Llywodraeth Cymru
Welsh Government

Inclusion and pupil support

Guidance

Guidance document no: 203/2016
Date of issue: March 2016

Inclusion and pupil support

Audience

Governing bodies and headteachers of maintained and independent schools, pupil referral units and local authorities in Wales. Teaching and other unions, church diocesan authorities and national and local bodies in Wales with an interest in education.

Overview

The document covers the inclusion and support of pupils, primarily of compulsory school age, including the promotion of positive behaviour, regular attendance and provision of education otherwise than at school.

Action required

For use in developing support policies and strategies.

Further information

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This document can be accessed from the Welsh Government's website at gov.wales/topics/educationandskills/schoolshome/pupilsupport/inclusionpupilsupportguidance/?lang=en

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
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Contents

1. Inclusive education **2**

2. Planning for inclusion **9**

3. Pupils who require extra support **30**

4. A whole-school approach to behaviour and attendance **65**

5. Attendance **127**

6. Education otherwise than at school (EOTAS) **148**

Annex 1: Developing inclusive strategies – checklists for local authorities and schools **161**

Annex 2: Training and staff development on inclusion – a checklist for schools **165**

Annex 3: Checklist for developing behaviour and attendance policies **167**

Annex 4: Specimen application form for a parenting order **169**

Annex 5: Pupil referral units (PRUs) **171**

1. Inclusive education

1.1 Principles of an inclusive education service

1.1.1 Inclusion is a process through which all pupils access common opportunities in ways relevant to their needs, and which ensures that 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 both meet the needs and value the development of all children and young people 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 teaching and other staff's awareness of inclusive learning and equality issues. The essential principles are:

- inclusion is a process by which schools, local authorities 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 who require extra support 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
- those pupils not in mainstream education should have links to their peers in mainstream schools.

1.1.2 Effective inclusive schools and local authorities have:

- coherent plans for the development of inclusion linked to school improvement strategies
- key personnel to drive forward inclusion and school improvement
- 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
- high expectations and targets for inclusion
- strategies to address the training and development needs of staff and governors
- clear strategies to listen to the views of children and young people in order to best meet their needs
- proactive joint-working practices which involve parents/carers and partner agencies.

1.2 Overview

1.2.1 This guidance covers the inclusion and support of pupils of compulsory school age (although some elements will apply to post-16 education). It provides advice and sets out responsibilities for maintaining high levels of attendance, positive behaviour in schools and support for those pupils who require extra support to ensure they receive suitable education and avoid becoming disengaged from education. It also covers education provided outside the school setting. This document intends to provide an overview of current policies aimed at educational inclusion and a signpost to where more detailed subject guidance has been published.

1.2.2 This guidance replaces that currently contained in the document *Inclusion and Pupil Support* (National Assembly for Wales, 2006). While the guidance itself is not statutory, it sets out the specific legislation to which local authorities, schools and their partners are required to adhere. The guidance is issued under the Welsh Minister's general powers to promote the education of the people of Wales (section 10 of the Education Act 1996) and a general power covering things aimed at promoting or improving the economic, social and environmental well-being of Wales (section 60 of the Government of Wales Act 2006).

1.2.3 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 signposting to key documents to assist in developing local authorities and schools' approaches to planning, supporting and meeting the needs of all pupils. A key purpose of this guidance is to act as a framework for inclusion to promote meeting the needs of all pupils within an inclusive whole-school approach, including those pupils who at some point may require greater support than the majority of their peers.

1.2.4 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 pupils in need of extra support. It is the responsibility of the user to ensure that they are referring to the most up-to-date version of this guidance.

The sections contained within the guidance are as follows.

- Inclusive education.
- Pupils who require extra support.
- A whole-school approach to behaviour and attendance.
- Attendance.
- Provision of education outside the school setting.

Where the guidance provided in this document differs from that provided in the more detailed subject guidance, the subject guidance will always take precedence.

Independent schools

1.2.5 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 the Welsh Government document *Independent schools registration and operation guidance* (Welsh Government, 2014)[1].

1.3 Context

1.3.1 The Welsh Government is committed to developing policies to ensure all pupils 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.

1.3.2 Our priorities for Wales are set out in Programme for Government[2] and we aim to help everyone reach their potential, reduce inequality, and improve economic and social well-being.

1.3.3 In 2012, the Welsh Government published *Improving schools*[3] – an implementation plan for 3 to 16 education in Wales which outlined the necessary reform required in Wales to ensure a good education for all pupils. It identified three priorities to improve literacy, to improve numeracy and reduce the impact of deprivation on these. A focus on learning and teaching in schools is at the heart of the reforms which includes strengthening our approaches to inclusion and safeguarding, particularly improving behaviour and attendance.

1.3.4 *Improving schools* promotes inclusive education and sets out an agenda that enshrines the following principles.

- There must be high standards and expectations, together with progressive improvements in outcomes for all pupils.
- The interests of pupils override all other considerations.
- Barriers to learning must be recognised and steadily overcome.
- Academic, technical and vocational learning pathways must have parity of esteem.

[1] www.wales.gov.uk/topics/educationandskills/schoolshome/independent-schools/?lang=en
[2] www.wales.gov.uk/about/programmeforgov/?lang=en
[3] learning.wales.gov.uk/news/sitenews/improvingschools/?lang=en

- Inequalities in achievement between advantaged and disadvantaged areas, groups and individuals must be narrowed in the interests of all.

1.3.5 In October 2014, the Welsh Government published *Qualified for life: An education improvement plan for 3 to 19-year-olds in Wales*[4] which sets out the Welsh Government's reform plan to 2020 and the vision that pupils in Wales will enjoy learning and teaching that inspires them to succeed, and where the potential of every child and young person is actively developed. *Qualified for life* also builds upon the work identified in *Improving schools*.

1.3.6 The principles of inclusive education underpin each of the four strategic objectives set out in *Qualified for life*, with literacy and numeracy and breaking the link between disadvantage and poor educational attainment remaining a priority and integral to each objective.

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

United Nations Convention on the Rights of the Child

1.3.8 The Welsh Government's vision is that all children have access to their rights, as set out in the United Nations Convention on the Rights of the Child (UNCRC). The UNCRC can be summarised into 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
- are not disadvantaged by poverty.

The impact of poverty

1.3.9 Significantly fewer pupils from low-income households achieve expected attainment levels compared with their better-off peers, and the difference in

[4] learning.wales.gov.uk/news/sitenews/qualified-for-life-an-educational-improvement-plan-for-wales/?lang=en

educational attainment grows as they progress through their school career. The difference at the end of Foundation Phase is 18 percentage points and this grows to 32 percentage points by the time they are sitting their GCSEs.

1.3.10 Eligibility for free school meals (e-FSM) is used as a proxy indicator for poverty and pupils who need extra support are disproportionally represented in the numbers who are e-FSM. The risk factors of poor attendance, poor behaviour and exclusion associated with needing extra support are compounded by poverty. These include lack of access to resources, such as a home computer or a quiet place to work, and lack of parental support due to parents'/carers' own low skills or their negative perceptions of education resulting from bad experiences at school. This means that pupils from low-income households are most likely to benefit from programmes that effectively engage parents/carers.

Early intervention

1.3.11 Early intervention can be the key to success. There are a range of strategies to prevent disengagement at all ages, from parental engagement and education beginning at home through to pastoral support programmes (PSPs) supporting those at risk of exclusion. Adopting a consistent approach to systems and procedures, using data analysis to effectively identify patterns of non-attendance, good communication between parents/carers, teachers and local authorities all provides a strong foundation to support early intervention.

Good nutrition

1.3.12 The Welsh 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 pupils in maintained primary schools in Wales. Provision of free breakfasts for primary school children began in September 2004. Now, under the School Standards and Organisation (Wales) Act 2013, local authorities have a duty to ensure that the provision of primary school free breakfasts continues[5]. Schools not already operating a free breakfast club may request the provision, in writing, from their local authority, which must then usually provide it after 90 days.

Transition

1.3.13 Transition between schools can be a difficult time for pupils. The Welsh Government recognises that the transition from primary to secondary school can lead to loss of progression in learning and to pupil disengagement. Since 2008 primary and secondary schools have been required to work together to develop transition plans for pupils transferring schools.

[5] learning.wales.gov.uk/resources/browse-all/free-breakfast-in-primary-schools/?skip=1&lang=en

1.3.14 Effective working between schools and other agencies such as transfer of data, information or funding, is critical to ensure a smooth transition. Estyn recognises that local authorities are key facilitators in sharing best practice across school clusters.

1.3.15 Transition is often a difficult time for any child but this is especially so where they need extra support. Further information on transition arrangements for children and young people with extra support needs can be found in section 3.

Young people who are disengaged or at risk of disengaging

1.3.16 The Welsh Government's commitment to increase the engagement and progression of young people is set out in the Programme for Government. This forms a key part of the work to improve literacy and numeracy, and breaks the link between poverty and attainment, which was included in the *Improving schools* plan. The Welsh Government sets out its ongoing commitment to tackling poverty by prioritising the needs of the poorest and protecting those most at risk of poverty in the *Tackling Poverty Action Plan 2012–2016* (Welsh Government, 2012)[6]. The plan sets out new targets to reduce the:

- number of young people aged 16–18 not in education, employment or training (NEET) to 9 per cent by 2017
- proportion of young people aged 19–24 who are not in education, employment or training (NEET) in Wales relative to the UK as a whole by 2017.

1.3.17 The Welsh Government's *Youth engagement and progression framework: Implementation plan*[7] for 11 to 25-year-olds is the key delivery vehicle to help achieve these targets.

1.3.18 While the framework's primary focus is Key Stage 4 and post-16 pupils, it is clear that a young person does not become NEET as soon as they turn 16. Disengagement tends to be a gradual process often as a result of complex issues creating barriers to learning. There is a range of evidence demonstrating both the importance of early identification and the effectiveness of early identification systems. Evidence also shows that a focus on attendance, behaviour and attainment will identify the majority of young people who are at risk of not making positive progression at 16. We believe these should be the core indicators used in all early identification systems. Local authorities and schools, but predominately schools, as data owners, play an integral part in the early identification process. The role of schools is to analyse the data captured to enable practitioner intelligence to be fed

[6] www.wales.gov.uk/topics/people-and-communities/tacklingpoverty/taking-forward-tackling-poverty-action-plan/?lang=en
[7] www.wales.gov.uk/topics/educationandskills/skillsandtraining/youthengagement/?lang=en

into the process. This will ensure the effective use and interpretation of data, which will enable the effective progress monitoring of individual pupils, whole classes and departments. A clearer understanding and more effective use of the data will lead to more effective and appropriate target-setting by all partners.

1.3.19 This holistic approach, alongside the joining-up of school data with the early identification process, will provide an effective tracking system for local authorities and their partners to use. The framework will ensure that we:

- focus as a core on attendance, behaviour and attainment indicators
- produce as an outcome, a clear prioritised assessment of risk
- discuss the outcomes with schools and other providers
- work effectively with all partners involved in providing support to young people, in particular Careers Wales and the Youth Service
- align with other services which identify young people needing extra support.

1.3.20 The framework requires an integrated approach from all organisations involved in delivering activity for young people, focusing on the needs of the individual. Local authorities are charged with providing the support individuals need to aid their progression through education and training into employment. This will be delivered through a systems-based approach to early identification of need, coordinated brokerage and tracking. The framework has six key elements which include:

- identifying young people most at risk of disengagement
- better brokerage and coordination of support
- stronger tracking and transitions of young people through the system
- ensuring provision meets the needs of young people
- strengthening employability skills and opportunities for employment
- greater accountability for better outcomes for young people.

1.3.21 The implementation of the framework will ensure that each local authority has in place an engagement and progression coordinator. They will play a key role in coordinating the work between the local authority, Careers Wales, the Youth Service, schools and post-16 providers. This will provide clarity and ensure the responsibility for this key strategic and operational role is clear and consistent across Wales. Their role will include supporting schools that have identified pupils with complex emotional and behavioural needs.

1.3.22 Key Welsh Government policies designed to secure the inclusion and engagement of all children and young people in learning are described in section 2.

2. Planning for inclusion

2.1 Working together for inclusion

2.1.1 Meeting the educational needs of all children and young people may at times require 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/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.

2.1.2 Local authorities and education providers must consider the need for support through the medium of English or Welsh in accordance with the child's linguistic needs as an integral principal of inclusive education.

Data for individual pupils

2.1.3 Collecting information on individual pupils, and sharing it across services, is key to ensuring that we have sufficient information on individuals to focus delivery of suitable provision. Collecting information occurs through several processes including:

- the Pupil Level Annual School Census (PLASC)
- the Lost Pupil Database
- integrated children systems.

The voice of pupils

2.1.4 Effective inclusion is characterised by a commitment to meeting the educational entitlement of all children and young people; and their involvement in the planning and decision-making involved in their learning.

2.1.5 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 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, may be more secure and effective pupils during the school years.

2.1.6 The Welsh Government is committed to the UNCRC as a basis for all its work concerning children and young people of Wales. The Welsh Government sets out its commitment in the Rights of Children and Young Persons (Wales) Measure 2011. Under section 2 of the Measure the Welsh Government has developed the Children's Rights Scheme 2014, which sets out the arrangements in place to ensure compliance with the Ministerial duty to have due regard to the UNCRC when exercising any of their functions. One of the guiding principles of the UNCRC is participation (Article 12) – every child has the right to say what they think should

happen when adults are making decisions that affect them and to have their opinions taken into account.

Section 12 of the Children and Families (Wales) Measure 2010[8] requires local authorities to make arrangements it considers suitable to promote and facilitate participation by children and young people in decisions of the local authority which might affect them, and to publish and keep up-to-date information about its arrangements. These include children and youth forums in all local authorities, and school councils in primary and secondary schools. The Welsh Ministers have issued statutory guidance related to this duty, which is contained in *Shared Purpose – Shared Delivery*. These arrangements are expected to include establishing children and youth forums in all local authorities.

2.1.7 The charity Children in Wales may be able to help children and young people have an active voice and to participate in decisions that affect them. This is a key theme in the new Children and Families Delivery Grant and will be a key feature of the work that Children in Wales will undertake.

2.1.8 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, and 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 such as the Meic advice line.

Family and community engagement

2.1.9 What happens outside school plays a significant part in how well children perform when they are in school. Family and community provide the context within which children and schools operate. Schools need to find innovative ways to engage with families and their communities, and step in to mitigate the impact where pupils are not well supported.

2.1.10 Among the most accurate predictors of a child's achievement are the family's socio-economic status, the home-learning environment and the expectations communicated by parents/carers. There is a close relationship between parental engagement in reading-related activities and pupils' academic performance. Children whose parents/carers regularly read to them during the first year of primary school perform better than those whose parents/carers read to them only once or twice a month or less. There is also a link between socio-economic status and the amount of parental engagement.

2.1.11 Many schools in disadvantaged communities find that engaging parents/carers is one of the biggest challenges they face. This is exacerbated when parents/carers have poor literacy or poor English/Welsh language skills. Although the evidence about what specific aspects of parental involvement improve attainment

[8] gov.wales/topics/people-and-communities/people/children-and-young-people/child-poverty/childrenandfamilies/?lang=en

is not conclusive, family and community engagement has a positive and significant effect on children's overall academic performance.

2.1.12 Community engagement also has a positive influence on learning outcomes. Schools that reach out and actively engage the community in the life of the school, and the school in the life of the community, have a positive impact on educational outcomes. This can be through contextualising learning; improving basic adult skills; supporting parents/carers to understand what their children are learning in school and how to help them; and providing positive role models.

2.1.13 There is a body of evidence, developed over the past thirty years, that demonstrates the significant and ongoing impact parental engagement has on the social and emotional well-being of children and young people. For example, children and young people who experience higher levels of parental involvement and a closer relationship with their parents/carers are less likely to exhibit behavioural problems and to engage in risky behaviours.

2.1.14 There is a considerable amount of excellent practice already in place to support families. Where schools have good connections with other agencies and programmes, and where school leadership has a clear vision of how to work with families and communities, we see some exemplary practice.

2.1.15 Family and community engagement (FaCE) is one of four key themes in *Rewriting the future: Raising ambition and attainment in Welsh schools*[9](Welsh Government, 2014), the Welsh Government's main programme for tackling the link between poverty and educational underachievement in schools.

2.1.16 However, engaging parents/carers, families and the wider community in children's learning can be a challenge for schools to do well. In June 2015, the Welsh Government has published guidance designed to support partnership working with families and communities. As well as describing what all schools should be doing, and what successful schools do, the guidance contains a toolkit of practical resources to encourage reflection and action planning, and examples of what other schools have done. The guidance is available on Learning Wales as part of a collection which links to the 'Education begins at home'[10] campaign.

Welsh Government initiatives for family and community engagement

2.1.17 Key Welsh Government initiatives include the following.

- The Communities First programme, which is targeted at the most deprived communities in Wales, with a specific focus on reducing inequalities in education, economy and health.

[9] wales.gov.uk/topics/educationandskills/schoolshome/raisingstandards/rewriting-the-future-schools/?lang=en
[10] learning.gov.wales/news/sitenews/education-begins-at-home/?lang=en

- The *FaCE the challenge together: Families and community engagement toolkit for schools in Wales*[11], which is designed to support partnership working with families and communities, provides a toolkit of practical resources.
- *Families First*[12] promotes the development of effective multi-agency systems of support for families, particularly those living in poverty. The programme places a clear emphasis on early intervention and prevention and on bringing organisations together to work with the whole family to help stop problems from escalating towards crisis. A key feature of the programme is that services are bespoke and tailored to individual family circumstances to maximise the effectiveness of interventions. Integrated family support services (IFSS) is a statutory service to provide targeted support through multi-agency teams of highly skilled professionals, using evidence-based interventions and techniques with children and families where there is some level of risk or welfare concern for the child.
- Adult community learning (ACL) programmes are funded by Welsh Government and delivered by local authorities and further education institutions.
- The *Pupil Deprivation Grant: What really works?*[13] (2014) and *Pupil Deprivation Grant: Essential guidance* (2015)[14] encourages schools to make use of their Pupil Deprivation Grant (PDG) allocation for parental engagement activities.

2.1.18 Since 2011, Estyn has published a series of three remit reports plus a summary report on tackling poverty and disadvantage in schools. Partnership working, and in particular engaging parents and carers in their children's education from the earliest age, ranks highly in all three.

A deprivation programme for Wales

2.1.19 A key theme of *Rewriting the future: Raising ambition and attainment in Welsh schools* (Welsh Government, 2014)[15] is family and community engagement. It sets out what schools, working with their parents/carers, can do to break down the barriers faced by children from deprived backgrounds. Schools should aim to become community-facing, reaching out to parents/carers in a true spirit of partnership and participation – where pupils and their families can learn together.

2.1.20 Flying Start is a Welsh Government targeted Early Years programme for families with children under four years of age who are living in disadvantaged areas of Wales. The entitlements offer a range of support that will provide quality early years provision for the child and a range of support to help parents/carers build skills and resilience. The four key elements are:

- quality part-time childcare for two to three-year-olds
- an enhanced health visiting service
- parenting support
- support for speech, language and communication.

[11] learning.gov.wales/resources/browse-all/family-and-community-engagement-toolkit/?lang=en
[12] gov.wales/docs/dhss/publications/111219ffguideen.pdf
[13] learning.gov.wales/resources/browse-all/pdg-what-really-works/?lang=en
[14] gov.wales/topics/educationandskills/schoolshome/deprivation/pdg-and-early-years-pdg/?lang=en
[15] wales.gov.uk/topics/educationandskills/schoolshome/raisingstandards/rewriting-the-future-schools/?lang=en

Estyn inspections

2.1.21 Estyn's Common Inspection Framework[16] includes 'partnership working'; a requirement to assess 'how strategically a school works with its partners to improve standards and wellbeing'. Estyn lists parents/carers amongst those partners.

Multi-agency partnerships

2.1.22 Important developments in multi-agency working have been achieved in Wales and, where this has worked well, the key has often been joint funding and/or management. Where these arrangements are not 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 negotiated on an ad-hoc basis.

2.1.23 Voluntary sector organisations have a major part to play in the delivery of inclusive services.

2.2 The role of local authorities and regional consortia

2.2.1 A national model for regional working has been in place since April 2014, in line with which local authorities provide school improvement services through four regional consortia.

2.2.2 The *National model for regional working* (Welsh Government, 2015)[17] document, which was updated in November 2015, provides full details of the services of the regional consortia which include:

- school improvement – which is defined as intervention, challenge and support strategies delivered by regional consortia that improve the learning and teaching in classrooms and lead to improved pupil attainment and progress at all levels and all contexts
- supporting and promoting the development of school improvement linked to pupil well-being, including issues such as behaviour and attendance.

