discipline
- attendance
- curriculum
- post-inspection action.

1.11 The teacher in charge of a PRU must provide any reports that are required by the management committee or LEA and must report to the LEA at least once a year.

Organisation of PRU provision

1.12 Under section 29(1) of the 1996 Act, LEAs must inform the Welsh Assembly Government whenever a new PRU is set up or an existing PRU is closed, but there are no formal procedures for opening or closing PRUs. It is expected however, that such actions would normally involve reasonable consultation locally, including with the management committees of all PRUs in the Authority.

1.13 Legally, any centre maintained by a local authority for children who, because of exclusion or other reasons, are not able to attend a mainstream or special school is a PRU regardless of whether a local authority has notified it as such to the Welsh Assembly Government. The Assembly Government regards notification as essential in order to facilitate inspection by Estyn, and expects to be informed by local authorities whenever they set up, make significant changes to or close a PRU.

1.14 The number of pupils in a PRU depends on local circumstances. Grouping pupils by age and the nature of their referral, where possible, enables PRU staff to match the education more closely to pupils needs. Effective education can be difficult if there is a wide age range, ability and reasons for being in the PRU. LEAs may want to review their policies on this when setting up new PRUs.

Admission and attendance

1.15 The LEA, with the management committee, determines the admissions policy for the PRU. The LEA should consult the management committee about any proposed changes to the admissions policy. There needs to be clear criteria for admitting pupils to the unit, as well as clear targets for reintegration into mainstream or special schooling or entry into further education or employment. Day to day decisions on admissions to the unit may be handled by the LEA or delegated to the management committee or to the teacher in charge.

1.16 The management committee of the PRU must ensure that admissions and attendance registers are kept and monitor attendance of pupils in the same way as for other schools. In some PRUs attendance rates are very poor. Although many young people come to PRUs with a previous record of poor attendance, failure to attend should be pursued as diligently as unauthorised absence from any other school. Where poor attendance is endemic the management committee should consider possible internal and external causes and discuss these with the teacher in charge and LEA. A designated teacher should discuss the issue with the child.

1.17 Enrolment in a PRU may be appropriate for some children who are not on the register of any school and who may not otherwise receive suitable education (see Section 5). An LEA may, therefore, name a PRU in a school attendance order.

1.18 Many pupils in a PRU will have special educational needs and a significant number will have statements, usually for emotional and/or behavioural difficulties. LEAs should consider carefully how best to meet the long term needs of those with statements. If a mainstream setting is best, a short-term placement within a PRU to tackle immediate problems may aid smooth reintegration into another mainstream school. For pupils receiving SEN support through School Action or School Action Plus, a period in a PRU might enable that assessment to continue. But if a pupil's long term needs cannot be met in a mainstream school, a special school rather than a PRU should be named on a statement of SEN. Attendance at a PRU is not appropriate for pupils excluded from Emotional Behaviour Difficulties (EBD) special schools.

Review of pupils

1.19 Pupils attending PRUs should be reviewed on a regular basis, through pastoral support programmes (see Annex 3.iii) to assess whether their provision remains appropriate and whether they are able to be reintegrated into mainstream schools. Further information on the reintegration of excluded pupils is contained in National Assembly for Wales Circular 1/2004: Exclusion from Schools and Pupil Referral Units.

Behaviour policy

1.20 The teacher in charge of the PRU is responsible for promoting positive behaviour, subject to any general principles laid down by the management committee. All PRUs should have a clear policy on behaviour. The policy, which should be reviewed annually, should promote positive behaviour and high expectations of pupils, and cover how the PRU will deal with bullying. More information on developing behaviour and attendance policies is contained in Section 3.

Staffing

1.21 The teacher in charge of the PRU is for legal purposes the head teacher whether or not formally employed as a head teacher. This gives them autonomy to take necessary action on site, for example in relation to health and safety issues and pupil behaviour.

1.22 PRU staff must be qualified teachers, unless they are suitably qualified instructors. Teachers in their induction year, licensed and student teachers should not be employed in PRUs. Depending on their experience and background, staff may also need induction when they enter the PRU, and should have opportunities for in-service training in meeting the needs of difficult and disruptive children. Staff in mainstream or special schools, from home tuition or supply teachers may be used to provide some staffing assistance to PRUs.

1.23 Teachers in PRUs need to have appropriately high expectations of the potential of their pupils, many of whom may have had negative experiences of education. Building on the LEA's initial assessment, plan and consultation with the pupil, PRU teachers should further assess each pupil's needs and formulate a plan to address them by setting realistic challenges and academic targets. Parents should be encouraged to support this work.

1.24 PRUs tend to be small and often contain pupils with challenging behaviour. PRU staff should not be allowed to become isolated. It is good practice for each PRU to have at least two members of staff in the unit at any one time to provide support in the event of serious disruption and to give respite to staff during the day. Time needs to be allowed for administrative tasks, to plan for individual pupils, to facilitate pupils' re-entry into education or employment, and to maintain relationships with parents and carers.