2.2.3 Local authorities and regional consortia will discuss their plans around respective roles, functions and intended actions. Local authorities should share with regional consortia information on their proposals and decisions in relation to, among others:

- supporting the delivery of services to pupils with special educational needs (SEN)
- the organisation of behaviour support and the Education Welfare Service
- safeguarding arrangements for children and young people.

2.2.4 Local authorities' plans for inclusion form a key element of their single integrated plans.

[16] www.estyn.gov.wales/inspection/inspection-explained/common-inspection-framework
[17] gov.wales/topics/educationandskills/publications/guidance/national-model-for-regional-working/?lang=en

2.2.5 Within the plans, local authorities are required to set out their strategies for raising the standards and improving the performance of schools. This includes support for schools to improve attendance rates, provision available for all pupils, as well as support and advice for schools on pupil behaviour and for raising the standards of education for children and young people not educated in school.

2.2.6 Local authority strategies should be based on an analysis of current needs and forward projections of the needs profile over the next 5–10 years. They should set out a timetable for developing the capacity of mainstream schools and early years settings to meet the needs of all children and young people. Local authorities will need to work across the authorities as strategies must include information from health and social services. This will help 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. Health and social services departments will therefore have to be involved in the planning process and in demonstrating how the needs of these pupils can be met holistically across the statutory agencies.

2.2.7 Inclusion strategies should also clearly set out the future role of special schools and provision for education otherwise than at school (EOTAS) within the overall spectrum of education provision. There needs 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. Local authorities 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.

2.2.8 A key aspect of the local authority's role must be to work with schools to promote positive whole-school approaches and to support individual pupils to avoid exclusion. In particular they should offer advice and send clear policy messages on the following.

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

2.2.9 The consideration of 'managed moves'[18] provides pupils with the opportunity to make a fresh start in a new school. This practice can also reduce the need for permanent exclusions and minimise the negative outcomes associated with them. To maximise the likelihood of success, it is essential that managed moves are undertaken with the full consent and cooperation of schools, parents/carers and pupils and that all are made fully aware of the processes to follow. **Parents/carers should never be pressured into removing their child from school under threat of a permanent exclusion. Pupils must never be deleted from the school roll to encourage them to find another school place.**

[18] wales.gov.uk/topics/educationandskills/schoolshome/pupilsupport/managedmoves/?lang=en

2.2.10 Local authorities 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.

2.2.11 A checklist which offers questions for consideration by local authorities to help them evaluate the nature and quality of their current provision, and further develop inclusive strategies, is provided at Annex 1.

2.3 The role of schools

2.3.1 Schools, supported by local authorities and others, should actively seek to remove the barriers that can hinder or prevent pupils with high support needs from learning and participating. They do this in a positive and proactive way by employing strategies that contribute to the wider school improvement agenda.

Special schools, specialist resource bases and education other than at school (EOTAS)

2.3.2 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.

2.3.3 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 education
- having high expectations of all pupils with SEN, to raise levels of attainment and achievement and to measure these
- effectively integrating specialist staff and SEN pupils into the wider community.

2.3.4 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 in 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 6.

Dual placements

2.3.5 Dual placements can support effective inclusion, by helping to prepare children and young people for mainstream education and schools to meet their extra support

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.

2.3.6 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 per cent 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 per cent or more of their time at the mainstream school.

Independent schools

2.3.7 A child or young person with a statement of SEN can be placed and funded by an local authority in an independent school approved to cater for children and young people with SEN.

2.3.8 Children and young people may be placed at independent schools that have been approved by the Welsh Ministers under section 347 of the Education Act 1996. If the school has not been approved, the Welsh Ministers need to be satisfied that there is a place for the child at the school and consent to the pupil's placement there. The local authority must satisfy itself that the pupil's interests require the special educational provision to be made at a non-maintained school and that education at that particular school is appropriate. Where a local authority disagrees with what parents/carers want and does not name the independent or non-maintained school in the pupil's statement, the parents/carers, in certain circumstances, may have the right of appeal to the Special Educational Needs Tribunal for Wales (SENTW).

2.3.9 Often a child 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/carers are kept informed of their child's development and progress and that the child or young person and parents/carers are consulted in relation to the child's progress and placement. The local authority should maintain regular contact with the school to offer continued support and advice and to monitor progress and provision made for the child or young person. The local authority 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 appropriate support from those agencies.

2.3.10 Where the child or young person is looked after by a local authority the local authority will need to ensure that it is are fulfilling its duties as a corporate parent/carer to ensure both the safeguarding of the child or young person's well-being and the promotion of their educational achievement.

An inclusive curriculum

2.3.11 All schools and local authorities must have regard to the national curriculum in Wales, which includes a statement on 'Access for all pupils'.

2.3.12 The school curriculum for three to 19-year-olds in Wales, implemented in September 2008, established a curriculum for the twenty-first century.

2.3.13 It meets the needs of individual pupils while taking account of the broader needs of Wales. The school curriculum:

- focuses on the pupil
- ensures that appropriate skills development is woven throughout the curriculum
- offers reduced subject content with an increased focus on skills
- focuses on continuity and progression 3–19, by building on the Foundation Phase and linking effectively with the Learning Pathways14–19 programme
- is flexible
- supports Welsh Government policy, including: bilingualism, Curriculum Cymreig/Wales, Europe and the World, equal opportunities, food and fitness, sustainable development and global citizenship, and the world of work and entrepreneurship
- continues to deliver a distinctive curriculum that is appropriate for Wales.

2.3.14 The National Literacy and Numeracy Framework (LNF)[19] became a statutory curriculum requirement from September 2014. This is an inclusive framework.

2.3.15 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.

2.3.16 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 all children and young people
- differentiate learning through use of different lesson formats, pace, groupings, materials, and support

[19] learning.wales.gov.uk/resources/browse-all/nlnf/?lang=en

- 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 recognise 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
- value a wide range of achievement across the curriculum and beyond school.

High expectations and targets for inclusion for schools and local authorities

2.3.17 All schools, supported by local authorities, are required to set measurable targets which will help them to clarify their values, principles and purposes. The local authority should set clear targets for inclusion and support schools on the commitment to inclusion alongside improving academic standards.

2.3.18 Target-setting needs to be developed within the context of school self-evaluation and school improvement, and exemplify 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.

Training and development

2.3.19 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.

2.3.20 Local authorities should plan to ensure a steady supply of appropriately trained staff that 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 Welsh as well as others who can support pupils for whom English is an additional language.

2.3.21 Inclusion clearly has implications for practitioners' professional development. All courses of Initial Teacher Training leading to Qualified Teacher Status require trainees to be able to demonstrate that they understand the diverse learning needs of all pupils and endeavour to provide the best possible education for pupils to maximise their potential. Trainees are also required to provide evidence that they are aware of their responsibilities and legislative requirements relating to those with SEN and disabilities and understand the rationale for the inclusion of all children and young people in mainstream inclusive education.

2.3.22 The Masters in Educational Practice (MEP) for newly qualified teachers (NQTs) includes a Behaviour management learning pack, which those teachers who have been accepted onto the programme can choose to undertake. It provides an excellent introduction to behaviour management approaches, research and evidence. A revised learning pack, which provides practitioners with Master-level resources, is being developed to align with the delivery of the Behaviour management learning pack on the MEP Programme.

2.3.23 For those NQTs who are not on the MEP programme, schools and local authorities are encouraged to ensure that the NQTs focus on behaviour management during their statutory induction period. There is also specific reference to behavioural issues within the Practising Teacher Standards (PTS), which have to be met by all NQTs by the end of their induction year. The revised Behaviour management learning pack will be a resource suitable for all practitioners.

2.3.24 Professional standards introduced by the Welsh Government apply to the whole school workforce and form a backdrop against which practitioners are expected to regularly reflect on and assess their practice as part of the performance management process.

2.3.25 The purpose of these standards is to raise standards of teaching and improve pupil outcomes by setting out what is expected of practitioners so they can recognise and respond appropriately when equality of opportunity is challenged. The standards should be used to underpin the school's performance management system to review progress and identify any professional needs.

2.3.26 Local authorities and others can help schools develop and train their staff. 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 local authorities and other providers. The checklist below may be helpful to schools in evaluating current training and professional development needs.

2.3.27 Training for all staff should include information about the principles of inclusive education and equality. Training events can highlight successful practice, exploring schools' and local authorities' experiences of inclusion and what works. Events might also focus on:

- raising awareness of specific support needs that children and young people may have
- good practice when responding to the changing needs of children and young people
- exploring aspects of good practice when working together with parents/carers and other departments.

2.3.28 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. The NHS child and adolescent mental health

services (CAMHS) are active in many parts of Wales in providing training to schools, to help them fulfil their role as part of Tier 1 CAMHS services.

Training for senior managers

2.3.29 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. To achieve this they should ensure that they have sufficient knowledge and awareness of:

- 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
- the requirements of this guidance and appropriate knowledge of:
  - the *Special Educational Needs Code of Practice for Wales* (Welsh Government, 2004)
  - the handbook of good practice for children with special educational needs[20]
- equal opportunities legislation and Welsh Government guidance.

Responding to diversity

2.3.30 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 previously. However, a very small minority of children and young people have such specialised learning needs that they require identified direct contact staff that 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 signed support, or the effective use of behaviour management techniques. Local authorities in conjunction with schools should ensure access to specific specialist training. Local authorities 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 best practice

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

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

2.3.33 The Welsh Government's Learning Wales website provides both online learning and teaching materials and a network of links to selected websites, which offer high-quality content and information. With a clear improvement focus, each page has a range of tailored support and advice, centralising the information available and simplifying your search for the most recent information.

[20] gov.wales/topics/educationandskills/publications/circulars/Handbook_Good_Practice_SEN?lang=en

2.3.34 Learning Wales is complimented by the Hwb learning platform. Hwb enables schools to build on their own best practice and access a wide ranging community of schools where ideas and materials can be shared through mutual support to promote inclusion.

2.4 Monitoring, evaluation and intervention

2.4.1 In addition to specifically commissioned work from the Welsh Government, Estyn[21] monitors aspects of inclusion in its inspections of local authorities, schools, PRUs, colleges and training organisations.

2.4.2 Self-evaluation has always been a significant feature of good school and local authority development planning and has a high profile within the inspection process. It is important that schools, local authorities and other providers monitor and evaluate their own performance in relation to providing an inclusive education which caters for all pupils.

2.4.3 Quality Marks[22] provides a framework for self-review and evaluation by which schools and local authorities can develop more inclusive approaches to meeting the needs of pupils with SEN. Resources include a programme for action and checklists in relation to inclusive practices in schools.

2.4.4 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 pupils
- focussing inspection on priority areas of Welsh Government policy, including tackling social disadvantage and equal opportunity
- looking at the experience of all pupils.

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

- performance of groups of pupils, including pupils with SEN, who are eligible for free school meals (e-FSM) or belonging to vulnerable groups
- quality of care, support and guidance to pupils
- quality of provision for SEN
- quality of provision for equal opportunities.

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

- pupils' achievement – whether they 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

[21] www.estyn.gov.uk
[22] www.qm-alliance.co.uk

- the extent to which learning experiences respond to the interests of pupils 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.

Appeals, tribunals and complaints processes

2.4.7 The Special Educational Needs Tribunal for Wales (SENTW) is an independent Tribunal that adjudicates appeals about a child's SEN and against certain decisions made by local authorities. The decisions of the Tribunal are legally binding on both parties and there are statutory time limits for the local authority to comply with the Tribunal Orders. The SENTW also hears and decides claims of disability-related discrimination in schools in Wales.

2.4.8 Under the Education (Wales) Measure 2009[23] the existing right of parents and carers to make an appeal or claim to SENTW was extended to children and young people. The Measure also placed new duties upon local authorities in relation to the provision of information and advice about the new rights; dispute resolution; and the provision of independent advocacy services. Following piloting within two local authorities, these extended rights for children and young people, and new duties for local authorities, came into effect across Wales in January 2015.

2.4.9 The SENTW also hears claims of disability discrimination in schools in Wales, except in relation to those admissions and permanent exclusion decisions of maintained schools. It does hear appeals against fixed-term exclusions where discrimination against a disabled pupil is alleged to have taken place.

2.4.10 Parents/carers and pupils have the right to appeal against a permanent exclusion from maintained schools or PRUs. For schools, there is first an initial consideration by the school's discipline committee followed by the right to appeal to an independent appeal panel. Guidance on all aspects of exclusion is contained in *Exclusion from schools and pupil referral units*[24] (Welsh Government, 2015).

2.4.11 All governing bodies of maintained schools are required by section 29 of the Education Act 2002[25] to establish procedures for dealing with complaints from parents/carers, pupils, members of staff, governors, members of the local community and others. The law also requires governing bodies to publicise their complaints procedures. The Welsh Government has issued guidance to governing bodies in *Complaints procedures for school governing bodies in Wales* (Welsh Government, 2012)[26]. This includes specific guidance for governing bodies on procedures for complaints involving pupils. In establishing and publicising their complaints procedures, governing bodies must have regard to this guidance.

[23] www.legislation.gov.uk/mwa/2009/5/contents
[24] learning.wales.gov.uk/resources/browse-all/exclusion/?lang=en
[25] www.legislation.gov.uk/ukpga/2002/32/contents
[26] wales.gov.uk/topics/educationandskills/publications/circulars/schoolcomplaints/?lang=en

Powers of intervention

2.4.12 Where a school is 'eligible for intervention' there are a number of powers local authorities and the Welsh Government may use to drive up school improvement. These interventions are set out in sections 5 to 9 and 12 to 17 of the School Standards and Organisation (Wales) Act 2013.

Local authority powers of intervention

2.4.13 The Welsh Government expects that local authorities will act in the first instance. In February 2014, the Welsh Government issued statutory guidance[27] in relation to local authorities' powers of intervention. Where schools are eligible for intervention local authorities may exercise their powers to:

- require the governing body to secure advice or collaborate
- appoint additional governors
- suspend the school's right to a delegated budget
- constitute the governing body of interim executive members
- give directions to the governing body or headteacher or take any other steps.

The Welsh Government's powers of intervention

2.4.14 The Welsh Ministers have powers of intervention under sections 12 to 17 of the School Standards and Organisation (Wales) Act 2013, however it is expected that local authorities make decisive and effective use of their own intervention powers. Welsh Ministers will only use their own powers where the local authority has failed to do so, or done so inadequately.

2.4.15 Where a school is eligible for intervention, there are a number of powers Welsh Ministers can use. These are to:

- require governing bodies to secure advice or collaborate
- appoint additional governors
- require the governing body to consist of interim executive members
- direct federation of schools
- close a school
- give directions and take steps.

Where a governing body or headteacher has failed to exercise its functions or is exercising them unreasonably, section 17 of the Act enables the Welsh Ministers to give directions to the governing body or the headteacher or to take any other steps to deal with the grounds for intervention.

The role of the Children's Commissioner for Wales

2.4.16 The Children's Commissioner[28] was appointed in December 2000. The Commissioner's functions are provided for in Part 5 of the Care Standards Act 2000.

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[27] wales.gov.uk/topics/educationandskills/publications/circulars/schools-causing-concern/?lang=en
[28] www.childcomwales.org.uk

The Commissioner's principal aim in exercising the functions is to safeguard and promote the rights and welfare of children to whom Part 5 applies (which includes some young persons aged 18 or over). The role generally includes:

- reviewing the effect on children of the exercise (or proposed exercise) of functions of the Welsh Ministers and other specific bodies
- reviewing and monitoring the operation of various sorts of arrangements, e.g. arrangements for dealing with complaints (in connection with the provision of services in respect of children by or on behalf of Welsh Ministers and other specific bodies), to ascertain whether they are effective in safeguarding and promoting the rights and welfare of the children to whom the services are provided
- not just functions in relation to services directly provided for children, such as social care, health and education, but also areas such as transport, the environment, economic development and agriculture.

2.4.17 The Commissioner is able to act as an informed champion of children and their rights. The Commissioner's powers include authority, in connection with the functions, to give advice and information to any person, and include a duty to seek the views of children and young people about the exercise of the functions. The Commissioner can, in connection with their functions, 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.

2.4.18. The Commissioner 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.

2.5 Legal background

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

Duty to promote high standards of education

2.5.2 Under section 21(2) of the Education Act 2002, governing bodies are required to conduct a maintained school with a view to promoting high standards of educational achievement at that school. A similar duty applies to local authorities under section 13A of the Education Act 1996 in respect of the exercise of particular functions relating to the provision of education and training.

Human Rights Act 1998

2.5.3 Local authorities, schools and the police, as public authorities, must act compatibly with rights under the European Convention on Human Rights. Inconsistency or unfairness may lead to challenges under the Human Rights Act 1998[29], or public law.

[29] www.legislation.gov.uk/ukpga/1998/42/contents

Equality Act 2010

2.5.4 The Equality Act 2010 ('the 2010 Act')[30] consolidates and replaces the previous discrimination legislation for Wales, England and Scotland. It also strengthens the law to support progress on equality. Detailed guidance has already been made available for schools.

2.5.5 The Equality Act 2010 protects pupils from discrimination based on protected characteristics. The relevant protected characteristics are disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

2.5.6 Under the law, there are different categories of discrimination with differences in the legal framework surrounding them[31].

- Direct discrimination, which includes:
  - discrimination by association
  - discrimination by perception.
- Indirect discrimination.
- Combined discrimination.
- Discrimination arising from disability.
- Duty to make reasonable adjustments for disabled persons.
- Victimisation.
- Harassment.

The public sector equality duty

2.5.7 Section 149 of the Equality Act 2010 imposes a general duty on a public authority in the exercise of its functions to have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct prohibited by or under the Equality Act 2010
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

2.5.8 Having due regard means consciously thinking about the three aims of the general duty as part of the process of decision making. This means that consideration of equality issues must influence the decisions reached by schools. Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic

[30] www.legislation.gov.uk/ukpga/2010/15/contents
[31] www.equalityhumanrights.com/private-and-public-sector-guidance/guidance-all/protected-characteristics

- take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it
- encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

2.5.9 Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and those who do not share it involves having due regard, in particular, to the need to tackle prejudice, and to promote understanding.

Welsh-specific equality duties

2.5.10 In order for public bodies to better perform their public sector equality duty and to aid transparency, the Welsh Government brought in specific equality duties as set out in Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011[32] (the '2011 Regulations'), also known as the Welsh-specific equality duties.

Setting equality objectives and strategic equality plans

2.5.11 From April 2012 all governing bodies of maintained schools have been required to publish their strategic equality plan. The strategic equality plan sets out the school's equality objectives and the various arrangements for fulfilling specific duties set out in the 2011 Regulations[33]. Under those Regulations, the governing bodies of maintained schools must (among other things):

- have prepared and published equality objectives in respect of each protected characteristic, by 2 April 2012, or reasons for not doing so. In setting equality objectives, schools must have due regard to the need for objectives addressing the causes of any pay differences between a person or persons with a protected characteristic and those without it (where the difference is, or appears reasonably likely to be, related to the person(s) having that protected characteristic)
- review the equality objectives at least every four years
- set out the steps (taken or intended) to meet their objectives and how long they expect to take to meet each objective
- monitor progress towards meeting their objectives and the effectiveness of their steps.

Guidance

2.5.12 The Equality and Human Rights Commission has a number of guidance documents and a code of practice to help schools understand and comply with their duties under the Equality Act 2010, including those relating to exclusions. The Welsh Government strongly recommends that schools and those involved in exclusion

[32] www.legislation.gov.uk/wsi/2011/1064/contents/made
[33] www.equalityhumanrights.com/publication/technical-guidance-public-sector-equality-duty-wales

decisions and appeals, read the guidance and the code of practice available on the Equality and Human Rights Commission website[34].

Safeguarding

2.5.13 Everyone in the education service shares an objective to help keep children and young people safe. The guidance in this document contributes to the promotion of safeguarding and child protection arrangements. In considering what arrangements to make, they must have regard to the Welsh Government guidance, *Keeping learners safe* (2015)[35], published in January 2015. Under section 175 of the Education Act 2002, local authorities and the governing bodies of maintained schools must have regard to *Keeping learners safe* for the purpose of meeting their duties and to exercising their functions in a way that takes into account the need to safeguard and promote the welfare of children.

The definition of parent

2.5.14 Generally for the purposes of education law, 'parent' covers 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 has care of a child or young person. The Welsh Government has produced guidance for schools on the definition of parent and related terms[36]. 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.