1.25 The management committee should help identify staff development needs, and the LEA should provide opportunities for career development and in-service training. There will often be advantage in PRU staff training alongside colleagues from mainstream schools. Training should include National Curriculum courses as well as courses in behaviour management. Where appropriate PRU staff should be offered guidance from subject advisers on the curriculum. PRU staff could also be given opportunities for mainstream teaching to refresh their skills.

Exclusions from a PRU

1.26 Pupils may be excluded from a PRU for a fixed period or permanently on disciplinary grounds. The National Assembly considers that this sanction should be used only in exceptional circumstances, for example, where a pupil poses a threat to his or her own safety or well-being, or that of other pupils or staff. Parents may appeal to the management committee and the LEA against exclusion from a PRU. LEAs and management committees should set up arrangements for hearing parents' views, in line with arrangements at other schools. The LEA or the management committee may direct the teacher in charge of the unit to reinstate the pupil.

1.27 The right to appeal against exclusion from a PRU was introduced in February 2003.

1.28 If a pupil's behaviour is such that it cannot be contained in a unit and necessitates permanent exclusion, the pupil may well have special educational needs for which a statement is needed. In such circumstances the LEA would need to consider whether to arrange a formal assessment of SEN. The LEA's duty to provide education applies to a pupil excluded from a PRU as to any other pupil out of school.

Curriculum

1.29 PRUs should offer a balanced and broadly based curriculum (paragraph 6 (2) of Schedule 1 to the 1996 Act) which: promotes the spiritual, moral, cultural, mental and physical development of pupils at the school and of society; and prepares pupils for the opportunities, responsibilities, and experiences of adult life.

1.30 Curriculum flexibility enables LEAs and schools to ensure that more time is spent on activities aimed at addressing pupils' individual needs. However, every effort should be made to ensure that all pupils receive sufficient education to maximise their opportunities to acquire formal accreditation. Delivery of this education should take into account the need for diverse learning styles, differentiation and/or a modified curriculum.

1.31 For some pupils, extra time spent on improving literacy and numeracy competencies will be beneficial. This will help them to learn more effectively in a mainstream setting, and in due course, access a wider curriculum.

The curriculum should include English, Welsh for pupils educated in a Welsh medium school, mathematics and, for pupils in Key Stages 1 to 3, science. Key Stage 4 pupils' curriculum should be consistent with Learning Pathways. (See National Assembly for Wales Circular 17/2006)

1.32 For pupils at all key stages consideration should be given to ensuring that the curriculum is as broad as possible and includes elements such as art, drama, design and technology as well as some form of physical education. Consideration should also be given to providing a balance between individual and group work and adapting this as far as possible to the individual pupils' needs.

1.33 The LEA must have a statement of curriculum policy for PRUs. The teacher in charge of the PRU must prepare a statement of the aims of the curriculum for the unit, having considered the LEA's statement. In preparing that statement the teacher in charge must consider representations from the community and from the police. He or she must also consult the management committee of the unit. It is good practice for a PRU to have a clear statement of how staff propose to deliver the curriculum.

1.34 Assessing attainment and progress is crucial. PRUs are not obliged to assess pupils at the end of each Key Stage, but should consider in individual cases whether assessment would be useful. Progress of the pupils attending the unit should be included in the annual report to the LEA. For older pupils a National Record of Achievement provides a record of a pupil's achievements at the end of Year 11 not limited to academic achievements. The NRA reflects a young person's interests, skills, abilities and goals for future achievement and may be useful for schools and colleges.

1.35 As a pupil usually spends only a short time in a PRU, the full annual reporting arrangements do not apply, but parents should nevertheless be kept well informed of their child's progress. In the event of a pupil attending a PRU for a year, an annual report should be provided to parents. PRUs must report on pupils when they transfer to other schools or leave compulsory education.

Providing information

1.36 The teacher in charge of a PRU must provide information on all exclusions to the LEA. In addition they have a duty to provide information on individual pupils to the LEA and the home schools of dual registered pupils to ensure that sufficient management information is available to ensure the appropriateness of provision.

Careers education and guidance

1.37 Many pupils in PRUs have a disrupted educational background and may not have had careers education and guidance. High quality careers education and guidance has a valuable role in helping to raise pupil motivation and achievement and in promoting social inclusion.

Section 43 of the 1997 Act requires all schools including PRUs, to provide their pupils with a programme of careers education from Years 9 to 11. PRUs should work closely with Careers Wales in relation to this programme.

Sex education

1.38 PRUs teaching pupils of secondary age must provide sex education. If PRUs admit children of primary school age, the teacher in charge must consider whether sex education should form part of the curriculum. That teacher must have a written statement of the PRUs policy about the content and organisation of sex education, or, if sex education is not part of the secular curriculum of the PRU, of that decision. The LEA must ensure, if sex education is part of the curriculum, that it encourages pupils to have due regard to moral considerations and the value of family life. In a PRU that teaches children of both primary and secondary ages, the requirements are the same as for mixed phase special schools: that is, pupils of secondary age are treated as pupils at secondary schools, primary aged pupils are treated as pupils at primary schools.

Political issues

1.39 The LEA and teacher in charge must ensure that pupils aged under 12 in the charge of a staff member, either on or off site, do not take part in partisan political activities. For pupils of all ages, staff must also ensure that partisan political views are not promoted in the teaching of any subject in the school and that where political issues are raised, pupils are offered a balance of opposing views.

School terms and holiday sessions

1.40 The LEA sets the dates of PRU terms and holidays, and, in consultation with the management committee, decides the times of sessions.

Use of school premises outside school hours

1.41 The LEA, in consultation with the management committee, is responsible for the use of school premises outside school hours.

Accommodation

1.42 PRUs are subject to the Education (School Premises) Regulations 1996 (see Welsh Office Circular 30/96) but with certain modifications. PRUs do not have to meet the requirements about playing fields, the provision of a head teacher's room, and staff accommodation for use by teachers for both work and social purposes. Where a PRU provides full-time education, LEAs may provide such accommodation. LEAs must also ensure that PRU accommodation complies with health, safety and fire regulations; and should provide accommodation suitable for its purpose and appropriate to education. Ready accessibility of premises for the pupils is important.

Inspection

1.43 Estyn uses the Common Inspection Framework to inspect registered PRUs. Estyn's Handbook for the Inspection of Special Schools and PRUs contains additional inspection guidance. Following an inspection, the LEA is required to prepare a written action plan, consulting the management committee and the teacher in charge. There is no separate requirement for the management committee to produce its own action plan.

Section 6

Elective Home Education



Section 6: Elective Home Education

1. Introduction

1.1 Elective home education is where parents or guardians decide to provide home-based education for their children instead of sending them to school. It is not home tuition provided by a local education authority or where a local education authority provides education otherwise than at a school.

1.2 These guidelines recognise that elective home education is a key aspect of parental choice and therefore aims to encourage good practice in relationships between LEAs and home educators by clearly setting out the legislative position, and by providing advice on the roles and responsibilities of LEAs and parents in relation to children who are educated at home.

1.3 This section is split into the following parts:

- Removing a pupil from the school admission register
- Working with home educators
- Assessing the efficiency of education provided by a parent
- Independent school status
- Child welfare
- Children with special educational needs
- Other issues

1.4 Home-educated children are those who, for a range of reasons, are being educated at home and in the community by parents, guardians, carers or tutors, and are not registered full time at mainstream schools, special schools, pupil referral units (PRUs), colleges, children's homes with education facilities or education facilities provided by independent fostering agencies.

1.5 A significant number of parents choose to exercise their right to educate their children at home. They may do so for a variety of reasons. The reasons themselves should not have any bearing on the LEA's treatment of families since the LEA's prime interest lies in the parents' educational provision for their children. The following examples are common, but not exhaustive:

- distance or access to a local school;
- religious or cultural beliefs;
- philosophical or ideological views;
- as a short term intervention for a particular reason;

- dissatisfaction with the system; and
- a child's reluctance or inability to go to school.

When a parent offers an account of their dissatisfaction with the public system of education provision, the education authority may wish to use this information as part of its ongoing review of its provision.

The legal background

Article 2 of Protocol 1 of the European Convention on Human Rights states that:

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching is in conformity with their own religious and philosophical convictions.

Parents have a right to educate their children at home providing that they fulfil the requirements of Section 7 of the Education Act, 1996 which places a duty on the parents of every child of compulsory school age to cause him or her to receive efficient full-time education suitable to their age, ability and aptitude, and to any special educational needs that they may have, either by regular attendance at school or otherwise.

Under Section 437 of the Education Act 1996, an LEA must by law serve a School Attendance Order (SAO) on the parent of a child of compulsory school age who fails to prove that the child is receiving suitable education and where the authority is of the opinion that the child should attend school. This duty applies equally in relation to all children, regardless of whether or not they have previously attended a local authority school in the area. The definition of suitable education is the same as that contained in Section 7 of the Education Act 1996 as described above.

The SAO specifies the school (or Pupil Referral Unit) that the child should attend. Failure to comply with an SAO is an offence, unless the parent can demonstrate that the child is receiving suitable education otherwise than at school. The order itself has a specified legal format - see the Education (School Attendance Order) Regulations 1995 and further information on SAOs in Part 5 of this Section.