2.5.15 Throughout this document, references to 'parent' mean each and every parent coming within the definition given at paragraph 2.5.14 (whether acting jointly or separately) and should not be taken to mean that provisions only apply to 'parent' in the singular. References to 'carer' are intended to cover those who are not parents, but may fall within that definition on the basis of having care for the child or young person.

Children Act 2004

2.5.16 The Children Act 2004 places a duty to cooperate on local authorities and various others including NHS trusts, local health boards, the police and youth offending teams (YOTs) within their area. Local authorities are required to make arrangements to promote cooperation between them and these partners with a view to improving the well-being of children within the local authority's area 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's services for the purposes of coordinating and overseeing arrangements. Statutory guidance deriving from the Children and Young People's Action Plans (Children Act 2004) has been replaced by the *Shared Purpose – Shared Delivery* guidance issued in December 2012. This guidance

[34] www.equalityhumanrights.com/private-and-public-sector-guidance/education-providers/schools-guidance/exclusion-from-school
[35] gov.wales/topics/educationandskills/publications/guidance/keeping-learners-safe/?lang=en
[36] gov.wales/about/foi/publications-catalogue/circular/2007/1552456/?lang=en

superseded previously published guidance relating to *Stronger Partnerships for Better Outcomes: Guidance on Local Co-operation under the Children's Act 2004* (National Assembly for Wales, 2006) and subsequent guidance on Children and Young People's Plans. The Children Act 2004 remains but Children and Young People's Plans have been incorporated into local authority single integrated plans.

2.5.17 The Welsh Government view is that local authorities should produce a single integrated plan replacing the Children and Young People's Plans, the Health, Social Care and Wellbeing Strategy, the Community Strategy and the Community Safety Partnership Plan thereby reducing complexity and duplication and freeing up resources.

The Rights of Children and Young Persons (Wales) Measure 2011

2.5.18 In 2011 Wales became the first of the devolved nations to incorporate children's rights into domestic law. The Measure places a duty on Welsh Ministers to have due regard to the requirements of the UNCRC, and the Optional Protocols, when exercising any of their functions. The intention of the Measure is to make children's rights a reality for children in Wales by ensuring effective legislation, policies and guidance that provide the very best education, health and public services for our children.

2.5.19 In preparing this guidance, due regard has been given to the UNCRC as a means to ensure that all consideration is given to how this guidance can protect and provide for pupils within the context of inclusion and support.

2.5.20 The Welsh Government's vision is that all children have access to their rights, as set out in the UNCRC. The UNCRC can be summarised into 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
- are not disadvantaged by poverty.

Welsh in education

2.5.21 Local authorities are required under the School Standards and Organisation (Wales) Act 2013 to:

- prepare a Welsh in Education Strategic Plan (WESP)
- consult upon this plan
- submit it to Welsh Ministers for approval and then publish the plan

- take all reasonable steps to implement it
- keep it under review.

The Welsh in Education Strategic Plans and Assessing Demand for Welsh-Medium Education (Wales) Regulations 2013 require local authorities to set out in the WESP their strategy for how they will improve Welsh-medium education for pupils who require extra support. This support arises from any difficulty that a pupil has in learning in relation to other pupils of the same age who do not have any difficulty in learning. Welsh Ministers have the power to approve WESPs approve them with modifications or to reject the WESP and impose their own.

3. Pupils who require extra support

3.1 Introduction

3.1.1 The majority of children and young people will require a form of extra support at some point during their education. This could take the form of extra help with a particular subject that the pupil has had some difficulties with or catch-up reading following a short period of absence due to illness. Differentiated teaching practices which recognise and respond to the needs of individual pupils are a key component of all high-quality education.

3.1.2 There are a wide range of circumstances in which children and young people may require extra support, either in the short- or long-term. 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 among 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 and a diverse range of support mechanisms need to be provided within a whole-school approach.

3.1.3 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. Estyn's thematic review report *Action on bullying* (2014)[37] recommends, therefore, that schools promote a whole-school approach to inclusion through the celebration of diversity, their school ethos, the curriculum, anti-bullying policies and personal and social education (PSE) lessons. Anti-bullying strategies are outlined in our *Respecting others: Anti-bullying overview* (Welsh Government, 2011)[38].

3.1.4 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.

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

3.1.6 Local authority support services can provide:

- advice to teachers (e.g. on teaching techniques and strategies, classroom management and curriculum materials)
- support for curriculum development

[37] www.estyn.gov.wales/thematic-reports/action-bullying-june-2014
[38] learning.wales.gov.uk/resources/browse-all/respectingothers/?lang=en

- direct teaching or practical support for class teachers
- part-time specialist help or access to learning support assistants.

3.1.7 Newly qualified teachers have had the opportunity to follow a practice-based Masters programme, which includes modules on behaviour management. These resources are available to anyone in the profession through the Learning Wales website[39].

Assessment

3.1.8 All pupils are entitled to have an accurate and fit for purpose assessment of their educational needs. The Welsh Government's *Routes for learning*[40] resource can be used to assess pupils who have profound learning difficulties and additional disabilities and who are working at very early levels of development.

3.1.9 Beyond these early levels, Foundation Phase outcomes and national curriculum levels have been written to assess pupils working below National Curriculum Level 1.

3.1.10 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. When considering how these individuals' needs can be best addressed, it is worth bearing in mind that section 312 (3) of the Education Act 1996 confirms that a child will not be taken as having a learning difficulty solely because the language (or form of the language) in which they are, or will be, taught is different from a language (or form of a language) which has at any time been spoken in their home.

3.1.11 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

3.1.12 Transition can encompass all changes we can experience throughout our lives. In educational terms it can be the movement from:

[39] learning.wales.gov.uk/yourcareer/mastersineducationalpractice/?lang=en
[40] learning.wales.gov.uk/resources/browse-all/routesforlearning/?lang=en

- early years to primary education
- from primary to secondary education
- from secondary to further education or employment.

3.1.13 Whatever the transition phase or however it is termed, when it involves children and young people who require extra support, the effective working between the range of organisations involved and the timely transfer of information becomes critical in ensuring the smooth transition between settings.

3.1.14 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. 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[41]
- annual reviews of statements of special educational needs (SEN) for children in Year 6 must be amended by 15 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[42].

Gender differences

3.1.15 Across the pupil groups identified as being at risk of disengagement from school, a larger proportion of those permanently excluded are male pupils. Boys' attainment levels are significantly less than those of girls. In 2013/14, there was a difference of 7.7 per cent achieving Level 2 threshold including a GCSE grade A*−C in English or Welsh (First Language) and Mathematics at Key Stage 4.

3.1.16 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. This can lead to the scale of exclusion and disengagement going unrecognised and the particular needs of disaffected girls being inadequately met. Schools should ensure that inclusion policies address the diverse needs of male and female pupils.

Counselling

3.1.17 Some pupils who require extra support may benefit from counselling. Local authorities are required, under the School Standards and Organisation (Wales) Act 2013[43] to make reasonable provision for a counselling service for children and young people aged between 11 and 18 in their area and pupils in Year 6 of primary school in their area.

3.1.18 An independent evaluation of the Welsh School-based Counselling Strategy[44] found that 'link' teachers reported counselling services had made a positive impact

[41] www.legislation.gov.uk/wsi/2011/1942/made
[42] learning.gov.wales/docs/learningwales/publications/131016-sen-code-of-practice-for-wales-en.pdf
[43] wales.gov.uk/legislation/programme/assemblybills/schoolstandards/?lang=en
[44] gov.wales/statistics-and-research/evaluation-welsh-school-based-counselling-strategy/?lang=en

on the attainment, attendance and behaviour of pupils (65 per cent, 69 per cent and 80 per cent respectively).

3.2 Children from families in difficult circumstances

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

3.2.2 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
- parents'/carers' divorce or separation or parents/carers in frequent conflict
- formation of a new family unit involving new adult partnerships
- domestic violence and/or child abuse within the family
- family stress resulting from unemployment, low income, alcohol and drug abuse, mental illness or a parent/carer serving a custodial sentence.

3.2.3 Children may express the pain they feel in a variety of ways, and boys and girls may react differently. Some pupils may express their pain through inappropriate behaviour; while these pupils may need to be made aware that their behaviour is inappropriate, they also need ways to express their pain, anger or confusion. Alternatively, some pupils may develop anxiety, which could result in school phobia developing (please refer to subsection 3.16). Pupils may wish to speak in confidence to other children, teachers or a trusted adult, or to use the independent counselling service; 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.

3.2.4 A major protective factor in a child's life is having good relationships and succeeding in school. Through their day-to-day contact with pupils, education staff have a crucial role to play in enabling children to have positive experiences in school – academically and through good relationships – as well as in ensuring and observing children's well-being. Education welfare officers (EWOs) and educational psychologists may, through their work with schools, have knowledge of a particular child. With parental agreement, these concerns may be discussed with the local social services department. Social services departments may be able to assist and agree a way forward if a child is thought to be in need.

3.2.5 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 their 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. An initial assessment will be

undertaken, using the dimensions in the *Framework for the Assessment of Children in Need and their Families* (National Assembly for Wales and the Home Office, 2001)[45] when a child and family are referred to a social services department for help with difficulties identified at school. Where a child is found to be experiencing difficulties, the help offered could be tailored to respond to the particular needs of that child and their family.

3.2.6 Domestic abuse has a devastating effect on children. There is a strong link between domestic abuse and the abuse and neglect of children. One in three child protection cases shows a history of domestic violence to the mother. Young people in violent households are three to nine times more likely to be injured and abused, either directly or while trying to protect a parent/carer. Schools and local authorities need to be aware of the need to support children who are at risk from, are the subject of, or are living in a household with violence or abuse. The Welsh Government has issued amended guidance on safeguarding children in education. The amended guidance has been significantly strengthened to build on existing child protection procedures in order to assist teachers and support staff to both identify the indicators of this experience and respond appropriately to those young people affected[46].

3.2.7 Schools and local authorities also need to be aware of the need to support children of parents/carers who are substance abusers.

3.2.8 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, such as counselling services, which teachers need to be made aware of so that they can refer children where appropriate.

3.2.9 The Families First[47] programme can provide valuable support to those families who are facing difficult circumstances. Families First promotes the development of effective multi-agency systems of support for families, particularly those living in poverty. The programme places a clear emphasis on early intervention and prevention and on bringing organisations together to work with the whole family to help stop problems from escalating towards crisis. Support provided by the Families First programme is bespoke, intensive and based on identified local need. The programme has built strategic links with a wide range of agencies which is exemplified in the delivery of the Team Around the Family model. In many instances, schools form a central part of the Team Around the Family, often taking a lead coordinating role. It is important for teachers to be aware of how the Families First programme works in their local area and the referral mechanisms available to them.

3.3 Pupils with special educational needs

3.3.1 The Welsh Government is currently considering proposals to replace the existing legislation surrounding SEN with a new statutory framework for supporting children and young people with additional learning needs. For now the existing

[45] gov.wales/topics/health/publications/socialcare/guidance1/childreninneed/?lang=en
[46] gov.wales/docs/dcells/publications/150114-keeping-learners-safe.pdf
[47] gov.wales/docs/dhss/publications/111219ffguideen.pdf

legislation found in Part IV of the Education Act 1996[48], and the *Special Educational Needs Code of Practice for Wales* (Welsh Government, 2004)[49] is still in force.

3.3.2 Children have SEN if they have a learning difficulty which calls for special educational provision to be made for them. Children have a learning difficulty if they:

- have a significantly greater difficulty in learning than the majority of children of the same age
- 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 authority
- are under compulsory school age and are likely to fall within the definitions given above or would be likely to do so if special educational provision was not made for them (section 312 of the Education Act 1996).

3.3.3 The Special Educational Needs and Disability Act 2001[50] delivered a strengthened right to a mainstream education for children and young people with SEN by amending the Education Act 1996. Under sections 316 and 316A of the Education Act 1996, a child or young person must be educated in a mainstream school unless they have a statement of SEN and it would be incompatible with the wishes of the parent/carer or the provision of efficient education for other children. Where parents/carers want a special school place their wishes should be listened to and taken into account.

3.3.4 The *Special Educational Needs Code of Practice for Wales* (Welsh Government, 2004) advises the adoption of a range of strategies which help 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 Action and Action Plus 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.

3.3.5 Early years' practitioners and schools will need to determine which form of action is appropriate for each individual. They will need to assess a pupil's overall progress, their attainment 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 SEN and considering how they might be made more effective.

3.3.6 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/carers and the children and young people themselves will ensure that everyone involved understands the

[48] www.legislation.gov.uk/ukpga/1996/56/part/IV
[49] learning.wales.gov.uk/resources/browse-all/special-education-needs-code-of-practice/?lang=en
[50] www.legislation.gov.uk/ukpga/2001/10/contents

responses of the professionals concerned and this in turn will lead to a better quality of provision.

3.3.7 The School Information (Wales) Regulations 2011[51] set out the duties of maintained schools and local authorities to publish information. This includes the information provided pursuant to the Education (Special Educational Needs) (Information) (Wales) Regulations 1999[52] such as information about the links between maintained schools and child health services, social services and the Educational Welfare Service and any voluntary organisations which work on behalf of children with SEN. 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.

3.3.8 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 intervention can be made. As soon as there are difficulties, staff should liaise with the special educational needs coordinator (SENCo) and the pupil's parents/carers.

3.3.9 Some children and young people's SEN – e.g. moderate or specific learning difficulties (including dyslexia) – may not emerge until children start school or even later. Often SEN are masked by other difficulties such as emotional or behavioural difficulties, disaffection or by a child using their own coping strategies to avoid being 'different'. It is equally important that these children and young people's SEN are identified as early as possible and that appropriate intervention strategies are put into place.

3.3.10 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.

3.3.11 Where a child is considered to have SEN and is deemed to be requiring support at early years or School Action or School Action Plus they should have an individual education plan (IEP). The IEP, which should be drawn up in partnership with parents/carers 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.

3.3.12 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/carers and the child.

3.3.13 Other than in the most exceptional circumstances, schools should avoid permanently excluding pupils with statements of SEN. Schools should also make

[51] www.legislation.gov.uk/wsi/2011/1944/made
[52] www.legislation.gov.uk/uksi/1999/1442/contents/made

every effort to avoid excluding pupils who are being supported at School Action or School Action Plus under the *Special Educational Needs Code of Practice for Wales* (Welsh Government, 2004). Further guidance on exclusions is given in the guidance document *Exclusion from schools and pupil referral units* (Welsh Government, 2015).[53]

3.4 Disabled pupils

3.4.1 Inclusion within mainstream schools is not sufficient in itself to ensure disability equality in schools. Pupils with a disability have the right to pursue their education without unfair discrimination.

3.4.2 The Equality Act 2010[54] gives the responsible body for a school a duty to make reasonable adjustments to prevent discrimination (see section 85(6) and Schedule 13).

3.4.3 What constitutes a reasonable step or steps will depend on all of the circumstances of the individual case. The Equality Act Codes of Practice[55] published by the Equality and Human Rights Commission set out a number of examples that can be deemed to be reasonable adjustments of what would constitute disability discrimination.

3.4.4 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/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 from 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.

3.4.5 Unless a pupil's inclusion in mainstream education is against the wishes of the parent/carer, mainstream education can only be refused where the inclusion of a child with a statement of SEN would be incompatible with the efficient education of others. Before taking this decision a local authority must first determine whether there are reasonable steps which could be taken to prevent this incompatibility. Some of the factors which might be taken into account when considering what is reasonable include:

- 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

[53] learning.wales.gov.uk/resources/browse-all/exclusion/?lang=en
[54] www.legislation.gov.uk/ukpga/2010/15/contents
[55] www.equalityhumanrights.com/legal-and-policy/legislation/equality-act-2010

- 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, in particular whether the shift in resources towards meeting the needs of one pupil potentially compromises the education of other children
- the extent of any disruption taking the step would cause
- the extent to which the step is compatible with the needs of the child – for example in the case of some children with SEN, the provision of full time one-to-one support may facilitate their presence in a mainstream school or classroom, but would reinforce dependency and hinder the acquisition of independence.

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

3.4.7 Schedule 10 of the Equality Act 2010[56] places a duty on all local authorities to prepare an accessibility strategy. The aims of this strategy include increasing the extent to which disabled pupils can participate in a school's curriculum. It also places a duty on the responsible bodies for schools to prepare accessibility plans.

3.4.8 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 PRUs or maintained nursery schools where the local authority is the responsible body. The local authority accessibility strategy should cover these institutions. The planning duties do not cover private and voluntary providers of early year's education, except nursery education provided by independent schools as defined by section 463 of the Education Act 1996[57].

3.4.9 Local authority 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.

3.4.10 Disability discrimination happens when a disabled person is treated less favourably than someone who is not disabled, for a reason related to their impairment or health condition, and this cannot be justified. The Special Educational Needs Tribunal for Wales (SENTW) can hear and decide upon a parent, carer or child's claim in relation to disability discrimination in relation to schools[58].

[56] www.legislation.gov.uk/ukpga/2010/15/schedule/10
[57] www.legislation.gov.uk/ukpga/1996/56/section/463
[58] sentw.gov.wales/?skip=1&lang=en

3.5 Pupils from minority ethnic groups

3.5.1 The cultural, social and linguistic diversity of Wales continues to be reflected in our schools, where almost one in ten pupils are from an ethnic minority background and over 100 languages and 140 dialects are spoken.

3.5.2 The Welsh Government is committed to supporting the success of pupils from all backgrounds. It is recognised that some pupils from minority ethnic backgrounds – those who need help with language skills, or who are at risk of underachieving for other reasons – may need additional support to embrace fully the educational opportunities available in Wales and to achieve their true potential.

3.5.3 This is particularly true for pupils from minority ethnic backgrounds that require support learning English and/or Welsh as an additional language. This is because less developed language skills can make it difficult for pupils to access the curriculum, thereby putting them at risk of underachieving.

3.5.4 English as an additional language and/or Welsh as an Additional Language (EAL/WAL) is the generic term for the teaching of English/Welsh language skills to school children to meet their legal entitlement to a full education. There are a number of EAL/WAL teaching strategies which impart social and academic English/Welsh language skills, and progress is monitored by reference to a five-stage model. The five stages begin with a child being 'new to English or Welsh'; they end with 'full fluency', when the pupil is able to operate across the curriculum to a level of competence equivalent to that of a pupil who uses English/Welsh both as their first language and without the need for any EAL/WAL support.

3.5.5 The process can take from 7–10 years. Consequently, language and achievement support needs to be long-term. Most local authorities run centralised services of specially trained EAL/WAL teachers and bilingual teaching assistants. Some staff members are based permanently in one school, others are peripatetic, particularly in more rural authorities. Local authorities retain the flexibility to adapt staffing allocations to changing numbers and needs. In a few cases, local authorities delegate money directly to schools to contribute to staffing support costs.

3.5.6 EAL/WAL works best when the pupils are not distanced from the main curriculum, and when the EAL/WAL work complements their mainstream subjects and is made relevant to the curriculum. Specialist EAL/WAL teachers lead on a pupil's language development supported by teaching assistants fluent in the pupils' home languages working closely with mainstream teachers. Many local authority ethnic minority achievement services offer mainstream teachers training to up-skill them in supporting EAL/WAL pupils. Schools demonstrating best practice will also encourage pupils to gain GCSE passes in their first language – this not only gives the pupil a valuable examination pass but also boosts the individual's confidence.

3.5.7 The parents/carers of a small proportion of minority ethnic pupils new to Wales register their children at Welsh-medium or bilingual English-Welsh schools and these pupils require support to learn both English and Welsh for curriculum learning.

3.5.8 The Welsh Government has produced a DVD on supporting ethnic minority pupils called *Many Voices, One Wales* which was sent to every school in Wales in 2010.

3.6 Asylum-seeking and refugee children

3.6.1 Pupils whose families are seeking asylum, or who have refugee status, may experience many of the difficulties outlined for pupils from minority ethnic groups. Additionally, some children, referred to as unaccompanied asylum-seeking children, may experience added trauma as a result of being separated from their families.

3.6.2 The Welsh Government *School admissions code* (2013)[59] applies to all children when they are residents in a local authority area and includes children seeking asylum. If they are of statutory school age, asylum-seeking children arriving in Wales are entitled to a school place for as long as they remain here.

3.6.3 Local authorities are required by law to provide sufficient primary and secondary education for their area. This includes consideration of pupils' varying ages, abilities and aptitudes. They are also required to have regard to the need to secure special educational provision for pupils who have SEN, and to promote high standards in the provision of education (see sections 13, 13A and 14 of the Education Act 1996). Local authorities may have duties towards children and young people even if they are not 'ordinarily resident' in that local authority area – see the Education (Areas to which Pupils and Students Belong) Regulations 1996[60].