2. Removing a pupil from the school admission register

2.1 Parents whose children are registered pupils at a school must ensure that their names are removed from the school admissions register when they withdraw them from school to home educate. If they do not do so they may be liable to prosecution for failing to ensure their child's regular attendance at the school where they are registered. Under the Education (Pupil Registration) Regulations, 1995, parents are required to inform schools in writing that they are educating their children at home.

2.2 Immediately the school receives such a letter, the name of the child must be removed from the admissions register. The school (including those in the independent sector) must make a return (giving the child's name and address) to the LEA within 10 school days of removal. Parents might be encouraged to inform the LEA, however, to enable the LEA to check that the child's name has actually been removed from the school register.

2.3 On no account should pressure be put on parents to remove their pupils from the school register to avoid exclusion or prosecution.

2.4 There is no general requirement for parents to inform LEAs of the fact that they intend to educate at home. This makes it particularly difficult for LEAs to keep track of certain groups of children, for example:

- those who have never attended a maintained school;
- those who have never attended a maintained school in that authority's area;
- those who have finished primary education in one school but have not started secondary education in another; and
- those where the school they have been attending has closed.

2.5 In order to ensure that they are aware of cases where children and young people are not receiving any education LEAs will need to continue to develop information-sharing processes with local partners such as Careers Wales, health organisations and social services departments. They will also need to ensure that they are part of national data sharing exercises, such as the Lost Pupils' Database (see Section 5).

2.6 Where parents have notified the LEA or the LEA is otherwise made aware of a child's withdrawal from school with the intention of being home educated, the LEA should acknowledge the receipt of this notification and consider quickly whether there is any existing evidence, either in an authority's own records or from other services or agencies, indicating whether there may be cause for concern over the withdrawal. Previous irregular attendance at school is not of itself a sufficient cause for concern. In many cases, parents and their children have reached a crisis point, for example, with bullying, so advice should be sought from education welfare services where there is any doubt. Specific instances where they may be concerns are included in Part 6 of this Section. In these cases the LEA should immediately refer these concerns to the appropriate statutory authorities using established protocols.

2.7 Otherwise, the LEA should assume that efficient educational provision is taking place, which is suitable for the child, unless there is evidence to the contrary. There is no express requirement in the 1996 Act for LEAs to investigate actively whether parents are complying with their duties under Section 7.

Flexi-schooling

2.8 'Flexi schooling' or 'flexible school attendance' is an arrangement between the parent and the school where the child is registered at school in the normal way but where the child attends the school only part time; the rest of the time the child is home-educated (effectively on authorised absence from school). This is sometimes done as a short-term measure for a particular reason. Flexi-schooling is a legal option provided that the head teacher at the school concerned and, in many cases, the LEA as well, agree to the arrangement. Some of the advantages and disadvantages of flexi-schooling are referred to on the Home Education UK's website at www.home-education.org.uk/articles-flexi-school.htm. Further details are contained in Section 4 of this guidance.

3. Working with home educators

Developing effective relationships

3.1 Education authorities should seek to build effective relationships with home educators that function to safeguard the educational interests and welfare of children and young people. Doing so will provide parents with access to any support that is available and allow authorities to understand the parents' educational provision. A positive relationship will also provide a sound basis if the child, at some point in the future, returns to mainstream education or if the authority is required to investigate assertions from any source that an efficient education is not being provided.

3.2 Education authorities should provide parents who are, or who are considering, home educating with a named contact within the authority who is familiar with home education policy and practice and has an understanding of the relevant legislation and a range of educational philosophies. The named contact's role could include liaising on a regular basis with already-established local groups of home educators or developing new groups where these don't already exist.

3.3 It may also be helpful in developing positive relationships for the contact person to be referred to as an 'adviser', 'home-educating consultant' or 'facilitator' rather than as an 'inspector', 'examiner' or 'assessor' even where the usual term may be 'educational welfare officer' or in some cases 'exclusions officer'.

3.4 It is recommended that LEAs should also have a written policy statement on home-educated children and their families which has been prepared in consultation with home educating families and are willing and able to provide guidance for parents and carers who request it. In addition, LEAs should organise training on the law and home education methods for all their Education Officers who have contact with home-educating families in their area.

Initial contacts

3.5 The authority may invite the parents to meet with a named education authority officer to discuss their provision. Any such meeting should take place at a mutually acceptable location. The child should be given the opportunity to attend that meeting, or otherwise to express his or her views. Either during such a meeting, or otherwise, the parents and the authority should consider and agree what future contact there will be between them.

3.6 Any initial meetings or other forms of discussion should be taken as an opportunity to provide information for the parents or guardians. LEAs will also wish to make it clear to parents that if they choose to home-educate, they assume financial responsibility for their child's education, including the cost of public examinations, and that the child must continue to receive suitable education until the end of 'compulsory education' (i.e. the last Friday in June in the academic year in which they reach age 16). If meeting in person is not possible LEAs should endeavour to provide the same information through the post.

3.7 Following any initial contact with parents, a report should be prepared by the authority, setting out any recommendations that have been discussed and made, with the reasons for them. The report should be copied to the parents, and where appropriate, the child. In exceptional cases, where there is a reasonable concern that a passage in the report might cause serious harm to the physical or mental health or condition of the applicants or a named third party, consideration should be given to withholding that part of it. In doing so authorities will need to comply with freedom of information and data protection principles.

Ongoing monitoring

3.8 There is no legal framework for the LEA to regularly monitor provision of home education, however such an arrangement is likely to help the LEA to fulfil their duties and can help provide new information and support to parents. The frequency with which an authority will contact parents to discuss their ongoing home education provision will vary depending on the individual circumstances of each family.

3.9 It is recommended that the authority should ordinarily make contact on an annual basis. Contact with the family should normally be made in writing and should seek a meeting or request an updated report. A report should be made after such contact and copied to the family stating whether the education authority has any concerns about the education provision. Any telephone communication should be followed up with a written confirmation of what had been discussed and agreed.

3.10 Where there are concerns about the efficiency or suitability of the education being provided for the child, more frequent contact may be required. Where concerns merit frequent contact the authority should discuss these concerns with the child's parents, with a view to helping them improve their provision in the best interests of the child.

3.11 Authorities need to take account of the fact that parents may educate their children in a wide variety of environments and not simply in the home. Where the education is taking place in the home, LEAs should, where possible, and without placing undue pressure on parents, seek agreement to see the provision at first hand as the learning environment can have a strong bearing on the effectiveness of learning. Seeing the child responding to the educational provision of the parents may provide a strong indication that efficient education is being provided.

3.12 The authority does not however have the right to insist on seeing education in the home and some parents may not feel comfortable in allowing an education officer access to their child or family home. Trusting relationships may need time to develop before a parent is happy to invite an authority officer to visit. However, where a parent elects not to allow access to their home or their child, this does not of itself constitute a ground for concern about the education provision.

3.13 Where LEAs are not able to visit homes they should, in the vast majority of cases, be able to discuss and evaluate the parents' educational provision by alternative means. Parents might prefer, for example, to write a report, provide samples of work, have their educational provision endorsed by a third party, meet at another venue such as a library or café or provide evidence in some other appropriate form.

Review

3.14 Authorities should review all of their procedures and practices in relation to home education on a regular basis to see if improvements can be made to further develop relationships and meet the needs of children and parents. Home education organisations and home educating parents should be involved in this process of review. Effective reviews, together with the sensitive handling of any complaints, will help to secure effective partnership.

Providing information and support

3.15 Although authorities are not legally obliged to provide any resources for young people educated at home, choosing to do so, particularly where there are minimal resource implications, will help develop positive relationships. This might include:

- providing general advice and information;
- allowing access to learning centre resources;
- allowing access to school for health services such as vaccinations;
- allowing access to school resources where feasible;
- facilitating access to any discounted rates for educational materials;
- providing access to local authority owned community and sports facilities;

- facilitating access to Careers Wales and work experience;
- providing assistance with identifying exam centres willing to accept external candidates;
- facilitating under-16 access to vocational and other courses at further education colleges; and
- facilitating access to CRB checks or approval schemes for tutors.

3.16 Authorities should also inform home educating families of any projects or programmes, such as Out of School Hours Learning (OSHL) or Study Support, whether provided by schools or other organisations, as they may be able to provide support and a range of activities for children being educated at home.

4. Assessing the efficiency of education provided by a parent

4.1 In their consideration of parents' provision of education at home, education authorities may reasonably expect the provision to include the following characteristics:

- consistent involvement of parents or other significant carers - it is expected that parents or significant carers would play a significant role, although not necessarily constantly or actively involved in providing education;
- an indication that parents have thought through their reasons for home educating and what they hope to achieve;
- signs of commitment and enthusiasm, and recognition of the child's needs, attitudes and aspirations;
- opportunities for the child to be stimulated by their learning experiences;
- involvement in activities to cater for the interests of the child and his/her stage of development;
- access to resources/materials required to meet the objectives of the parents;
- the opportunity to interact with other children and other adults;
- the involvement of Careers Wales at an appropriate stage; and
- development of numeracy and literacy skills suitable to the child's age, aptitude and ability and taking into account any special educational needs that they may have.

4.2 There is no legal definition of “full-time”. This measurement of ‘contact time’ is not relevant to home education where there is far more one-to-one contact and where education takes place outside ‘normal school hours’ and where the type of educational activity can be varied and flexible. It should be borne in mind that home-educating parents are not required to:

- teach the National Curriculum
- have a timetable
- have premises equipped to any particular standard
- mark work done by their child
- set hours during which education will take place
- have any specific qualifications
- cover the same syllabus as any school
- make detailed plans in advance
- observe school hours, days or terms
- give formal lessons
- reproduce school type peer group socialisation
- match school, age-specific standards.