3.6.4 School provides an opportunity to meet other children and make friends. The importance of education to the social inclusion of asylum-seeking pupils cannot be over-emphasised. 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 their education for several years. Some may have lost relatives or witnessed extreme violence and may suffer from emotional or behavioural problems as a result. Unaccompanied children have the additional problem of not having the support of their parents or carer. The availability of counselling should be explored for those pupils who need it. Practical support such as school uniforms[61], free school meals[62] and pupil transport[63] is also encouraged.

3.6.5. Parents/carers 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/carers and pupils to understand the education system in Wales.

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[59] wales.gov.uk/topics/educationandskills/schoolshome/admissions-and-appeals-code/?lang=en
[60] www.legislation.gov.uk/uksi/1996/615/regulation/2/made
[61] wales.gov.uk/topics/educationandskills/schoolshome/parents/uniform/?lang=en
[62] wales.gov.uk/topics/educationandskills/schoolshome/foodanddrink/freeschoolmeals/?lang=en
[63] wales.gov.uk/topics/educationandskills/allsectorpolicies/learner-travel/?lang=en

3.7 Gypsy, Roma and Traveller children

3.7.1 Romani Gypsies have been recognised in law as a racial group since 1988 and Irish Travellers have had similar legal recognition as an ethnic group since 2000. Both groups are covered by the Equality Act 2010.

3.7.2 There are a number of groups covered by the generic terms 'Gypsy and Traveller' and these are set out in guidance circular 006/2009 *Collecting and Recording Data on Pupils' Ethnic Background* (Welsh Government, 2009)[64] and include:

- Traveller of Irish Heritage
- 'New' Traveller
- Occupational Traveller
- Other Traveller
- British Gypsy/Gypsy Roma
- Gypsy/Gypsy Roma from other countries
- Other Gypsy/Gypsy Roma.

3.7.3 Gypsy and Traveller children have the poorest attainment rates of any pupil group and are the group most at risk of disengagement from school. For those Gypsy and Traveller children with a mobile lifestyle, interrupted learning and poor attendance rates are common. Levels of both authorised and unauthorised absence are more than twice the national average for Gypsy and Traveller pupils. Free school meal entitlement for these children is three times the national average.

3.7.4 Gypsy and Traveller parents/carers will often have had negative experiences of secondary school. Coupled with their cultural and moral concerns about sex education, drugs culture and teenage behaviour, there is a common reluctance among many Gypsy and Traveller parents/carers to allow their children to remain in school throughout secondary education and many pupils do not transfer to Key Stage 3. Another fundamental barrier to school attendance is racist bullying and name-calling.

3.7.5 One of the barriers to school attendance is racist bullying and name-calling. Parents/carers have cited racist bullying a common reason for low attendance or withdrawal from school. The Welsh Government and Show Racism the Red Card have produced an online toolkit (available on Hwb) to support education practitioners in settling these pupils in school. It complements *Travelling together*, a suite of resources published on Learning Wales in 2014, to promote the integration of Gypsy and Traveller culture into the national curriculum. The toolkit also includes activities to promote equality and tackle racism in the classroom[65], and explains the importance of recognising, responding to and recording racist incidents.

3.7.6 Poverty of aspiration and opportunity are issues for many Gypsy and Traveller children who may have to overcome cultural barriers within their own communities

[64] gov.wales/docs/dcells/publications/090716circular0062009en.pdf
[65] hwb.wales.gov.uk/Resources/browse?sort=recommendation&language=en

before they can begin to benefit from school life. Most Gypsy and Traveller parents/carers recognise the benefits of primary education for their children and are keen for them to attend school for Foundation Phase and Key Stage 2 to gain functional literacy and numeracy skills. However, Gypsies and Travellers generally view school as providing only part of their children's education, with the rest provided within the travelling community. This includes boys working with their fathers from a relatively young age and girls helping significantly with childcare and domestic tasks as preparation for running a home and raising a family. High poverty rates may also impact upon attendance as younger members of the family may be required to support the family income.

3.7.7 Despite the cultural mores that can affect attendance, there are now more Gypsy and Traveller pupils at school in Wales than ever before and the proportion that are at secondary school is increasing. Securing and maintaining the regular attendance of Gypsy and Traveller children may be facilitated through the involvement of educational welfare officers (EWOs). Outreach work to the Gypsy and Traveller communities may be undertaken by EWOs working in close liaison with advisory teachers. Cultural awareness training for EWOs may help to ensure trusting relationships can be formed with parents/carers.

3.7.8 Initial visits to Gypsy and Traveller families may benefit from introductions provided by local authority Traveller education services (TES) representatives who have already established a relationship with the community. It is vital for TES to gain the trust of the communities and this is often achieved by building holistic relationships characterised by high levels of pastoral care. Welsh Government research has shown the role of the TES to be pivotal in facilitating engagement of Gypsy and Traveller families at different stages of education. *Gypsy and Traveller Education: Engaging Families – A Research Report* (Welsh Government, 2014) contains recommendations for ensuring effective engagement of these families in education.

3.7.9 The last few years have seen increasing numbers of European Roma children arriving in Wales (especially Cardiff and Newport) where their families choose to settle. Schools receiving Roma pupils may need to provide dedicated support for these pupils due to a lack of experience of mainstream or any schooling in the country of origin. As a result, a significant number of Roma children will not have any written literacy skills and only verbal skills in Romanes, which may give rise to more complex language acquisition needs. However, research by Equality UK suggests that these children can be successfully settled in school particularly if teachers are able to recognise means of building enthusiasm, by encouraging any musical talents, for instance.

3.7.10 Gypsies and Travellers, and especially Roma, may be reluctant to self-ascribe their ethnicity through the Pupil Level Annual Schools Census due to fear of discrimination or lower expectations of educational attainment by teachers. TES workers may be able to provide advice regarding ways to increase disclosure from these pupil groups, which would support schools to track the educational performance of these pupils.

3.7.11 *Moving Forward – Gypsy Traveller Education* (Welsh Government, 2008)[66] provides guidance for local authorities and schools on supporting Gypsy and Traveller pupils. There have been significant developments since then including new schools' admissions and attendance regulations, which mean that more schools will accept Gypsy and Traveller pupils. These include a system for dual registration for children at two different schools when their family is travelling for work and also a new attendance code 'T' for travelling. An online curriculum resource *Travelling together* (Welsh Government, 2014)[67] on the Learning Wales website contains a wide range of materials covering Gypsy and Traveller history and culture. It is designed to dispel stereotypes and to provide a culturally appropriate curriculum for Gypsy and Traveller pupils.

3.7.12 Save the Children's Travelling Ahead project supports the participation of young Gypsies and Travellers in Wales by establishing local youth forums which provide a forum for young Gypsies and Travellers in Wales to have a say on the issues that concern them. The Travelling Ahead website contains a 'toolkit'[68] of resources for professionals working with Gypsy and Traveller pupils. The resource is designed for use in all schools to increase cultural awareness of Gypsies and Travellers within the curriculum.

3.8 Children of migrant workers

3.8.1 The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families[69] defines a 'migrant worker' as:

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

3.8.2 Due to the often transient nature of their lifestyles and English not being the first language for the majority of migrant workers' children, many of the approaches highlighted earlier for supporting pupils with EAL and Gypsy and Traveller children should be adopted to support the successful integration of migrant workers' children into school life in Wales.

3.9 More able and talented pupils (MAT)[70]

3.9.1 The term 'more able and talented' (MAT) is used to describe pupils who have extra support needs and require opportunities for enrichment and extension that go beyond those provided for the 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 areas.

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[66] learning.wales.gov.uk/resources/browse-all/travellereducation/?lang=en
[67] learning.wales.gov.uk/resources/browse-all/travelling-together/?lang=en
[68] www.travellingahead.org.uk/oursite/our-workers
[69] www2.ohchr.org/english/bodies/cmw/cmw.htm
[70] learning.gov.wales/resources/browse-all/quality-standards-in-education-for-more-able-and-talented-pupils/?lang=en

3.9.2 Some able pupils, 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.

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

3.9.4 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 MAT pupils will therefore benefit all pupils.

3.9.5 To enable the provision of high-quality, stretching learning experiences for MAT pupils, quality standards in education for MAT pupils and a training pack for MAT coordinators have been developed. These materials can be accessed via the Learning Wales[71] website and are aimed at supporting schools and local authorities in identifying, assessing and providing for MAT pupils as part of a whole-school improvement agenda.

3.10 Children and young people looked after by the local authority

3.10.1 Practitioners should ensure that they are aware of their legal duties arising from the Social Services and Well-being (Wales) Act 2014[72].

3.10.2 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.

[71] learning.wales.gov.uk/resources/browse-all/mat-training-pack/?lang=en
[72] www.legislation.gov.uk/anaw/2014/4/pdfs/anaw_20140004_en.pdf

3.10.3 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.

3.10.4 *Guidance on the Education of Children Looked after by Local Authorities* (National Assembly for Wales, 2001)[73] highlights these issues and provides guidance to help local authorities in their role as 'corporate parents'. This includes the requirement for schools to designate a member of staff to act as a resource and advocate for children and young people in the care of the local authority. To make joint working a reality it is critical that the designated person understands the care system and the impact for the pupil of being looked after by the local authority. Local authorities and social services departments should coordinate suitable training of designated members of staff and maintain an up-to-date list of designated leads in schools in their area.

3.10.5 The Welsh Government published its education strategy – *Raising the ambitions and educational attainment of children who are looked after in Wales*[74] – on 28 January 2016. The strategy identifies areas where action needs to be targeted to better support the education of children who are looked after. It focusses primarily on action to support children and young people of compulsory school age, but also ensures that arrangements take account of the need for effective transition to further or higher education and employment.

3.10.6 An accompanying action plan sets out the Welsh Government's commitment through individual actions, working with all key partners, to improve educational outcomes for children who are looked after. Delivery against the action plan will be monitored annually, using data sources to check progress and ensure the support which is in place is working effectively.

3.10.7 The Social Services and Well-being (Wales) Act 2014 has strengthened the role of local authorities in the provision of education as corporate parents. Section 78(2) confirms 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.

3.10.8 The Adoption and Children Act 2002[75] also places duties on local authorities 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 set out in the Adoption Support Services (Local Authorities) (Wales) Regulations 2005[76] which came into force in December 2005.

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[73] wales.gov.uk/about/foi/publications-catalogue/circular/circulars2001/NAFWC022001?lang=en
[74] gov.wales/topics/educationandskills/schoolshome/deprivation/educational-attainment-of-looked-after-children/?lang=en
[75] www.legislation.gov.uk/ukpga/2002/38/contents
[76] www.legislation.gov.uk/wsi/2005/1512/regulation/12/made

Non-attendance

3.10.9 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 one in four children aged over 14 who are looked after by the local authority did not attend school.

3.10.10 To improve the attendance of pupils who are looked after by the local authority, *Guidance on the Education of Children Looked After by Local Authorities*[77] highlights that:

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

Exclusion

3.10.11 Young people who are looked after by the local authority are over-represented in exclusions. 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.

3.10.12 Local authorities need to work closely with schools 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 local authority 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

3.10.13 The guidance on the education of looked after children states that:

- it expects local authorities to set a maximum time limit of 20 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 20 days will be exceeded, they should provide temporary alternative education until the case is resolved.

[77] wales.gov.uk/about/foi/publications-catalogue/circular/circulars2001/NAFWC022001?lang=en

Personal education plans (PEPs)

3.10.14 Every child looked after by the local authority should have a personal education plan (PEP), which will form an integral part of the child's overall care and support plan. PEPs 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 SEN
- establish clear goals and act as a record of progress and achievement.

3.10.15 The social worker allocated to the pupil has responsibility for initiating the process of providing the PEP. The social worker contacts the school where the pupil is to be placed, and the designated person responsible for pupils who are looked after by the local authority (such as the looked after children education coordinator) 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. The PEP should be treated as a 'living document' which helps create a shared understanding about how everyone can contribute to helping the child to succeed. It should be reviewed in partnership with the school, the child and the child's carers, as part of the statutory review of the wider care and support plan for looked after children.

3.11 Pupils with healthcare needs

3.11.1 The Welsh Government has produced detailed guidance entitled *Access to Education and Support for Children and Young People with Medical Needs* (2010)[78], which aims to provide advice to schools and local authorities on meeting the educational needs of children and young people with healthcare needs. Healthcare needs can have a lasting effect on a pupil's social development, ability and confidence in educational attainment. It is important to ensure seamless support services are available to meet their needs and allow them continuity in accessing educational opportunities at school, at home, in hospital, or another setting and in cooperation with parents/carers and the school the child normally attends.

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

3.11.3 Most pupils with healthcare needs are able to attend school and with some support, can fully access the national curriculum and associated activities. However,

[78] learning.wales.gov.uk/resources/browse-all/education-and-support-for-children-and-young-people-with-medical-needs/?lang=en

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 an independent healthcare plan (IHP) to ensure the safety of such pupils.

3.11.4 Pupils who have ongoing healthcare needs 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 local authority. In these cases it is especially important that there is effective communication between hospital provision and home local authorities.

3.11.5 Section 19 of the Education Act 1996[79] makes it the responsibility of local authorities to provide education for children who are unable to attend school due to illness.

3.11.6 Local authorities also have the power to provide suitable education otherwise than at school (EOTAS) for young people over compulsory school age but under the age of 19. Suitable education is defined under section 19(6) of the Education Act 1996 as efficient education suitable to the age, ability, aptitude and to any SEN of the child (or young person) may have.

3.11.7 The primary aim of educating pupils with healthcare needs is to minimise, as far as possible, the disruption to normal schooling by continuing education as normally as the incapacity allows.

3.11.8 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. Subsection 3.16 of this section provides guidance on supporting pupils who are refusing school or who have school phobia.

3.11.9 Improving the emotional and mental health of children and young people is a key priority for the Welsh Government, recognising that not only can it ameliorate more serious mental ill health in later life, but by addressing problems early, it can have a positive affect on the social and educational attainment of the young person.

3.11.10 As part of the Welsh Government's *Together for Mental Health – Delivery Plan: 2012–16* (2012)[80], a key action is to develop guidance to ensure that local authorities continue to provide a counselling service at each secondary school as of April 2013. This is now in place and funding has now been subsumed within the Revenue Support Grant since April 2013.

3.11.11 The Welsh Government's all-ages mental health strategy for Wales, *Together for Mental Health*[81], sets out the aim of people of all ages experiencing

[79] www.legislation.gov.uk/ukpga/1996/56/section/19
[80] gov.wales/topics/health/nhswales/plans/mental-health/?lang=en
[81] gov.wales/topics/health/nhswales/healthservice/mental-health-services/strategy/?lang=en

sustained improvement to their mental health and well-being as a result of cross-Government commitment to all sectors working together. To support collaborative working, the Welsh Government has issued draft non-statutory guidelines on collaborative working between child and adolescent mental health services (CAMHS) and the counselling service for children and young people[82].

3.11.12 In addition to the counselling service, schools have access to local authority-based education psychologists who can be brought in to assess a student who is experiencing difficulties with learning and/or behaviour and mental health issues.

3.12 Pupils who are pregnant or are young parents

Local authority duties

3.12.1 Section 19 of the Education Act 1996 places a duty on local authorities 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 sections 13 and 19 of the Education Act 1996, local authorities have powers which can be used to provide support to young mothers and mothers-to-be. Local authorities 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.

3.12.2 Local authorities 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 (section 13 of the Education Act 1996). 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'/carers' wishes (section 9 of the Education Act 1996). This means that local authorities should not impose one policy for all but should consult the pupil, their parents/carers and their school to secure a package which is suitable to their age, ability, aptitude and individual needs, including any SEN they may have.

3.12.3 Section 14 of the Education Act 1996 requires local authorities to secure that sufficient schools providing appropriate primary and secondary education are available for all pupils in their area.

3.12.4 Under section 19(4) local authorities 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, who by reason of illness, exclusion from school or otherwise, may not receive suitable education. This can be used in support of the education of young mothers and mothers-to-be between the ages of 16 and 18.

[82] gov.wales/consultations/healthsocialcare/counselling/?lang=en

3.12.5 Pupils with statements of SEN maintained under Part IV of the Education Act 1996 who become pregnant should be treated in the same way as other pupils under the local authority's pregnancy policy. However, the local authority may need to review the statement under section 328 of the Education Act 1996 and the Education (Special Educational Needs) (Wales) Regulations 2002 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 *Special Educational Needs Code of Practice for Wales*.

3.12.6 The Education (Information About Children in Alternative Provision) (Wales) Regulations 2009[83] set out the information that providers and local authorities may be required to provide upon a request from the Welsh Ministers or local authority. This could include information about young parents receiving education from their local authority outside of a mainstream school. It is also good practice for local authorities 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.

3.12.7 All local authorities 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 children and young people's partnerships. Many local authorities 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.

Pupils who are pregnant

3.12.8 This guidance provides information for schools and local authorities in supporting girls of compulsory school age who become pregnant. It does not deal with reducing conception rates or sex education, which is covered in the guidance document *Sex and relationships education in schools* (Welsh Government, 2010)[84].

3.12.9 Some young women become more motivated about their education and want to plan for the future as a result of pregnancy. This motivation does not, however, always manifest in achievement. 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.

3.12.10 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

[83] www.legislation.gov.uk/wsi/2009/3355/contents/made
[84] learning.wales.gov.uk/resources/browse-all/sex-and-relationships-education-in-schools/?lang=en

classes or providing access to counselling services. Absences for antenatal classes should be considered ‘authorised’ for both mothers and fathers.

Requests for emergency contraception

3.12.11 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).

3.12.12 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 headteacher will need to be contacted to perform the same function.

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

If the school becomes aware that a pupil is pregnant

3.12.14 The Welsh Government’s guidance on SRE in schools states that schools must 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.

3.12.15 All school staff and visiting speakers should ensure that they act consistently with the school’s confidentiality policy. Teachers are not legally bound to inform parents/carers or the headteacher of any disclosure by pupils however, but the school’s confidentiality policy may require 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/carers. 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, and that where confidentiality has to be broken, the pupil will be informed first.

3.12.16 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 children and young people’s partnerships should allow young people to gain access to medical services and 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 local authority 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 the policies and procedures of the Local Safeguarding Children's Board and the local authority. The Welsh Government's guidance *Keeping learners safe* (2015)[85] 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 local authority officer, the local social services department or the NSPCC.

3.12.17 School staff should make a note of the discussion by recording the time, date, place and individuals present as well as what is said; this information should then be passed to the designated child protection teacher. A young woman who is considering adoption, has decided not to continue with the pregnancy or who has already had a termination should also be offered access to relevant support services.

3.12.18 In providing support to pregnant pupils, the pupil should be advised that the headteacher and nominated local authority will need to be informed so that arrangements can be made for her continuing education. The headteacher 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 headteacher should make sure that the pregnancy is dealt with sensitively by teachers and pupils within the school.

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

3.12.20 If a young woman looked after by a local 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.

Pregnancy and exclusion

3.12.21 No young woman should be excluded from school because she is pregnant or a young mother. The Welsh Government guidance *Exclusions from schools and pupil referral units* (2015)[86] makes clear that pregnancy is not a reason for exclusion from school. Health and safety should not be used 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. Any problems of bullying should be addressed in the normal manner in line

[85] gov.wales/topics/educationandskills/publications/guidance/keeping-learners-safe/?lang=en
[86] learning.wales.gov.uk/resources/browse-all/exclusion/?lang=en

with the school's disciplinary policy. Maternity is a protected characteristic under the Equality Act 2010 and local authorities should challenge any exclusion where maternity is a factor.

3.12.22 There is no evidence that keeping a pregnant pupil in school will encourage others to become pregnant. Effective PSE should alert teenagers to the risks and realities of early parenthood and can be used to encourage understanding of young parents' situations among the other pupils, taking care not to reinforce negative stereotypes.

3.12.23 Pregnant pupils should be encouraged to continue to attend a mainstream school, although they may be offered more individual provision outside of a mainstream school if that is what they prefer. The overriding aim of schools and local authorities must be to keep pregnant pupils 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 receiving EOTAS; keeping up to date with her progress and working with the local authority looking for a suitable time to reintegrate her into the school.

Education otherwise than at school (EOTAS)

3.12.24 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 headteacher to use their discretion to disapply the national curriculum to allow the young woman to maintain progress in her core subjects.

3.12.25 If a headteacher has good reason to consider that the school is no longer a suitable environment for the education of a pregnant pupil, the headteacher should discuss this with the pupil, her parents or carers, the local authority 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. 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. In some cases providing tuition at home may be the most appropriate approach.

3.12.26 Links with mainstream schools should be maintained for pregnant pupils in PRUs. Young mothers or mothers-to-be will remain on the roll of their mainstream school, unless they have been excluded for other reasons (guidance document 081/2012[87]). 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 to achieve this consideration should be given to drawing teaching staff from a consortium based in schools, other units and FE colleges.

[87] wales.gov.uk/topics/educationandskills/schoolshome/pupilsupport/exclusion/?lang=en

Maternity leave

3.12.27 A pupil who becomes pregnant is entitled to no more than 18 calendar weeks of 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, local authority and a personal adviser to help and encourage her to return to education when ready. If health allows, and it is within the best interests of the parents and the newborn child, schools should encourage pupils to return to education with the minimum of interruption. If the pupil is able to return to education before 18 weeks then local authorities should provide a suitable form of education, whether this is in mainstream school or otherwise.

3.12.28 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 the pupil and her parents/carers, that parenthood, by itself, is not a reason to be excused from education.

Pupils who are young parents

3.12.29 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. Young people who become parents should not lose out on the opportunity of completing their education.

3.12.30 A local authority 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
- a student has shown a high-level of commitment prior to the point when they could no longer attend school.

3.12.31 Where a pupil has become pregnant in Year 11, time may not allow for reintegration into mainstream education. 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. Decisions should be taken in light of individual needs and the appropriateness of the environment. If the young woman is absent from school with a pregnancy-related illness, Welsh Government guidance on pupils with medical needs applies[88]. Reintegration officers and personal advisers will provide a route for re-engaging young mothers who have dropped out of the system altogether.

3.12.32 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, realistic choices. Young

[88] learning.wales.gov.uk/resources/browse-all/education-and-support-for-children-and-young-people-with-medical-needs/?lang=en

people also have a right to impartial, high-quality advice on career choices from Careers Wales advisers.

3.12.33 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. Absence for parenting skills classes should be classified as 'authorised', both for the mother and the father.

3.12.34 A range of support is provided to families through the Welsh Government's Flying Start and Families First programmes. Some Flying Start areas and Families First projects also provide dedicated support specifically designed for young parents. This includes specialist midwifery services and parenting groups tailored to their individual needs. For information on available services contact the Family Information Service.

Childcare

3.12.35 The availability of childcare facilities should be taken into account when considering the options. 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 parents 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 while they are claiming child benefit for that child. Further information about Working Tax Credit is available by calling 0345 300 3900.

3.12.36 In due course Universal Credit will replace a range of existing social security benefits which includes Working Tax Credit. Support for childcare within Universal Credit will be provided as an additional childcare cost element which will be subject to an earnings taper. Under Universal Credit families will be eligible for support regardless of the number of hours they work as the 16 hours rule does not apply. Under Universal Credit more parents will become eligible for childcare cost support, and in addition, all eligible claimants will benefit from a greater level of support from April 2016.

3.12.37 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. Provided that appropriate education and free childcare facilities are available, any pupil who still fails to attend education will be liable to the same legal action as any other pupil. Absence where the baby is ill should be classified as 'authorised' for the mother or the father.

Home–school transport[89]

3.12.38 Transport for this group will have a positive impact on attendance. Local authorities must provide free transport if they consider it necessary to enable a pupil

[89] www.legislation.gov.uk/mwa/2008/2/contents

to attend school and they may help other pupils with fares. Local authorities must also publish annually their policy on free and assisted transport. Local authorities 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 is good practice for local authorities to provide assistance with transport in circumstances where, for example, a general practitioner certifies that the pupil's stage of pregnancy is such that they are no longer able to walk to school.

School-age fathers

3.12.39 Schools should acknowledge the extra support that school-age fathers and fathers-to-be may require. 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. Projects and organisations operating under the banner of children and young people's partnerships should also support young fathers.

3.13 Children and young people who offend

3.13.1 Children and young people who become involved in the youth justice system can be some of the most disadvantaged young people in Wales. There are real benefits in keeping them out of trouble as not only will we protect them from the associated stigmatisation and loss of opportunity, but we will also protect our communities from crime.

3.13.2 This group of young people often experience multiple disadvantages. For example, they may be or may have been:

- excluded from school
- frequently absent from school either officially or unofficially
- disengaged/disaffected with school
- educated otherwise than at school (and attending or absent from alternative provision/placements)
- statemented or require extra support
- experiencing attention deficit hyperactivity disorder (ADHD) or other attention deficit
- in public care (looked after children)
- involved in substance misuse
- subject to various forms of abuse.

3.13.3 In line with the UNCRC[90], the Welsh Government considers all young people should have the same rights and entitlements. This includes those who have been in trouble with the law or have offended. Children and young people in the youth justice system should be treated as children and young people first and offenders second.

[90] www.uncrcletsgetitright.co.uk

This includes having 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 child or young person who offends to be supported as necessary by all agencies working with them in identifying their learning needs and ensuring that plans are put in place to meet those needs.

3.13.4 A young person's educational experience is a significant factor in their risk of involvement in criminal behaviour. The risk factors associated with offending behaviour and educational disengagement are closely related. Under-achievement at school, disengagement, poor literacy and numeracy skills, and a significant prevalence of SEN are evident in the youth justice population.

3.13.5 The learning needs of young people who offend should be addressed to ensure they can remain engaged in education and to reduce their risk of offending.

3.13.6 Under section 40 of the Crime and Disorder Act 1998[91], local authorities, in consultation with statutory partner agencies, are required to formulate and implement an annual youth justice plan. The plan covers how youth justice services in their area are provided and funded. It should specify how youth offending teams (YOTs) are comprised and funded, how they operate and what functions they will carry out.

3.13.7 One of the functions that YOTs are required to undertake is to assess young people who are the subject of statutory orders. They utilise a structured assessment tool called Asset[92], which examines different aspects of a young person's situation and circumstances which may have contributed to their offending behaviour. This includes their education, training and employment status and any other problems and needs.

3.13.8 For some children and 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. However there will be those:

- whose education and training needs are not being met by existing school provision
- who have no provision in place for them
- for whom existing provision is inappropriate.

3.13.9 For these young people, including those of statutory school age, it is essential that local authorities (rather than schools) assume responsibility for making provision for their education and training needs, bearing in mind their general duties to secure education set out in the Education Act 1996.

3.13.10 To do this effectively, and to ensure that education and training provision is based on an assessment of individual needs and learning styles (including any additional or other learning needs), we would expect to see local authorities, schools, YOTs and other relevant agencies working cooperatively and in partnership to:

[91] www.legislation.gov.uk/ukpga/1998/37/section/40
[92] www.gov.uk/government/publications/asset-documents

- share and manage information appropriately between delivery and support partners (particularly education, health, social services, housing, local authority engagement and progression coordinators and Careers Wales) to better identify and support the specific needs of the young person
- influence and inform existing and new provision to ensure it meets the identified needs of the young person, including specialist support services, voluntary and community-based provision, formal and informal education and training and personal support
- ensure that each young person has access to full and appropriate provision to meet their identified needs for at least 25 hours per week
- have a clear understanding of their role in commissioning and securing provision from external agencies including the voluntary sector and community-based providers and that this is fully accessible to YOTs
- ensure the activity described previously is resourced appropriately, including making any necessary financial arrangements between the local authority and the school last attended by the young person
- ensure that the skills of all those working to meet the education and training needs of young people who offend are appropriate and regularly updated
- 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.

3.13.11 *The learning journey for young people placed by the Youth Justice Board (YJB) in secure children's homes (SCHs)* (2009)[93] covers requirements for the provision of education and training for young people placed in SCHs via the YJB. It sets out the requirements and good practice for the delivery of learning and skills services for young people in SCHs. It looks to promote consistent education and training experiences for young people who offend between custody and the community, with provision based on meeting personal needs and fostering young peoples' engagement, progression and achievement.

3.13.12 Although statements of SEN do not apply in custody, there is an expectation that children and young people with statements are dealt with according to the *Special Educational Needs Code of Practice for Wales* by the individual institutions supported by the YJB. Local authorities may provide them with educational facilities and should ensure that the institutions receive information about the young people's SEN including a copy of any statement and the last annual review report.

Managing the transition from custody to community

3.13.13 The promotion of learning and the development of skills is established as a secure establishment's core task. Its primary function is to ensure that young people are fully able to re-engage with the learning process when they are released back into their communities.

3.13.14 If suitable, full-time education training or employment placements are not available to young people on leaving custody then the likelihood of reoffending will be increased significantly. It is essential, therefore, that every effort is made while

[93] gov.wales/docs/dcells/publications/091118youngpeopleinschsen.pdf

young people are in custody to prepare them to be able to access, participate in, and make sustained progress in suitable education, training or employment. This should be addressed while they are in custody as part of the sentence planning process and should involve not only the custodial establishment and the YOT, but community-based providers. It is also essential that there is continuity of subject matter, coursework, learning materials, accreditation between the learning skills, experience in the custodial establishment and provision in the community. Information on progress made in custody should be shared prior to release as part of the resettlement planning process, in order to ensure that opportunities for learning and development are continuous and sustained.

3.13.15 There are actions that can help to promote successful reintegration and resettlement. This includes prospective providers of education, training and employment being able to meet with and assess young people while they are still in custody as this may increase the likelihood of the young person being able to enter some form of provision immediately on release. In addition the feasibility of a pre-release visit to the receiving school, college or training provider should be explored as part of the preparatory arrangements.

3.14 Young carers

3.14.1 Young carers are children and 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.

3.14.2 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.

3.14.3 In referring cases to the EWS, school staff should be sensitive to children's fears that parents/carers 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, e.g. in cases where parents/carers do not wish others to know of their mental illness. Schools should work with local authorities and voluntary agencies to ensure that they are fully aware of the range of help available to young carers.

3.14.4 Schools and local authorities 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. 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.

3.14.5 Some of the effects of caring on young people include:

- problems at school, completing homework and 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.

3.14.6 A Young Carer's Toolkit[94] has been developed and circulated to all schools and local authorities in Wales. The toolkit is aimed at professionals across health, education and social services, who are identifying, and have contact with, young carers and young adult carers.

3.15 Lesbian, gay, bisexual and transgender pupils

3.15.1 Lesbian, gay, bisexual and transgender pupils along with those who may be questioning their sexual orientation or gender identity, may be at particular risk of being bullied by their peers.

3.15.2 Stonewall's *The School Report* (2012)[95] identified that homophobic bullying continues to be widespread in Britain's schools. More than half (55 per cent) of lesbian, gay and bisexual pupils have experienced direct bullying.

3.15.3 The use of homophobic language is endemic. Almost all gay young people (99 per cent) hear the phrases 'that's so gay' or 'you're so gay' in school and 96 per cent of gay pupils hear homophobic language.

3.15.4 Homophobic bullying has a profoundly damaging impact on young people's school experience. One in three gay pupils experiencing bullying (32 per cent) change their future educational plans because of it and three in five say it impacts directly on their school work.

3.15.5 Lesbian, gay and bi-sexual people who are bullied are at a higher risk of suicide, self-harm and depression. Two in five (41 per cent) have attempted or thought about taking their own life directly because of bullying and the same number say that they deliberately self-harm directly because of bullying.

3.15.6 Sexual orientation is specifically addressed within the *Sex and relationships education in schools* (Welsh Government, 2010)[96] guidance and highlights the need for the subject of sexual orientation to be discussed in balanced, honest, sensitive and non-discriminatory manner. SRE programmes should encourage open discussion, promote inclusion, challenge inequalities and be relevant to pupils and sensitive to their needs. Schools should offer support and guidance to all pupils, particularly lesbian, gay and bisexual and transgender pupils who feel uncertain about expressing their sexual orientation or gender identity.

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[94] youngcarerstoolkit.co.uk
[95] www.stonewall.org.uk/sites/default/files/The_School_Report__2012_.pdf
[96] learning.wales.gov.uk/resources/browse-all/sex-and-relationships-education-in-schools/?lang=en

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

3.15.8 It is important to distinguish between pupils that might identify as lesbian, gay, bisexual or questioning their sexual orientation and pupils that may be transgender. Issues around sexual orientation and gender identity are different and will need to be handled differently. Homophobic and transphobic bullying should be tackled and transgender pupils will require different support to lesbian, gay or bisexual pupils.

3.15.9 The Welsh Government published lesson plans for schools on gender and transgender-based bullying aimed at Key Stages 3 and 4 in November 2015[97]. In October 2011, the Welsh Government published *Respecting others: anti-bullying guidance*, a suite of comprehensive anti-bullying guidance covering five key areas and one these areas deals specifically with sexist, sexual and transphobic bullying.

3.16 School refusers and school phobics

3.16.1 No clear definition exists among practitioners for distinguishing between school refusers and school 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), as set out in the following table.

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/carers.
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.

3.16.2 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.

[97] hwb.wales.gov.uk/search?query=transgender

3.16.3 School refusal can result from a number of school and home factors. The National Foundation for Educational Research (NFER)[98] identified a number of these including:

- **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** – there can be difficulties, for example, 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 poor 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.

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

- psychological problems in the parent/carer 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 or has caring responsibilities
- inadequate parenting, lack of organisation and of sustained support.

Best practice for addressing school-refusal

3.16.5 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/carers and other agencies, as appropriate.

3.16.6 Research by the NFER[99] 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

[98] www.nfer.ac.uk/publications/PHO01/PHO01_home.cfm
[99] www.nfer.ac.uk/publications/PHO01/PHO01_home.cfm

- collection by a parent/carer 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.

3.16.7 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.

3.16.8 Counselling may be beneficial for pupils who are school phobic. As outlined at paragraph 3.1.17, local authorities in Wales are required to make reasonable provision for a service providing counselling for children and young people aged between 11 and 18 in their area and pupils in Year 6 of primary school. Counsellors are independent of school, governing body and teaching staff and offer a confidential service to children and young people.

3.16.9 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 subsection 3.11 of this section).

3.16.10 The Educational Welfare Service's main role is to improve school attendance, and the Education Welfare Service is 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.

3.17 Pupils who perform or who have employment

3.17.1 The Welsh Government recognises the many potential benefits of children taking part in performances. These opportunities can help children grow in confidence, increase their self-esteem and provide a basis on which to learn a range of new skills, as well as give some the chance to build a career in the creative sector.

3.17.2 Safeguarding and promoting the welfare of these children must always be the driving principle when considering the arrangements which enable them to participate in these activities.

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

3.17.4 The Children (Performances and Activities) Regulations 2015[100] were introduced to give local authorities licensing control over performances so as to protect children's health, well-being and education.

[100] www.legislation.gov.uk/wsi/2015/1757/contents/made

3.17.5 Welsh Government published *Keeping young performers safe* (2015)[101] to provide guidance on the new framework to ensure that the welfare of performing children is safeguarded effectively, that they receive proper care and that their education and rights are protected.

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

- employment in pursuance of arrangements made or approved under section 560 of the Education Act 1996[102] relating to work experience (as amended by the School Standards and Framework Act 1998)
- employment for the purpose of taking part in a performance within the meaning of section 37 of the Children and Young Persons Act 1963[103] under the authority of a licence granted by the local authority under that section (see Regulation 7 of the Education (Pupil Registration) (Wales) Regulations 2010)
- employment abroad for a purpose mentioned in section 25 of the Children and Young Persons Act 1963[104] where a licence has been granted under that section by a justice of the peace (see Regulation 7 of the Education (Pupil Registration) (Wales) Regulations 2010).

3.17.7 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 coordinator and/or the Education Welfare Service.

[101] gov.wales/topics/educationandskills/publications/guidance/keeping-young-performers-safe/?lang=en
[102] www.legislation.gov.uk/ukpga/1996/56/part/X/chapter/IV#commentary-c1525407
[103] www.legislation.gov.uk/ukpga/1963/37/section/37
[104] www.legislation.gov.uk/ukpga/Geo5/23-24/12/section/25

4. A whole-school approach to behaviour and attendance

4.1 Developing school attendance and behaviour policies

4.1.1 School behaviour and attendance policies shape the school ethos; they make a statement about how the school values and includes all the people in it. Positive behaviour and attendance are essential foundations for effective learning environments in which all members of the school community can feel respected, safe and secure. A well-implemented policy is an important factor in gaining the confidence of the school community and in attracting good quality, well-motivated staff.

4.1.2 The policy development process should be integrated with, or aligned to, other processes related to school improvement such as strategic direction, target setting, performance review and improvement planning. It should also be linked to the *Travel Behaviour Code – Statutory Guidance*[105] ('Travel Code'), which sets out the statutory behaviour and standards that must be adhered to on the home-to-school journey.

4.1.3 Self-evaluation should be viewed as an integral part of policy development. Schools should look outward and seek to analyse the impact their behaviour and attendance policies are having on their pupils' education by comparing the impact of their work with that of other schools.

Designing an effective policy

4.1.4 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 including behaviour outside the school and when travelling to and from school
- 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
- how the policy will be monitored and reviewed.

4.1.5 It should show how account is taken of the different needs of different groups of pupils.

4.1.6 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/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.

[105] gov.wales/topics/educationandskills/allsectorpolicies/learner-travel/travel-code/?lang=en

4.1.7 Consistency also implies clear guidelines for all staff on implementation. It means practical advice to parents/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 local authority.

4.1.8 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. 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 three policies into one 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.

4.1.9 A checklist on developing behaviour and attendance policies is provided at Annex 3.

Principles

4.1.10 A school's behaviour and attendance policies should be seen as an integral part of its curriculum, as all schools teach values as well as skills and knowledge. 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 policies. Thus the policy will make particular reference to how pupils who require extra support, e.g. those with special educational needs (SEN), those with physical or mental health needs, migrant and refugee pupils, and looked-after children (LAC), 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 these pupils (see section 3 for more details).

4.1.11 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.

4.1.12 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 and the curriculum. This will educate pupils on their legal responsibilities and raise awareness of broader policy areas such as health, safety and sustainability.

4.1.13 The policy should refer explicitly to the positive duty to promote race, disability and 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.

4.1.14 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 pupils.

4.1.15 The principles should be relevant to every member of the school community, including staff and parents/carers. The whole policy should be subject to full consultation with the school community, including staff, pupils, parents/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 *Respecting others: Anti-bullying overview* (Welsh Government, 2011)[106] and linked guidance on specific aspects. The Travel Code[107] also provides a statutory code of conduct for respecting others, which pupils must adhere to.

Reflecting school values and equal opportunities in the principles of the school behaviour policy

4.1.16 The values a school is committed to promoting – such as respect, fairness and social inclusion – should be the basis for the principles underlying its behaviour policy. In their thematic review *Action on bullying* (2014)[108], Estyn found that schools that had a strong ethos of promoting equality and diversity generally reported fewer instances of bullying.

4.1.17 Schools must comply with equalities legislation (as set out in section 2) and the duty to promote the well-being of pupils (section 21 of the Education Act 2002, as amended by section 38 of the Education and Inspections Act 2006 ('E and I Act 2006')). It is therefore important that the school's statement of principles reflects a commitment to improving outcomes for all pupils and eliminating all forms of discrimination, harassment and bullying, as well as promoting equality of opportunity, the welfare of pupils and good relations across the whole school community.

4.1.18 The statement of principles should also ensure that vulnerable pupils – such as those with SEN, physical or mental health needs, migrant and refugee pupils and looked-after children (LAC) – receive behavioural support according to their need. For further information see section 3 of this guidance.

What a statement of principles might look like

4.1.19 The kind of expectations which might be reflected in the principles of a school behaviour policy are set out in this guidance. It is, however, for individual schools to determine their own principles in the light of their school ethos, the needs of their own school community and any agreement they have with other schools or the local authority. The importance of pupil involvement at all stages of developing,

[106] learning.wales.gov.uk/resources/browse-all/respectcircular/?lang=en
[107] gov.wales/topics/educationandskills/allsectorpolicies/learner-travel/travel-code/?lang=en
[108] www.estyn.gov.uk/english/docViewer/315915.6/action-on-bullying-june-2014/?navmap=30,163

implementing, evaluating and reviewing school behaviour policies cannot be overemphasised.

How the statement of principles can help the headteacher develop more specific disciplinary measures

4.1.20 The headteacher will use this statement of principles to lead work with the school community as a whole, including a broad range of pupils to determine the more detailed measures (rules, Travel Code[109], rewards, sanctions and behaviour management strategies) that make up the overall school behaviour policy. Principles that will assist in doing this include those that:

- are based on the school's values and the rights set out in the UNCRC
- can be explained to, and by, pupils of any age or ability
- represent widespread agreement about standards among pupils, staff (including union representatives), governors and parents/carers
- support pupils to learn positive behaviour and encourage a healthy balance between rewards and sanctions to encourage positive behaviour
- promote behaviour improvement as a means of improving learning and teaching
- are challenging but realistic and appropriate for development as the school builds on its successes.