However, LEAs should offer advice and support to parents on these matters if requested.

4.3 When assessing the efficiency and suitability of education provided through home education, local education authorities should take into account that parents’ educational provision will reflect a diversity of approaches and interests. Some parents may wish to provide education in a formal and structured manner, following a traditional curriculum and using a fixed timetable that keeps to school hours and terms. Other parents may decide to make more informal provisions that are responsive to the developing interests of their child. One approach is not necessarily any more efficient than another. Although some parents may welcome general advice and suggestions about resources, methods and materials, education authorities are not able to specify a curriculum which parents must follow.

4.4 If an assessment is undertaken at an early stage of provision, account will need to be taken of the fact that parents and their children might require a period of adjustment before finding their preferred mode of learning.

4.5 Parents are not required to have any qualifications or training to provide their children with an appropriate education. Their commitment to providing an efficient education that is suitable for their child may be demonstrated by their providing some indication of their objectives and resources.

4.6 The approach home educating parents take to assessing their child's progress is likely to be dictated by their own philosophy or views, and in many cases, the absence of formal assessment may be a feature of the education provision.

4.7 There is no legal requirement for children to take a particular set of qualifications. The internal assessment component of many qualifications such as GCSEs, for example teacher assessments, can make them difficult for external candidates to achieve. These are not, however, the only qualifications which external candidates can take, and LEAs may usefully offer parents and their children information about alternative qualifications and the arrangements that they would need to make for the children to take them. LEAs should also inform parents and, where appropriate, their children of possible problems that they might encounter if their qualifications are not sufficiently recognised by employers, or further or higher education establishments. When offering advice it should be borne in mind that the opposite may also be true in that some employers and admissions staff may favour home education.

4.8 Authorities are not required to meet any costs associated with external candidates taking examinations or other qualifications. They may however, at their discretion, choose to make available any resources or support that they can offer.

Dealing with inadequate provision

4.9 Every effort should be made to resolve issues about provision by a process of ongoing dialogue before any formal proceedings are invoked. If, on considering the educational provision, there are doubts as to whether provision is adequate, the authority may choose to further investigate whether or not an efficient education is being provided. If dialogue fails a full written report on the LEA's findings should be made and copied to the parents promptly, specifying the grounds for concern and any reasons for concluding that provision is unsuitable.

4.10 It may be necessary for the LEA to serve a notice on the parents. Under Section 437(1) of the Education Act 1996, LEAs can intervene if they have good reason to believe that parents are not providing a suitable education by serving a School Attendance Order. This will allow a period of at least 15 days for the parent to provide the education authority with whatever information they require to satisfy themselves about the suitability of the education. The parent may choose to do this by meeting with the authority in person, or by supplying the information in writing.

4.11 A SAO continues to be in force for as long as the child is of compulsory school age unless it is revoked. If there is a continued failure to register the child, the LEA has the option of referring to Social Services for consideration of care proceedings. In exceptional circumstances, the case may be taken to the Family Proceedings Court instead of the Magistrates Court where an application can be made for an Education Supervision Order (ESO - under Section 36(5)a of the Children Act 1989). Where an ESO is in

force with respect to a child, the duties of the child's parents under section 7 and 444 of the Education Act 1996 (duties to secure education of children and to secure regular attendance of registered pupils) are superseded by their duty to comply with any directions in force under the ESO.

4.12 Parents may apply for SAOs to be revoked at any time because arrangements have been made for the child to receive education otherwise than at school. The LEA must comply with this request unless these arrangements are not suitable.

5. Independent school status

5.1 Some groups of pupils educated by parents on premises outside their home are classified as independent schools. This would be the case under the following circumstances:

- The provision is full-time, and
either:
 - there are 5 or more pupils of compulsory school age (i.e. 5 - 16) or
 - at least one pupil of compulsory school age has a statement of special education needs or
 - at least one pupil or is looked after by a local authority.

5.2 Establishments falling within these criteria are required to seek registration with the National Assembly for Wales. As part of that registration, schools will be required to meet and continue to meet a number of prescribed statutory standards relating to:

- the quality of education (including work-related);
- the spiritual, moral, social and cultural development of pupils;
- the health welfare and safety of pupils;
- the suitability of proprietors and staff;
- the premises and accommodation;
- the provision of information; and
- the manner in which complaints are handled.

5.3 The National Assembly for Wales requires Estyn to inspect all independent schools in Wales under the revised Common Inspection Framework introduced in September 2004. All independent schools can anticipate at least one inspection within the current 6-year inspection cycle although the National Assembly may request more frequent inspections.

6. Child welfare

6.1 As stated earlier, a parent's decision to home educate is not in itself grounds for concern about the welfare of children. However, as with school educated children, child welfare issues may arise in relation to home-educated children. If any child welfare concerns come to light in the course of engagement with children and families, these concerns should immediately be referred to the statutory authorities for consideration. The local education authority's nominated child protection officer can provide more detailed advice on the local protocols and procedures in place.

6.2 Concerns may arise where a parent states their intention to home educate. Specific instances where advice from the local social services department would be appropriate on the suitability of home education include:

- where a child or family member has been identified as being in need;
- where a child or family member has been referred to social work or the police for child protection reasons, and the matter is being investigated;
- where a child or a sibling is on the child protection register;
- where a child or family member has been referred on care and protection grounds, and the referral is being considered;
- where the child is the subject of a supervision requirement.

LEAs may also apply to the Court for a child assessment under the Children Act 1989 if they have reasonable cause to do so.

6.3 Parents may choose to employ other people to educate their child, though they themselves will continue to be responsible for the education provided. They will also be responsible for ensuring that those they engage are suitable persons to have access to children. Guidance on key issues to consider in appointing individuals who work with children is set out in National Assembly for Wales Circular 34/02: Preventing Unsuitable People From Working With Children and Young Persons in the Education Service. This cannot be considered exhaustive and it is for individual employers to satisfy themselves on issues of suitability.

6.4 There may be occasions where parents who choose to educate their children at home organise group events with like-minded parents. It is important that they are aware of the mechanisms for drawing child or adult welfare concerns to the statutory authorities. Local education authority nominated child protection officers' should ensure when promoting their role that their details are not limited to schools within the maintained sector.

7. Children with special educational needs

7.1 Parents' right to educate their child at home applies equally where that child has special educational needs (SEN). The fact that a child has special educational needs is not, in itself, a reason to question parents' decision to educate at home. Additional considerations do, however, apply.

7.2 Where a child has a statement of special educational needs and is educated at home by the parents the statement does not automatically cease. While the statement is maintained it must be reviewed annually, following the procedures set out in Chapter 9 of the SEN Code of Practice for Wales. In many circumstances the child's special educational needs identified in the statement will have been related to the school setting and the child's needs may be readily met at home by the parents without LEA supervision. It may be appropriate, once it is established that a child's special needs are being met without any additional support from the LEA to give consideration to ceasing the statement, if the parents agree. This may be done at the annual review or at any other time.

7.3 The parents must make suitable provision for the child's special needs, but due to the change in the child's educational setting, this provision may be different from that outlined in the statement which would apply in a school setting. Parents need only provide an efficient education suitable to the child's age, ability and aptitude, and to any special educational needs the child may have as defined in Section 7 of the Education Act 1996.

7.4 If the parents' arrangements are suitable, then the LEA is relieved of its duty to arrange the provision specified in the statement. If, however, the parents' arrangements for the education of their child at home fall short of meeting the child's needs, then the parents are not making suitable arrangements and the LEA are not absolved of their responsibility to arrange the provision in the statement. In some cases a combination of provision by parents and the LEA may best meet the child's needs.

7.5 In the case of home educated children Section 324(4A) of the Education Act 1996 does not require the name of a school to be provided in Part 4 of the statement. There should be discussion between the authority and the parents and, rather than the name of the school, Part 4 of the statement should mention the type of school the LEA consider appropriate but go on to say that: "parents have made their own arrangements under Section 7 of the Education Act 1996". The statement can also specify any provision that the LEA have agreed to make under Section 319 to help parents provide suitable education for their child at home.

7.6 If the child to be de-registered is a pupil at a special school, the school must inform the LEA before the child's name can be deleted from the school roll so that the LEA can ensure extra support and a smooth transition in accessing services. There should however be no delay in removing the child's name from the register. It may then be appropriate to amend Part 4 of the child's statement at the next review.

8. Other Issues

Education Maintenance Allowance

8.1 Education Maintenance Allowance is a means-tested grant available to learners over the age of 16, if they stay on in education at school or college after GCSEs. It is not available to learners whose parents elect to educate them at home.

Truancy Sweeps

8.2 Guidance on Truancy Sweeps is contained on the Welsh Assembly Government's web pages on Inclusion and Pupil Support. Those taking part in the sweeps, including police officers, should be aware that there is a range of valid reasons why school-age children may be out of school. In particular, they may encounter children who are educated at home and that these children are not required to be at school.

8.3 No further action should be taken where children indicate that they are home educated unless there is a reason to doubt that this is the case. Home-educating parents need to be made aware that professionals involved in truancy sweeps may need to verify any information given to them in these circumstances. To make sure this is a fast and efficient process, it would be advisable that the LEA maintains a list of all school-age children known to them who are home-educated. This list can then be checked by the LEA staff as part of a truancy sweep.