Particular measures or matters that governors may want the headteacher to include in the policy

4.1.21 If the governing body wants the school's behaviour policy to include particular measures or deal with particular matters, they must notify the headteacher and, as appropriate, provide related guidance.

4.1.22 Governors should take full account of the headteacher's views, and views of pupils, as to the likely effectiveness of a measure before deciding whether to include it. In all cases the measure should be supportive of the principles agreed by the governing body. In this way the governing body will be seen as acting consistently and upholding the principles agreed with stakeholders, including the broad pupil body. Governors should also ensure that any measure they want to include in the behaviour policy maintains the necessary balance between rewards and sanctions.

4.1.23 The headteacher must have regard to notification and guidance of this kind from the governing body.

4.2 Legal requirements for school behaviour policies

4.2.1 Section 88 of the E and I Act 2006 requires a governing body to ensure that its school pursues policies designed to promote good behaviour and discipline on the part of its pupils.. In particular it requires:

- a governing body to make and review a written statement of principles to guide the headteacher in determining measures for promoting positive behaviour

[109] wales.gov.uk/topics/educationandskills/allsectorpolicies/learner-travel/travel-code/?lang=en

- the governing body to notify, and provide guidance to, the headteacher where the governing body wants particular measures introduced or particular issues addressed.

4.2.2 In carrying out these functions the governing body must:

- have regard to guidance given by the Welsh Ministers
- before making or revising its statement of principles, consult the headteacher, parents/carers, pupils and such other persons who work at the school (whether or not for payment) whom the governing body feel it would be appropriate to consult.

4.2.3 The headteacher 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.

4.2.4 Schools' behaviour policies must include measures to ensure the safety of pupils completing any tasks reasonably assigned to them in connection with their education.

4.2.5 These measures should be consistent with the statement of principles made by the governing body and any specific notification or guidance it has given. Additionally, the measures must require pupils at the school to comply with the travel behaviour code[110]. These may go a long way towards defining an acceptable standard of behaviour. In so far as they do not, the headteacher is responsible for defining the acceptable standard.

4.2.6 The measures determined by the headteacher must be published as a written document, made generally known within the school and to parents/carers and, at least once a year, brought to the attention of all pupils, parents/carers and staff.

4.2.7 Under section 89 of the E and I Act 2006, schools have a statutory power to include reasonable measures to regulate the behaviour of pupils when off school premises and not supervised by school staff. Schools should be clear about the factors they take into account in deciding whether a rule or sanction is reasonable.

4.2.8 Section 91 of the E and I Act 2006 introduces, for the first time, a statutory power for teachers and certain school staff (authorised by the headteacher) to discipline pupils. It confirms and clarifies the right of the school to impose disciplinary sanctions on a pupil when their conduct falls below the standard which could reasonably be expected of them. These disciplinary sanctions are actions which aim to make clear the boundaries of acceptable behaviour to the pupil and the school community.

4.2.9 Additionally, section 89 of the E and I Act 2006 requires schools' behaviour policies to include a requirement for pupils to comply with the national Travel Code.

[110] wales.gov.uk/topics/educationandskills/allsectorpolicies/learner-travel/?lang=en

4.3 Learning and teaching

4.3.1 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 PSE teaching or within the pastoral programme. Pupils with more challenging behaviour may benefit from a period of support in a nurture group, or through being taught anger management, or positive leadership skills.

4.3.2 Many schools have found that initiatives to develop children's emotional health and literacy, as well as their 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.

4.3.3 The way in which all members of the school community learn and teach from each other, by demonstrating positive behaviour and mutual respect 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 local authority (particularly the Education Welfare Service (EWS) and pupil travel teams), behaviour support service and consortia, the police (though school community police officers), the local authority's counselling service for young people, multi-agency teams, Careers Wales, local safeguarding children boards (LSCB) and other schools, etc.

4.3.4 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 their local authority and pupil travel teams who can provide additional training and support.

4.4 Roles and responsibilities

4.4.1 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:

- the **governing body** in defining the principles underlying the school's behaviour and attendance policy
- the **headteacher** in framing a policy which establishes an environment that encourages positive behaviour and regular attendance, discourages bullying and promotes equality; additionally it should require the headteacher to (with other members of the senior leadership team) organise support for implementing the policy
- **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)
  - pupils are taught how to behave well and to treat all members of the school community with respect
  - pupils and are encouraged to attend punctually and regularly.

  This is in addition to providing mutual support and modelling the high standards of behaviour and punctuality expected from pupils
- the **governing body, headteacher 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 Equality Act 2010 helps to ensure that across the protected characteristics policies and practice address the needs of all communities through the requirement to promote equality, disability, religion and belief, and take into account the needs of looked after children
- **pupils** in shaping and promoting the school's code of conduct, and supporting staff and other pupils. This could include being involved in peer support or restorative conferencing, as well as reporting incidents of bullying and other misbehaviour or reasons for truancy both within and outside the school setting and on the route to and from school. 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
- **parents/carers** in taking responsibility for their child's attendance, their behaviour inside and outside the school, in contributing to the policy through consultation and through promoting a general understanding of the policies, rights and responsibilities to their children.
- key **local authority officers** such as learner travel officers and education welfare officers (EWOs) 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
- the **school's partners** in external organisations such as social services, health services, Careers Wales, LSCBs, the police and voluntary organisations.

The role of the governing body

4.4.2 Governing bodies of relevant schools are required to have regard to guidance from the Welsh Government when making and reviewing the written statement of general principles on school discipline[111]. The guidance to governors noted in the footnote below should therefore be regarded as statutory.

4.4.3 The full governing body, or a committee of it, must make final decisions about the statement of principles and any notifications and guidance. These responsibilities cannot be delegated to an individual. For PRUs, the functions of the governing body would fall to the PRU management committee. In the case of a federation of schools, the federated governing body has this responsibility. The governing bodies of collaborating schools remain responsible for final decisions about the statement of principles and any notifications and guidance pertaining to that school, even where

[111] www.legislation.gov.uk/ukpga/2006/40/section/88

schools in a collaboration produce a common statement of principles, notifications and/or guidance.

4.4.4 The governing body is legally required to consult with the headteacher, staff, parents/carers and pupils on the principles of the behaviour policy. The consultation may be arranged in such manner as appears appropriate to the governing body and include such representatives of the staff as the governing body deems appropriate. All pupils and parents/carers must be included, i.e. given the opportunity to comment on proposals at the formative stage, and their responses considered when decisions on the proposals are made.

4.4.5 Under the Equality Act 2010 schools have key duties (as set out in section 2): The Equality Act 2010 defines protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and also sets out schools' responsibilities around the admission and treatment of pupils.

4.4.6 Local authorities and governing bodies of maintained schools also have a duty under the Equality Act 2010 to have regard to the need to eliminate discrimination, harassment and victimisation, and advance equality of opportunity and foster good relations.

4.4.7 Governors should decide on an appropriate timescale for reviewing the principles and for the headteacher to update the resulting behaviour policy. Good practice would suggest this should be done on average every two years. The principles may not need updating every time they are reviewed. A consultation exercise should be undertaken every time the statement of principles is updated.

The local authority's role

4.4.8 An effective local authority 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, local authorities also manage school-based multi-disciplinary teams who support schools that have high numbers of pupils with complex emotional and behavioural needs.

4.4.9 Local authorities should work with schools to develop referral systems and ensure that the effectiveness of these are regularly monitored and amended appropriately with full consultation. Local authorities also have a key role to play in the provision of advice and training to all school staff on behaviour management of pupils within both the classroom and the general school environment, including the home-to-school journey.

4.4.10 Local authorities should ensure that the education of children with behavioural difficulties remains at the forefront of discussions on the development of the local well-being plan. The Well-being of Future Generations (Wales) Act 2015 streamlined partnership working, making more effective use of public resources by requiring different public services to work together and to make plans to address the well-being of their areas in an integrated way. Further guidance on local well-being plans

can be found in the Welsh Government guidance *Shared Purpose – Shared Future: Collective Role – Public Services Boards*[112].

4.4.11 Local authorities should look to improve the level of performance management information, including data on exclusions and attendance, and use this to evaluate the effect of their interventions, particularly the effectiveness of their behaviour management training in schools and for staff who work with pupils outside the school setting, e.g. drivers operating school transport services. Local authorities should also encourage schools to monitor bullying behaviours so that the schools can evaluate the effectiveness of their anti-bullying strategies and assess progress.

Enforcement of the Travel Code – sanctions

4.4.12 The Travel Code sets out pupils' responsibilities when travelling. It is accompanied by statutory guidance issued under section 15 of the Learner Travel (Wales) Measure 2008 ('2008 Measure') which provides advice on how to ensure, as far as reasonably practicable, a safe journey and describes the rights of pupils when travelling.

4.4.13 Where a local authority is under a duty to provide transport, it must follow the requirements set out in section 14 of the 2008 Measure and be satisfied that that the pupil has failed to comply with the travel behaviour code before withdrawing transport provision.

4.4.14 Before withdrawing transport provision, the local authority must also ensure that the following conditions, applicable to the pupil, are met.

- The pupil and the parent/carer of the pupil must be provided with an opportunity to make representations and those representations must be taken into account.
- The local authority must consult with the headteacher of the school or relevant place of learning at which the pupil is a registered pupil, and give the headteacher notice of the decision at least 24 hours before the withdrawal takes place.
- Give the pupil's parents/carers at least 24 hours' notice before the withdrawal of transport provision takes place.
- Ensure the period of withdrawal of transport provision does not exceed 10 consecutive schools days.
- Ensure that the period of withdrawal would not result in the pupil having travel arrangements withdrawn for more than 30 school days in the school year in which the withdrawal takes effect.

4.4.15. The local authority should also ensure that the decision to withdraw transport arrangements is reasonable in the circumstances. In determining whether this is the case, the local authority must take the following matters into account.

- Whether the period of withdrawal of transport is proportionate in the circumstances of the case.

[112] gov.wales/docs/desh/publications/160225-spsf-3-collective-role-en.pdf

- Whether there are any special circumstances relevant to the withdrawal of travel arrangements which are known to the local authority (or which the authority ought to be aware of) including:
  - the pupil's age
  - any SEN the pupil may have
  - any disability the pupil may have
  - whether the pupil would lose an opportunity to take a public examination
  - whether suitable alternative arrangements can be reasonably made by the pupil's parents/carers.

4.4.16 Where a pupil has SEN, local authorities should consider what constitutes reasonable steps. The *Special Educational Needs Code of Practice for Wales* (Wales Assembly Government, 2004)[113] and section 2 of this guidance provide further guidance on dealing with misbehaviour for pupils with disabilities and those with learning difficulties.

4.4.17 In cases where severe behavioural misconduct happens, the sanctions provided in the Travel Code may be insufficient to address to the issue. In these cases it may be more appropriate that a fixed-term or permanent exclusion sanction is used instead. In these instances it is important that the school and local authority work collaboratively to address the issue.

Exclusion process

4.4.18 Local authorities also have statutory duties in the exclusion process[114]. All exclusions should be reported to the local authority as set out in the Welsh Government's guidance on exclusions[115]. The local authority is often involved in the exclusion review process and has responsibility for the appeal process.

4.4.19 In cases where a pupil has been permanently excluded from school, the local authority is responsible for making arrangements for the pupil to continue receiving a suitable full-time education after 15 days of their being excluded.

Cross-authority working

4.4.20 Where a pupil attends school in one local authority and lives in another, the local authority where the pupil attends school should take the lead in any local authority-level action necessary to improve the pupil's attendance and/or behaviour. In these cases, the local authority where the pupil lives and the local authority where they attend school will need to work closely together.

4.4.21 If a pupil who lives in a different local authority to the school is permanently excluded, they become the responsibility of the local authority in which they live and the local authority in which they live should take the lead in any action necessary to improve their behaviour, as well as in ensuring that they continue to receive a suitable education.

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[113] learning.gov.wales/resources/browse-all/special-education-needs-code-of-practice/?lang=en
[114] www.legislation.gov.uk/wsi/2003/3227/contents/made
[115] learning.wales.gov.uk/resources/browse-all/exclusion/?lang=en

4.4.22 In the case of a fixed-term exclusion, where the pupil lives in a different local authority, the local authority where the pupil attends school should take the lead in any local authority-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 local authority where the pupil lives and the local authority 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 local authority where the pupil lives.

4.4.23 Local authorities are advised to draw up protocols setting out the basis under which cross-border working will take place.

4.5 Legal powers of staff

4.5.1 The E and I Act 2006 provides school staff with a clear statutory authority for punishing pupils whose behaviour is unacceptable, who break school rules or who fail to follow a reasonable instruction. These powers are set out in sections 91–95.

What the legal power covers

4.5.2 The E and I Act 2006 specifies a power for teachers and certain other school staff to enforce disciplinary penalties. The penalty could be for failing to follow a school rule, an instruction given by a member of staff of the school, or for any other reason that causes the pupil's behaviour to fall below the standard which could reasonably be expected of them.

4.5.3 The E and I Act 2006 gives this power to all teachers and other paid members of staff who are in lawful control or charge of pupils, except if the headteacher has determined that a member of staff is not permitted to impose the penalty on the pupil in question. The E and I Act 2006 empowers the headteacher to extend the power as is reasonable to any other adult who has lawful control or charge of pupils – such as a parent/carer volunteering to supervise a football match or help on a school trip.

4.5.4 There will be no legal requirements as regards how staff or pupils should be notified of such a decision, this being a matter of common sense and professional judgement. Headteachers should, however, notify in writing for the sake of certainty – including reflecting as appropriate in staff members' contracts, and making this a part of the measures that the headteacher sets down in the school's behaviour policy.

4.5.5 Headteachers cannot give the power to discipline to pupils. The legal provisions only relate to members of staff or other adults authorised by the headteacher and therefore do not include prefects or any other pupils. Prefects can have an important role to play in maintaining good order in the school, but it is important to distinguish between giving instructions to help uphold the behaviour policy and the power to impose sanctions. Pupils are not permitted to do the latter.

4.5.6 The power to discipline is applicable to any pupil at a school where education is provided for them, and also to misbehaviour by pupils outside school premises, such as on the journey from home to school, when they are not in the lawful control

or charge of a member of staff, so far as this is reasonable (see subsection 4.7 for further details).

4.5.7 To safeguard the interests of pupils against unfair or inappropriate sanctions, the E and I Act also provides that the disciplinary penalties in question must be reasonable, not breach any statutory requirement or prohibition (which would include legislation on SEN, disability, race and other equalities and human or civil rights) and take account of the pupil's age, any SEN or disability the pupil may have, and any religious requirements affecting the pupil.

4.5.8 Exclusion of pupils, whether on a fixed-term or permanent basis, is not covered by the general power to discipline. This is because it is already covered by separate legislation, which reserves the power to apply this particular sanction solely to the headteacher or to the teacher in charge of a PRU (or, in their absence, the acting headteacher or acting teacher in charge of a PRU).

What the legal responsibilities mean for schools in practical terms

4.5.9 All staff should be clear about which sanctions they can apply and which may only be applied by more senior staff.

4.5.10 Other types of staff or adults on site will also need to be aware of the authorisation levels. Temporary staff, student teachers and volunteers (providing, for example, help with educational visits or mentoring support) should be informed of the levels of sanctions they can apply.

4.5.11 Schools should apply to the Disclosure and Barring Service (DBS) (the DBS has replaced the Criminal Records Bureau (CRB)) for a check to be carried out on volunteers who have regular contact with pupils. More advice about the new DBS procedures is outlined below.

4.6 The disclosure and barring arrangements

4.6.1 The Protection of Freedoms Act 2012[116] (the '2012 Act') sets out the new pre-employment vetting processes that must be followed by schools, education providers and local authorities when checking the records of people who want to work with vulnerable groups (this includes children) to ensure they are suitable and do not pose a risk.

4.6.2 The new disclosure and barring arrangements came into force on 10 September 2012. For individuals who do not work in regulated activity, but work (paid or unpaid) with children and vulnerable people, employers can, but are not required to, obtain criminal records checks.

4.6.3 In December 2012, the CRB and the Independent Safeguarding Authority (ISA) merged and are now called the DBS[117]. CRB checks are now called DBS checks.

[116] www.legislation.gov.uk/ukpga/2012/9/contents/enacted
[117] www.gov.uk/disclosure-barring-service-check/overview

4.6.4 The DBS helps employers make safer recruitment decisions by preventing unsuitable people from working with children and vulnerable groups through its criminal record checking and barring functions.

4.6.5 The checking service allows employers to access the criminal record history of people working, or seeking to work, with children or adults. The DBS issues three types of disclosure, each representing a different level of check. The level of check is determined by the duties of the particular position or job involved. Jobs that involve caring for, supervising or being in sole charge of children or adults require an enhanced DBS check.

4.6.6 The barring side of the DBS provides expert caseworkers who process referrals about individuals who have harmed or pose a risk of harm to children and/or vulnerable groups. They make decisions about who should be placed on the children's barred list and/or adults' barred list and prevent them by law from working with children or vulnerable groups. It is against the law for employers to employ someone or allow them to volunteer in this kind of work if they are on one of the barred lists.

4.6.7 The DBS will only issue certificates to applicants. Employers will need to ask applicants for sight of their DBS Certificate. Someone who is aged under 16 cannot apply for a DBS check.

New definition of 'Regulated Activity'

4.6.8 The DBS only covers those who may have regular or close contact with children and vulnerable adults, defined as 'Regulated Activity' in legislation. Importantly for schools and FE colleges, the definition and scope of Regulated Activity with children has changed. Being clear about the definition of Regulated Activity is important because:

- roles that fall within the new definition of 'Regulated Activity' will require an enhanced DBS check and the appropriate barred list check (for children, adults or both)
- an organisation which knowingly allows a barred person to work in 'Regulated Activity' will be breaking the law
- if you dismiss or remove someone from 'Regulated Activity' (or you would have done had they not already left) because they harmed or posed a risk of harm to vulnerable groups including children, you are legally required to forward information about that person to the DBS (known as the 'duty to refer'). It is a criminal offence not to do so. If you believe that the person has committed a criminal offence, you are also strongly advised to pass the information to the police.

4.6.9 Regulated Activity[118] (i.e. work that a barred person must not do) in relation to children can be summarised as unsupervised activity in a limited range of establishments with the opportunity for contact with children. These specified

[118] www.legislation.gov.uk/ukpga/2006/47/schedule/4

establishments include schools, children's homes, childcare premises and pre-school establishments.

4.6.10 Under the new disclosure and barring arrangements the scope of Regulated Activity includes unsupervised activities such as driving a vehicle only for children (dedicated pupil transport).

4.6.11 In addition, to be regarded as Regulated Activity such unsupervised activity must be done frequently. 'Frequently' means carried out by the same person frequently (once a week or more often), or on more than three[119] days in a 30-day period (or in some cases, between the hours of 2am and 6am).

4.7 Code of conduct for behaviour

4.7.1 A school's policy must set explicit standards of behaviour and attendance and should include a 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 (e.g. '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, around the school, on the home-to-school journey and on school trips.

4.7.2 The E and I Act 2006 clarifies the right of the school to impose disciplinary sanctions on a pupil when their conduct falls below the standard which could reasonably be expected of them. These disciplinary sanctions are actions which aim to make clear the boundaries of acceptable behaviour to the pupil and the school community.

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

4.7.4 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 5.

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

4.7.6 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.

[119] www.legislation.gov.uk/uksi/2010/1154/contents/made

Scope

4.7.7 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 at all times, including the journey to and from school, and as such should align with the requirements set out in the Travel Code.

4.7.8 In particular it is important that the code of conduct sets out clearly that misbehaviour that happens outside of school, e.g. while travelling between home and school, would be deemed to be a breach of school rules. Ultimately it can be grounds for exclusion from school.

Rewards

4.7.9 The code of conduct should be supported by a coherent system of rewards. 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 sanctions in motivating pupils.

4.7.10 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 sanction 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.

4.7.11 A more formal reward system of credits and merits 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/carers and special privileges are among 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.

4.7.12 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/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
- incentive schemes to recognise pupils' attendance achievements. These could include offering attendance certificates, either for individual pupils or groups of pupils (classes or year groups).

4.7.13 Such schemes need to strike the right balance between rewarding pupils with outstanding attendance records and those achieving substantial improvement in their attendance.