Christian Home School: www.homeschool.co.uk

Education Otherwise Association Limited: www.education-otherwise.org

Home Education Advisory Service: www.heas.org.uk

Home Education UK: www.home-education.org.uk

Home Education Resources: www.home-education-resources.co.uk

Muddle Puddle - an independent site focusing on learning for 0-8 year olds: www.muddlepuddle.co.uk

The Home Service - a national Christian home education group: www.home-service.org

National Assembly for Wales, 2002, Special Educational Needs Code of Practice for Wales

National Assembly for Wales 34/02: Preventing Unsuitable People From Working With Children and Young Persons in the Education Service

Welsh Office Circular 52/95, Protecting Children from Abuse: The Role of the Education Service

List of Documents



Document List

All the documents with available internet links can be accessed through the National Assembly for Wales' Inclusion and Pupil Support web pages - www.wales.gov.uk/inclusionandpupilsupport

A. Key Assembly Government strategic documents

A Fair Future for Our Children, The Strategy of the Welsh Assembly Government for Tackling Child Poverty (2006)

Child and Adolescent Mental Health Services, Everybody's Business, 2001

Children and Young People: A Framework for Partnership (2002)

Children and Young People: Rights to Action (2004)

Children and Young People: Rights to Action, Single Education Plans 2006-08: Circular 05/2006

Children and Young People: Rights to Action, Stronger Partnerships for Better Outcomes (2006)

Early Entitlement Guidance for 2004/05

Extending Entitlement: Support for 11 to 25 Year Olds in Wales: Direction and Guidance (2002)

Extending Entitlement: Making It Real (2004)

Learning Pathways 14-19 Guidance II: Circular 17/2006

National Service Framework for Children, Young People and Maternity Services in Wales (2005)

Race Equality Scheme 2005 - 2008 (2005)

Strategic Framework for Promoting Sexual Health in Wales: Action Plan Following Consultation (2000)

Tackling Substance Misuse in Wales: A Partnership Approach: National Assembly for Wales (2000)

The Learning Country (2001)

The Learning Country II Vision Into Action (2006)

Wales: A Better Country (2003)

Working Together to Safeguard Children (2000)

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Care Standards Act 2000

Children Act 1989

Children and Young Persons Act 1933

Children and Young Persons Act 1963

Children's Commission for Wales Act 2001

Crime and Disorder Act 1998

Criminal Justice and Court Service Act 2000

Criminal Justice Act 1991

Data Protection Act 1998

Disability Discrimination Act 1995

Disability Discrimination Act 2005

Education (Special Educational Needs) (Wales) Regulations 2002

Education (Work Experience) Act 1973

Education Act 1996

Education Act 1997

Education Act 2002

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Health Act 1999

Human Rights Act 1998

Magistrates' Courts Act 1980

Police and Criminal Evidence Act 1994

Race Relations Act 1976

Race Relations (Amendment) Act 2000

Race Relations (Amendment) Act 2002

School Standards and Framework Act 1998

Sex Discrimination Act 1975

Special Educational Needs and Disability Act 2001

Welsh Language Act 1993

The Children (Performances) Regulations 1968

The Education (Parenting Orders) (Wales) Regulations 2006
(S.I. 2006 No. 1277)

The Education (Pupil Registration) Regulations 1995 (S.I. 1995 No. 2089)

The Education (Pupil Registration) Regulations 1997 (S.I. 1997 No. 2624)

The Education (School Performance and Unauthorised Absence Targets)
(Wales) (Amendment) Regulations 2006 (S.I. 2006 No 125)

The Education (School Premises) Regulations 1996 (S.I. 1996 No. 360)

The Financing of Maintained Schools Regulations 1999 (S.I. 1999 No. 101)

Magistrates' Courts (Miscellaneous Amendments) Rules 1998
(S.I. 1998 No. 2167)

Magistrates' Courts Rules 1981 (S.I. 1981 No. 552)

The Magistrates' Courts (Parenting Orders) Rules 2004 (S.I. 2004 No. 247)

C. General documents on inclusion

National Assembly for Wales

Exclusion from Schools and Pupil Referral Units: Circular 1 and 1A /2004

Framework for the Assessment of Children in Need and Their Families, 2001

Principles and Practice in the support of Minority Ethnic Pupils'
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Respecting Others: Anti-Bullying Guidance: Circular 23/2003

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Code of Practice: School Admissions (1999)

Collecting and Recording Data on Pupils' Ethnic Background: Circular 27/02

Guidance for Governing Bodies on Procedures for Complaints Involving Pupils: Circular 39/2006

Narrowing the Gap in the Performance of Schools: Information Doc 029-02

Phase II: Primary Schools: Information Doc 048-05

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Protecting Children from Abuse: the Role of the Education Service:
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ACCAC

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The Home Service - a national Christian home education group:
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Muddle Puddle - an independent site focusing on learning for 0-8 year olds:
www.muddlepuddle.co.uk