Sanctions

4.7.14 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 pupils. 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.

4.7.15 One way of developing an appropriate scale of sanctions is to use a whole-school staff training session or whole-school discussion, involving pupils in discussions about different forms of misbehaviour. This can help build agreement between staff and pupils about what are low-level misbehaviours (e.g. only requiring a quiet reprimand) and what are serious misbehaviours (requiring referral to senior staff and a range of intervention strategies). The training objective is to ensure shared understanding of the school rules, proportionate and differentiated sanctions, and the thresholds for their use.

4.7.16 As with rewards, the most effective sanctions are simple admonishments backed up by the authority of staff within the school. For misconduct on the home-to-school journey admonishments should be backed up by the authority of school staff in collaboration with the local authority and school transport service operators (such as bus drivers). 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. Depending on the nature of the incident and the circumstances of the individual pupil involved, a referral to senior staff might also involve: consultation with the parent/carer and local authority (in cases where a breach of the Travel Code has occurred), engagement with multi-agency staff, use of continual reporting systems (books, cards) for the pupil, and/or creation of a pastoral support programme (PSP).

4.7.17 The authority of the school should be supported with a range of sanctions for breaches of the code, ranging from letters to parents/carers, loss of privileges including the removal of home-to-school transport provision, a variety of forms of detention right up to exclusion for the most serious misbehaviour. The behaviour and attendance policy should set out the school's policy on exclusion and needs to be

consistent with guidance set out in *Exclusions from schools and pupil referral units* (Welsh Government, 2015).

4.7.18 There are a number of ways in which schools may choose to monitor pupil behaviour and the use of sanctions. They may, for example, use records such as staff or pupil planners, wall charts or IT-based data recording systems. It is important to capture both desirable and undesirable behaviour so that balanced evaluations can be reached. This sort of data can help identify common times and locations for issuing sanctions and so identify where other interventions are needed to support staff.

4.7.19 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 dealing with the behaviour rather than stigmatising the person
- use sanctions which are for the shortest term possible and avoid early escalation to severe sanctions, reserving them for the most serious misbehaviour
- avoid sanctions becoming cumulative and automatic (sanctions should always take account of individual needs, age and understanding)
- avoid whole-group sanctions that punish the innocent as well as the guilty
- wherever possible, use sanctions that are a logical consequence of the pupil's inappropriate behaviour (e.g. if work is not finished in class the teacher might make the pupil stay behind at break time to finish it off)
- use sanctions to help the pupil and others learn from mistakes and recognise how they can improve their behaviour
- plan to allow the pupil to show good behaviour as soon as possible
- when appropriate, use sanctions to put right harm caused
- never issue a sanction that is humiliating or degrading
- use sanctions in a calm and controlled manner
- ensure that sanctions are seen as inevitable and consistent (pupils should know that a sanction, when mentioned, will be used)
- attempt to link the concept of sanctions to the concept of choice, so that pupils see the connection between their own behaviour and its impact on themselves and others, and so increasingly take responsibility for their own behaviour.
- take account of individual circumstances. For example, punishing a pupil who is late to school because they look 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 their 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.

4.7.20 Schools should explore the possibility of using restorative practices to put right any harm caused as far as possible and restore relationships. Such approaches work best within a whole-school approach and it is important that all those using these methods have received appropriate training.

4.7.21 Schools need to focus on doing all they can to prevent the use of physical intervention. However, if at any time it proves necessary to use reasonable force or 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 *Safe and effective intervention – use of reasonable force and searching for weapons*[120] (Welsh Government, 2013).

4.8 Behaviour and conduct outside of school

4.8.1 Section 89(5A) of the E and I Act 2006 gives headteachers a statutory power to regulate pupils' behaviour in these circumstances 'to such extent as is reasonable'. Individual schools are best placed to make judgements about what is reasonable in their particular circumstances. However, paragraph 4.8.4 suggests factors that a school could take into account in making such judgements.

4.8.2 While schools are able to regulate certain conduct off school premises, they can only impose sanctions when the pupil is on the school site or under the lawful control or charge of a member of staff. A sanction could be imposed while a pupil is on a school trip, but not while the pupil is on his journey home from school for instance. In such circumstances, the member of staff could indicate to the pupil that he has been seen misbehaving and will receive a sanction but must wait until the pupil is next in school to apply the sanction.

Dealing with incidents of misconduct on and off school premises

4.8.3 An effective policy on school discipline and pupil behaviour should also set expectations for positive behaviour off the school site. This includes behaviour on activities arranged by the school, such as work experience placements, educational visits and sporting events; behaviour on the way to and from school; and behaviour when wearing school uniform (if any) in a public place.

4.8.4 Schools must act reasonably both in relation to expectations of pupil behaviour and in relation to any measures determined for regulating behaviour by pupils when off the school site and not under the lawful control or charge of a school staff member. Schools should decide what to take into account in deciding whether a rule or sanction in a particular case is reasonable. A school could sensibly take account of the following factors (which may not all apply to every incident).

- The severity of the misbehaviour.
- The extent to which the reputation of the school has been affected.
- Whether the pupil(s) in question was wearing the school uniform or was otherwise readily identifiable as a member(s) of the school.
- The extent to which the behaviour in question would have repercussions for the orderly running of the school and/or might pose a threat to another pupil or member of staff (e.g. bullying another pupil or insulting a member of the staff).
- Whether the misbehaviour in question was on the way to or from school, outside the school gates or otherwise in close proximity to the school.
- Whether the misbehaviour was while the pupil was on work experience, taking part in a further education course as part of a school programme or participating in

[120] learning.wales.gov.uk/resources/browse-all/safeandeffective/?lang=en

a sports event with another school (i.e. when the pupil might be expected to act as an ambassador for the school) which might affect the chance of opportunities being offered to other pupils in the future.
- Whether the pupil(s) were truanting.

4.8.5 Applying such factors, there would, for example, be a strong case for punishing a pupil for harassing a member of staff off school premises, including through the internet. There would also be a strong case for punishing a pupil for verbally abusing members of the public on a bus on the way to school. However, the case for punishing a pupil for verbally abusing somebody who had no connection with the school at a weekend would be much weaker. This is not of course to say that schools should take no interest in behaviour they do not regulate. Liaison between the school and those in the local authority responsible for tackling antisocial behaviour may be particularly relevant in this context.

4.8.6 Schools may find it helpful to relate whatever factors they decide to use to a set of overall objectives that make clear why a policy for regulating behaviour off school premises is being applied. Such objectives might be to:

- maintain good order on transport and while walking or cycling to and from school, educational visits or other placements such as work experience or college courses
- secure behaviour which does not threaten the health or safety of pupils, staff or members of the public
- provide reassurance to pupils who may feel threatened or intimidated by the behaviour of a small minority of their peers or from 'stranger danger'
- provide reassurance to members of the public about school care and control over pupils and thus protect the reputation of the school
- provide protection to individual staff from harmful conduct by pupils of the school when not on the school site.

4.8.7 Many extended school activities take place off school premises. Behaviour during such activities may be dealt with in the same way as for any other on-site activity. It would be logical to deal with behaviour during off-site extended school activities which are not supervised by school staff in the same way as behaviour during FE college or work experience placements.

4.9 Confiscation

4.9.1 The E and I Act 2006 introduced two new powers in October 2010 for schools relating to confiscation. Firstly, the overall power to enforce disciplinary penalties which covers the use of confiscation as a disciplinary penalty (sanction). That includes seizure and also, as appropriate, the retention and disposal of certain items. As with other sanctions, the sanction of confiscation must be applied in a reasonable and proportionate way. But it would be entirely proper for a school to include confiscation as one of the disciplinary measures that might be applied as part of the school's behaviour policy. Discussions with pupils at the time of development of the whole-school behaviour policy need to include reference to what the policy says regarding confiscation of property.

4.9.2 Secondly, the E and I Act 2006 provides a member of staff with a specific statutory defence if they prove that the seizure, retention or disposal was lawful.

Unauthorised seizure, retention or disposal of a pupil's property interferes with that pupil's rights under Article 1 of the First Protocol to the European Convention on Human Rights, which guarantees entitlement to peaceful enjoyment of one's possessions. It also interferes with the pupil's rights under domestic law. A consequence of this is that a teacher or other member of staff may only seize, retain or dispose of a pupil's property if they have authority to do it. The E and I Act 2006 provides that authority when the confiscation is a lawful disciplinary penalty. It is for the staff member confiscating to show the legality of the confiscation since they have made the decision to interfere with the property.

4.9.3 Schools should note, however, that the legal power for school staff to search pupils currently only extends to weapons. A pupil might reasonably be asked to turn out their pockets or to hand over an item such as a personal music player that is causing disruption, and the school might use its legal power to discipline if the pupil unreasonably refuses to cooperate. However, if it is felt necessary for a pupil to be searched for illegal drugs or stolen property, for example, that should be done by the police rather than school staff.

4.9.4 For the confiscation to be lawful it must be proportionate, necessary in a democratic society and in pursuance of a legitimate aim. Generally the aim pursued in confiscating property is maintaining an environment conducive to learning, one which safeguards the rights of other pupils to be educated. However, proportionality is very relevant, and that in turn depends on the value of the property. If a pupil is playing music loudly on a personal music player, it is likely that total destruction of the device after it has been seized is disproportionate, which would make such a step unlawful. Taking the device and returning it at the end of the school day is much more likely to be a proportionate response. On the other hand, if a paper ball or piece of chewing gum has been confiscated, disposal of the item is likely to be a proportionate response.

4.9.5 Schools should also note that, while confiscation of a mobile phone is legitimate, searching through a phone or accessing text messages without the pupil's permission is not. In some circumstances it may be reasonable for a member of staff to ask a pupil to reveal a message for the purpose of establishing whether cyberbullying has occurred, for instance, but if the pupil refuses then the member of staff should not enforce the instruction. The staff member can, however, legitimately issue a disciplinary penalty for failure to follow a reasonable instruction.

Criteria for confiscation

4.9.6 The criteria for confiscation are the responsibility of individual schools to determine, in light of their policies on school uniform or behaviour generally. They might include items that:

- pose a threat to others, e.g. a laser pen is being used to distract and possibly harm other pupils or staff
- pose a threat to good order for learning, e.g. a pupil uses a personal music player used by a pupil in class
- contravene school uniform rules, e.g. a baseball cap a pupil refuses to take off on entering a classroom

- pose a health or safety threat, e.g. a pupil wearing large ornate rings in PE may present a safety threat to other pupils
- are counter to the ethos of the school, e.g. material which might cause tension between one community and another
- are illegal for a child to have, e.g. pornographic material. Protocols for how to deal with such items can be agreed with local police (through the police school liaison officer, if the school has one).

Confiscating items of clothing or jewellery

4.9.7 Schools should take particular care when deciding whether to confiscate items of clothing or jewellery. In particular, they should have appropriate regard to whether the item in question has religious or cultural significance to the pupil and should avoid physical contact or interference with pupils' clothing of a kind that might give rise to child abuse allegations. To minimise such risks, schools should ensure that if an item of clothing or jewellery is confiscated, this is done by a staff member of the same gender as the pupil and with another staff member present where possible. Confiscation of any item that would leave the pupil only partly dressed must be avoided.

Mobile communication technologies (including mobile phones and wireless technologies)

4.9.8 Schools should have a clear policy on the use and possession of mobile phones. This should include clear statements about powers of confiscation, taking account of:

- the safety of pupils on the journey home and parental concerns over this issue – schools should return confiscated phones before the pupil leaves the school premises, if these are relevant factors
- examination board and school rules about the use of such technologies in examination settings, including supervised coursework
- the unacceptability of pupils using phones or other technological equipment to humiliate or bully other members of the school community (e.g. sending abusive text messages, cyberbullying or using camera phones for so-called 'happy slapping', i.e. recording and transmitting of images of abuse, or distributing inappropriate images)
- whether, and in what circumstances, the school judges it appropriate to inform parents/carers about the confiscation of such items.

Length of confiscation

4.9.9 In most cases, confiscation is a sufficient sanction, and return of the item at the end of the lesson, school session, or school day is adequate time to reinforce the school rule. This also limits the chance of problems with loss of items while in the care of school staff.

4.9.10 There may be some instances when the school chooses not to return an item to the pupil. For example:

- items of no value, such as an inappropriate message scrawled on a piece of paper, may simply be disposed of. However, schools should keep in mind that some items of seemingly no value may have emotional value to the child – staff should establish if this is the case before deciding whether or not to dispose of the confiscated item
- items of value which the pupil should not have brought to school or has been misused in some way might – if the school judges this appropriate and reasonable – be stored safely at the school until a responsible family adult can come to retrieve them. For example, there is no acceptable reason why a pupil of compulsory school age should bring a cigarette lighter to school. In such circumstances retention is a reasonable step both to protect property and to enable discussion about whether the pupil is smoking and how this can be addressed
- other items which the pupil should not have had in their possession – particularly of an unlawful or hazardous nature – may be given by the school to an external agency for disposal or further action as necessary. This should always be followed by a letter to the parents/carers confirming that this has taken place and the reasons for such action.

What to do with confiscated items

4.9.11 Schools should keep records of confiscated items and the grounds for the action, so that they may justify them later if challenged. Some schools write a note in the pupil planner to inform the pupil's parent/carer that an item has been confiscated, and the note is countersigned on return.

4.9.12 Pupils have a right to expect that confiscated items, especially those of monetary or emotional value, will be stored safely until they can be returned. For items of obvious value, schools should ensure appropriate storage arrangements (e.g. in a safe, the finance office, or the headteacher's office). All reasonable steps should be taken to make such arrangements secure. If similar items have been confiscated from several pupils – such as mobile phones or personal music players – schools should take care to ensure that they are clear which item belongs to which pupil.

4.9.13 For some items school staff should seek specialist advice, e.g. suspected illegal drugs or items which might be used as weapons. Schools, in liaison with local authorities, should develop protocols in partnership with police (based on the national School Crime Beat Protocol), youth offending teams (YOT) and other specialist agencies to cover such issues and to ensure that schools have access to specialist support and advice if an incident occurs.

4.10 Reintegration interviews

4.10.1 Section 102 of the E and I Act 2006 provides that regulations may require headteachers of schools to request parents/carers of pupils excluded for a fixed-term to attend a reintegration interview at the school with the headteacher or any other person authorised by the headteacher. The Education (Reintegration Interview) (Wales) Regulations 2010 came into force on 5 January 2011.

4.10.2 The regulations make provision about the time limits for the reintegration interview, the procedure for arranging the interview and the notification of the request to the parent/carer. The regulations set out that:

- the request for interviews apply to all fixed-term exclusions for primary-aged pupils; for secondary-aged pupils, only when fixed-term exclusions of six or more days,have been applied will parents/carers be expected, though not required, to attend the interview
- reintegration interviews need to take place within 15 school days of the last day of the exclusion period
- headteachers are required to inform the parents/carers of all relevant details of the reintegration interview
- schools have to offer reintegration interviews and a request for parents/carers to attend a reintegration interview is not required if the first day of exclusion is within the last 10 days of the school year or the pupil is expected to leave school for a reason unconnected with their behaviour before the end of the required 15-day period for the interview.

4.10.3 Many schools carry out reintegration interviews for parents/carers of excluded pupils as a matter of good practice, providing the headteacher (or any other person authorised by the headteacher) with the opportunity to discuss with parents/carers how best the pupil can return to school and any further support they need to be successful. Reintegration interviews represent an additional important element to ensure that more parents/carers engage with schools in addressing their child's behaviour – for that reason it has been made compulsory for schools to request parents/carers to attend reintegration interviews following fixed-term exclusions.

4.10.4 While the regulations do not require schools to request pupils to attend the reintegration interviews schools should ensure that this is a core aspect of their practice. Every attempt should be made to encourage children and young people to attend reintegration interviews or to ensure their views are adequately represented. If the child attends the interview then schools will need to ensure that the interview is conducted in a manner which enables the child to be comfortable in offering their views.

4.10.5 The interview provides an opportunity to:

- emphasise the importance of parents/carers working with the school to take joint responsibility for their child's behaviour
- discuss how behaviour problems can be addressed
- explore wider issues and any circumstances that may be affecting the child or young person's behaviour
- reach agreement on how the child's education should continue, how best they can be reintegrated and what measures could be put in place to prevent further misbehaviour.

4.10.6 The headteacher must give notice in writing to the parent/carer of the following matters.

- The date, time and duration of the reintegration interview.

- The purpose of the interview.
- The duty of the court, in deciding whether to make a parenting order in respect of a parent under section 20 of the Anti-social Behaviour Act 2003 to take into account a failure by the parent/carer without reasonable excuse to attend a reintegration interview when requested to do so.

4.10.7 The notice must be given no later than six school days before the date of the reintegration interview.

4.10.8 The interview must be held on a school day within the period beginning with the first day to which the exclusion relates and ending with the fifteenth school day falling after the last day to which the exclusion relates. This would be whether or not that school day falls in the same term. If the headteacher and parent/carer agree the interview may be held on a day within this period which is not a school day.

4.10.9 Before giving the notice the headteacher (or any other person authorised by the headteacher) must use reasonable endeavours to arrange the interview for a date and time (within the period) convenient for the parent/carer.

4.10.10 Local authorities will monitor schools to ensure that they are offering these interviews to parents/carers. A parent's/carer's failure to attend will be a factor which will be taken into account by the courts in deciding whether or not to impose a parenting order on the parent/carer (see subsection 4.17). If a parent/carer does not attend, however, this should not affect the child's return to school: exclusion cannot be extended because a parent/carer did not attend a reintegration interview – this would be to penalise the child for the action (or inaction) of the parent/carer.

4.11 Support systems for pupils

4.11.1 In addition to regular learning and teaching 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 behaviour and attendance 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.

4.11.2 Effective practice guidance[121] for the early identification of young people at risk of dropping out has been produced to support local authorities' implementation of the youth engagement and progression framework.

4.11.3 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

[121] wales.gov.uk/topics/educationandskills/skillsandtraining/youthengagement/early-identification-guidance/?lang=en

assess any additional support required before they move into Key Stage 4 (see subsection 4.25 for more information). This should be considered in the development of pupil support services (learning coaching, personal support and careers advice and guidance) for 14 to 19-year-olds
- implementing PSPs for those pupils in danger of disengagement or exclusion
- programmes of short courses on specific elements of social, emotional and behavioural skills
- contact with parents/carers on the first day of any unexplained absence and discussion between the pupil and staff responsible for their registration
- contact with parents/carers in the early stages of a problem, rather than when a pupil 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. local authority 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
- referrals to external agencies for learners with SEN. For more information on supporting pupils with additional learning needs see section 3 and the *Special Educational Needs Code of Practice for Wales* (Welsh Assembly Government, 2004).

4.11.4 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.

4.11.5 Referral of individual pupils to the local authority for more specialised advice may often lead to non-standard education provision, involving education other than at school (EOTAS) 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, with a view to supporting their reintegration back to mainstream education. Further information on out-of-school provision is contained in section 6.

4.12 Support systems for staff

4.12.1 All staff should be encouraged to deal with minor or occasional misbehaviour and poor attendance at the time, wherever it occurs in the school. One of the purposes of behaviour and attendance policies 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 policies 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 local authority behaviour support services are provided. This could include use of Welsh Government resources, such as the behaviour management handbooks for primary[122] and secondary[123] schools, and other resources available on the Learning Wales website. The Welsh Government has also strengthened opportunities for newly qualified teachers through the introduction of the Masters in Educational Practice (MEP), which included a behaviour management module. These resources on behaviour management are also available to anyone in the profession through Learning Wales[124]
- staff who need advice on managing the behaviour and attendance of individual pupils should know where to get advice. Responsibilities for providing this support should be clearly identified in the policy, including, in school attendance cases, when and how a referral to the local authority 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 the reasons for non-attendance. A sound grasp of the reasons given will enable schools and education welfare staff to deploy resources effectively to reduce absence.

4.12.2 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 the local authority and other services, (e.g. educational psychology, Education Welfare Service, behaviour support services, counselling for children and young people, child and adolescent mental health services (CAMHS) and social services)
- the result of provocation through bullying, including bullying around the protected characteristics[125]. Schools must record all racist incidents and report them at least

[122] learning.gov.wales/docs/learningwales/publications/140822-behaviour-management-handbook-for-primary-schools-en.pdf
[123] learning.gov.wales/docs/learningwales/publications/121128practicalen.pdf
[124] learning.wales.gov.uk/resources/learningpacks/mep/?lang=en
[125] www.legislation.gov.uk/ukpga/2010/15/section/4

annually to the local authority. Schools should have in place clear procedures on dealing with bullying, as part of their behaviour policy, to include reporting to parents/carers, and supporting the victim and working with the perpetrator.

4.12.3 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, nurture and seclusion units and training provision. Staff should be given guidance and support on equality issues that relate to behaviour; this should support them in being sensitive to the needs of different groups of pupils.

4.13 Support systems for parents/carers

4.13.1 To gain parents'/carers' support for the school's behaviour and attendance policies at the time of admission to the school, parents/carers may be asked to sign a home–school agreement.

4.13.2 Parents/carers are responsible for notifying the school of their child's absence. However, it is good practice for schools to contact parents/carers 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/carers that unauthorised absence is taken seriously. By contacting the parent/carer the school also ensures that the parent/carer is aware that the child is not in school, enabling them 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/carers to send pupils to school when they have been reluctant to do so. It is important that the staff learn how to challenge parents/carers rather than accept inappropriate reasons for absence.

4.13.3 Schools should seek to involve parents/carers at all stages in their child's education, and in particular, to gain their support for effective positive behaviour, learning and teaching. The school's expectations of parents/carers should not be taken for granted but be made explicit so that parents/carers understand and are enabled to participate as fully as possible. For example, good practice is emerging in both primary and secondary schools offering voluntary parenting/parental engagement courses, often delivered by external agencies. Where such classes are offered to all, schools report increased engagement by parents/carers and improved behaviour and more regular attendance from pupils. A behaviour and attendance policy should include reference to how the school will support parents/carers to support their children.

4.13.4 Opportunities for engagement should be created for those parents/carers who are either hard to reach, feel culturally excluded or would not normally take an active part in the training or other support strategies.

4.13.5 The involvement of parents/carers should, where possible, be facilitated through encouragement and cooperation. However, where this has not proved possible it may be necessary to consider the use of legal powers. The legal provisions available to pursue a case of non-attendance are described in section 5.

New provisions under the Anti-Social Behaviour Act 2003 (Parenting Contracts for behaviour and attendance and Parenting Orders for behaviour) are provided in subsection 4.17.

4.14 Transition between primary and secondary schools

4.14.1 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.

4.14.2 There are a number of best practice case studies on the planning and implementation of transition support on Estyn's website[126].

4.14.3 Section 198 of the Education Act 2002 introduced a Wales-only provision to require the governing bodies of maintained secondary schools and their feeder primary schools, jointly, to draw up transition plans.

4.14.4 Areas to be addressed as part of the plan should include information about pupils' achievements and attainment, attendance and behaviour. This information should supplement statutory requirements met through the Common Transfer System (CTS). Further guidance on this can be found in *Educational Records, School Reports and the Common Transfer System – the keeping disposal, disclosure and transfer of pupil information*[127] (National Assembly for Wales, 2006) which covers the transfer of pupil records.

4.15 Consultation

4.15.1 To be fully effective, behaviour and attendance policies need support from the whole school community, so consultation is essential. The E and I Act 2006 introduced the requirement for a governing body not only to consult the headteacher, and parents/carers before making or revising its statement of principles on pupil conduct and behaviour but also the pupils and any such other persons working at the school (whether or not for payment) who the governing body consider appropriate. General support is more likely if the whole school community is actively involved in developing the code of conduct as well as agreeing underpinning principles. The involvement of all pupils should also help ensure that there is a common understanding of the overall standards of behaviour which are expected by the school and which all members of the community need to meet.

4.15.2 Governors should consider the results of the consultation exercise at a meeting of the full governing body. In practice this is likely to be in the form of a report from a committee summarising the feedback received from staff, pupils,

[126] www.estyn.gov.uk/english/advanced-search-results/?keywords=transition&cat=all&yr=all&tagSearch =yes
[127] gov.wales/about/foi/publications-catalogue/circular/circulars2006/1552927/?lang=en

partner organisations and parents/carers and providing recommendations for appropriate changes.

4.15.3 The consultation of pupils is an important duty, which reflects children and young people's rights under Article 12 of the United Nations Convention on the Rights of the Child (UNCRC) and the Welsh Government's policy of ensuring that children and young people have a voice in matters that affect them. All pupils must have the opportunity to comment on the statement of principles and so help shape the behaviour policy. This could involve, for example, class teachers or form tutors – particularly those in charge of very young pupils – talking to their class about the behaviour principles, gathering any views and feeding them into the policy development process. Work in PSE lessons might also provide opportunities for discussing the principles. Pupils could also be given the opportunity to feed their views through 'suggestion boxes', through their school council. It is important, however, that the views of pupils are considered and, where appropriate, reflected in policies, that pupils receive feedback concerning their input, and have the opportunity to be involved in policy implementation where appropriate, in line with the National Participation Standards[128].

4.15.4 Pupils could be involved in drawing up the policy though school councils. Alternatives would include:

- discussion in tutor groups or personal and social education (PSE) lessons
- training in consultation methods
- time set aside to produce and analyse questionnaires
- time set aside to lead workshops to analyse findings which can then be presented to senior management, governors and pupils.

4.15.5 For consultations to be effective, good communication and feedback are essential. Resources and activities to assist the school council/pupil groups in conducting consultations can be found on the Pupil Voice Wales website[129]. The form of the consultation with pupils must be such that pupils with disabilities, as well as other pupil groups whose views might be under-represented, have a full opportunity to express their views. The consultation of pupils could be organised in various ways: in groups, individually, face-to-face, by e-mail or using trained peers.

4.15.6 Parents/carers have a critical part to play by supporting the policy through reinforcement at home. Steps should be taken to consult parents/carers from all communities widely, e.g. through presentations or discussions at parent evenings, and parent/staff association events etc. In addition, the school parent association might form a working group; parent/carer governors might take the lead; or feedback could be sought in a combination of meetings and informal discussions. Particular attention needs to be paid to parents/carers 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/carers when their children first attend

[128] www.pupilvoicewales.org.uk/secondary/about-us/national-children-and-young-peoples-participation-standards-for-wales/
[129] www.pupilvoicewales.org.uk

a school is valuable in ensuring that the views of parents/carers and pupils have informed the final policy.

4.15.7 Partnership working with the governing body's staff members and with the unions to develop the behaviour policy should also help ensure that any concerns around staff workload, conditions of service and health and safety are appropriately taken into account.

4.15.8 Governors should also consider taking account of the views of local partners working with the school. This may include third sector agencies, other schools, children's services and community safety partners such as the police and youth offending services. This will ensure that all partners are engaged with what the school is trying to achieve and can shape behaviour support work accordingly.

4.16 Monitoring and evaluation

4.16.1 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 pupils who require additional support. Monitoring of the policy should be an integral part of more general monitoring of all aspects of inclusion (see section 2) and school effectiveness and will help in planning for future staff training.

4.16.2 Monitoring needs to assess the impact of the operation of policies on pupils, parents/carers and staff, and to refer to both evaluating the impact and acting on the results of evaluations. The school should record all discriminatory (e.g. racist or homophobic) incidents and parents/carers and governors should be informed of such incidents and the action taken to deal with them. Governing bodies should inform local authorities annually of the pattern and frequency of any incidents.

4.17 Detention – the law and how to apply it

4.17.1 Detention is one of the sanctions schools can use in cases of serious misbehaviour. Section 92 of the E and I Act 2006, commenced in October 2010, clarified that schools have the authority to detain pupils after the end of a school session on disciplinary grounds. New provisions were introduced removing the requirement to provide 24-hour notice for lunchtime detentions, and allowing detentions to be applied by all school staff in lawful control or charge of pupils and not just teachers.

4.17.2 Schools now have additional flexibility on imposing detentions. This is intended to allow them to use this key sanction in ways that are suitably responsive to local circumstances. It is however important that these enhanced powers are used responsibly – taking appropriate account of a range of issues relating to the welfare and rights of staff, pupils and parents/carers. All schools, except independent and non-maintained special schools, have clear legal authority to detain pupils without the consent of the parent/carer. 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 headteacher must make all parents/carers, pupils and staff aware that teachers may use detention.

4.17.3 Parents/carers of pupils admitted during the school year must also be told about the policy. If the headteacher has made all reasonable efforts to make the policy known, parents/carers should not be able to challenge the lawfulness of detention because they were unaware of it.

4.17.4 The law safeguards children's and parents'/carers' 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 headteacher or another member of school staff authorised to do so. They should take account of:

- the child's age
- any SEN
- any religious requirements
- whether the parent/carer can reasonably arrange for a child to get home from school after the detention.

4.17.5 School behaviour policies, developed with the whole school community need to set out standard procedures on deciding how long a detention should be. For example, a detention to complete outstanding coursework may need to be longer than a detention for an incident of aggression which may achieve its purpose within a shorter time. Questions to consider include:

- is the length reasonable in the light of the seriousness of the misbehaviour?
- is the length reasonable to achieve a specific outcome?
- is the length proportionate compared to other misbehaviour?
- if the detention is outside normal school hours, will it keep the pupil back beyond a time that might be regarded as reasonable (e.g. in terms of transport, late hours or implications for mealtimes)?

4.17.6 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.

Staff

4.17.7 Some schools may wish to limit to certain senior staff the power to put pupils in detention, e.g. to heads of year or heads of department. Other schools may wish to use the flexibility created by the E and I Act 2006 in the opposite way – extending the power to a wider range of staff, including some or all support staff in lawful

control or charge of pupils. This is entirely a matter for individual schools to decide, and to reflect in their individual behaviour policies. Decisions will depend on the circumstances and staffing structures of the school. Schools should take appropriate account of training and development needs in deciding this. They should also make any such decisions in consultation with staff and school workforce unions.

4.17.8 It is vital that arrangements for supervision of detentions by staff are undertaken in a manner that is consistent both with their contracts and job descriptions, and with the National Agreement on Raising Standards and Tackling Workload[130]. Schools should also have regard to issues around work–life balance.

4.17.9 Schools also need to be bear in mind that supervising detentions is not generally something which would require the professional judgement and expertise of a teacher. In accordance with the principles set out in the National Agreement on Raising Standards and Tackling Workload, it is a task that should normally be undertaken by appropriately skilled and rewarded support staff.

4.17.10 It is important to ensure that staff monitoring detentions are not open to any allegations of misconduct. This will usually mean two members of staff supervising pupils in detention, or that a member of staff is continually visible by another member of staff. Some schools use CCTV to provide back-up support for staff but this should not be the sole method of protecting staff from allegations.

Written notice

4.17.11 A school must give at least 24 hours' written notice of a detention to the parent/carer except for lunchtime detentions, so allowing time for the parent/carer to raise any issues. A notice to a parent/carer should say:

- that their child has been given a detention
- why detention was given
- when, where and for how long the child will have to remain at school.

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

4.17.12 The law allows notice of a detention to be given to a pupil's parent/carer in various ways, e.g. a signed dated note by a teacher or staff member in a pupil planner (acceptable if there is clearly stated expectation in the school information to parents). The ways to give notice of detention could include:

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

4.17.13 It should normally be unnecessary for a headteacher to have to arrange for notice of detention to be served personally on the parent/carer or to obtain

[130] www.governorswales.org.uk/media/files/documents/2008-02-01/Governors_Resource_Pack_English.pdf

acknowledgement of its delivery. This would mean that a school could never reasonably detain a pupil whose parent/carer deliberately avoided receiving the notice or refused to respond to it. If the headteacher has given the parent/carer whom the school believes has custody of the child 24 hours' written notice of a detention the headteacher should assume that the parent/carer has received this even if there has been no response.

Period of notice

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

4.17.15 In practice the 24-hour requirement will normally mean a parent/carer 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/carers to make reasonable arrangements for transport, if necessary.

4.17.16 Bearing in mind the requirement for 24 hours' notice to be given to parents/carers, schools should ensure that parents/carers and pupils are informed:

- what the day is going to be used for
- when the pupil is required to arrive and when they will depart, and that the family needs to ensure suitable arrangements are in place for the pupil to get to and from school
- which members of staff the pupil should report to
- whether school uniform should be worn
- whether the pupil needs to bring
  - packed lunch and drink or any medication
  - any coursework or other learning materials
- that the school has a legal power to impose the disciplinary penalty of detention, and what the consequences would be for non-attendance.

Who should receive the notice

4.17.17 Written notice must be given to the parent/carer. 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 headteacher who knew that a child of separated parents/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 headteacher had taken all reasonable steps to give notice to the parent/carer 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 headteacher should also have given notice to someone else.

Failure to attend or walking out of a detention

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

4.17.19 Generally, a requirement to remain in the classroom or elsewhere in the school should not be enforced by use of force, although failure to comply may be treated as a disciplinary offence. The only circumstances in which using force would be justifiable would be where the staff involved judged that allowing the pupil to leave would:

- involve serious risks to the pupil's safety (taking account of their age and understanding), to the safety of other pupils or staff, or of serious damage to property
- lead to behaviour that prejudiced good order and discipline. In itself, refusal to remain in a particular place would not be enough to justify use of force. Staff would have to be sure that, if allowed to leave, the pupil would seriously disturb the running of the school by, for example, disrupting other classes.

4.17.20 It is best to let a staff member deal with the pupil after leaving the room – the first aim being to point out the need to return to the detention, but the second position being to make clear that the pupil will be held to account for the action they have taken.

4.17.21 It is important to make clear to other pupils that the pupil has made choices and will be held to account for those choices. The purpose of this is to reinforce the message that sanctions are applied consistently and fairly and may also have the effect of calming down other pupils. A further and higher level sanction may be imposed on the pupil. This higher-level sanction might be a fixed-period exclusion, imposed by the headteacher.

Circumstances for not detaining a pupil

4.17.22 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/carers to demonstrate any unreasonableness about the proposed detention. Simple inconvenience to parent/carer or pupil in making alternative transport arrangements would not be sufficient reason to withdraw the detention. If after-school detention is not possible, the headteacher (or other authorised teacher taking the detention) could consider detention at lunchtime or another suitable sanction.

Responsibility for travel arrangements

4.17.23 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/carer. The school does not have to pay.

4.17.24 If a pupil is required to use transport to or from a detention the school should take into account whether such transport arrangements are reasonable and practicable. This may be a particular issue for schools where public transport is limited or expensive. In these circumstances schools will want to make reasonable arrangements with parents/carers while insisting on the terms of the detention being met.

4.17.25 In addition, schools will need to be sensitive to issues where a pupil is a primary carer, a looked-after child or vulnerable in other ways. For example, a pupil may have responsibilities for helping care for a sick family member or for escorting a younger sibling home. Or a pupil with a history of severe behavioural problems may be required as a part of a YOT contract or court order to attend specific sessions which may fall at the time of a proposed detention. Close liaison between schools, child, family and partner agencies is essential.

Detaining young children

4.17.26 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 headteacher must by law consider.

Responsibility for care and safety of children detained

4.17.27 Teachers have a duty to take reasonable care of pupils at school. If a child is injured because a teacher is negligent, the parent/carer could take an action of negligence against both the teacher responsible and the employer (either the local authority 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.

4.17.28 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/carer 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
- the injury was a direct result of that negligence.

4.17.29 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.

4.17.30 However, the local authority 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/carer would have to prove all three points in paragraph 4.17.28.

4.17.31 Although 24 hours' notice is no longer a legal requirement for lunchtime detentions, schools should continue to be sensitive to the personal circumstances of pupils expected home for lunch and should ensure that lunchtime detentions are not of such duration that a pupil misses the opportunity to eat (not to do so would affect the reasonableness, and thus potentially the legality, of the sanction).

4.17.32 The fact that lunchtime detentions may now be given without 24 hours' notice makes it particularly important for schools to ensure they are clear which pupils are expected home for lunch. In particular, schools usually require that parents/carers inform them in writing if a pupil will be going home for lunchtime as a routine. In such circumstances schools may find it helpful to develop guidelines which allow pupils to be in detention for a certain period of time before releasing them to go home for lunch and get back in time for afternoon school. Alternatively – given the complexity of managing this – some schools adopt a standard '5 minute' lunchtime detention for pupils who go home to lunch and as needed defer a longer detention to after school the next day.

4.17.33 It is essential that staff and pupils get a reasonable break at lunchtime to eat, drink and use toilets. Lunchtime detentions should not be of a duration that would deprive any individual staff member or pupil of their proper entitlement to these things.

4.17.34 Schools will need to respond to specific circumstances affecting individual pupils, e.g. a requirement to take medication at specific times or the need for space for religious observance.

Early morning, Saturday and non-school day 'detentions'

4.17.35 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 remain dependent on the cooperation of the pupil and parent/carer.

4.17.36 Provisions introduced under the E and I Act 2006 allow schools to apply detention on days set aside for the performance of duties by non-teaching members of the school. This would include, for example, INSET days.

Use of time

4.17.37 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.

Records

4.17.38 Schools should keep a written record of any detention and the reasons for imposing it, to enable them to adequately assess their use of detention as a sanction and in case parents/carers ask for information or bring a legal challenge.

Parental complaint about detention

4.17.39 Parents/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
- the need for transport home if the parent/carer cannot collect the child that day or make reasonable alternative arrangements.

4.17.40 The headteacher, or other authorised teacher, may decide the child should have a detention despite the parent's/carer's representations. However, a parent/carer who remains dissatisfied can complain to the headteacher 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.

4.17.41 A parent/carer concerned about either the principle of detention or how it is used can raise these concerns with the headteacher or the governing body, or both.

4.18 Pastoral support programmes (PSP)

4.18.1 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 PSP. The following advice is intended as a framework within which each school would implement a PSP.

4.18.2 Guidance on educating and reintegrating excluded pupils, contained in *Exclusion from schools and pupil referral units*[131] (Welsh Government 2015) also needs to be taken into account.

Main principles

4.18.3 The 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.

4.18.4 All pupils at risk of exclusion or disengagement from mainstream schooling must have additional support considered, as outlined in the *Special Educational Needs Code of Practice*, as well as consideration of whether an individual education plan (IEP) is required.

[131] learning.wales.gov.uk/resources/browse-all/exclusion/?lang=en

4.18.5 The local authority officer responsible for monitoring exclusions, the school special educational needs coordinator (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.

4.18.6 A PSP does not replace the SEN assessment process, although it might well form part of SEN planning for pupils with emotional and behavioural difficulties and be integrated with IEPs.

4.18.7 The PSP acts as a detailed record for governing bodies and local authorities 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.

4.18.8 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.

4.18.9 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.

4.18.10 For pupils aged 14 and over the PSP should be an integral part of the support elements of the pupil's Learning Pathway 14–19.

Implementation

4.18.11 When the school or the local authority identify that a PSP is needed, the school should call a meeting of all those involved, including a representative of the local authority, representatives of any other agencies involved and the parents/carers 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 local authority 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 the precise and realistic behavioural outcomes the child is to work towards.

4.18.12 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, both academic and social, and must have as their objective the re-integration of the pupil into the mainstream as soon as practicable.

4.18.13 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 for 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 to stay in their mainstream school in the long run. If the pupil is in full-time EOTAS, such as a pupil referral unit (PRU), 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.

4.18.14 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 local authority**, usually educational psychologists, EWOs and behaviour support teams
- **social services departments** who 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 or are who 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 (PEP) so that the targets and outcomes are known to social services (see section 3 for more guidance on looked-after children and use of PEPs)
- **health services** who may be able to help where medical or other problems are impacting on attendance and behaviour, e.g. 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** who 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, who 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** which 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. Children with PSPs are likely to need group discussions and opportunities to discuss ideas with a careers adviser
- **community minority ethnic groups** who can help schools with mentoring programmes and provide advice and guidance on framing PSPs.

4.18.15 In drawing up a PSP, the school staff, in conjunction with others, should consider the needs of the pupil taking into account:

- their health
- their home circumstances
- their learning needs and attainment levels
- their literacy and numeracy skills
- other additional learning needs
- their educational history
- significant personal relationships
- their relationships with staff or fellow pupils, or both

- significant events
- their individual perceptions of all involved
- specific behaviours and any patterns
- attendance.

4.18.16 The strategies which could be considered to address the needs of the pupil might include:

- lunchtime and after-school homework clubs, and other forms of study support
- dis-applying 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 acting as mentors, after suitable training
- staff being 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 the pupil remains 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
- a managed move to another school – with the agreement of the pupil's parents/carers 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/carers

4.18.17 As far as possible all PSPs should be agreed and signed by parents/carers. As some parents/carers 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/carers may not be comfortable, for example, in attending a large meeting room in a school. A neutral venue may be more conducive to cooperative discussion.

4.18.18 Where possible the PSP should be signed during the discussion where it is finally agreed, and the parents/carers should leave with the signed version. This will help to avoid any communication problems around amendments to the plan, although it 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

4.18.19 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 required for this to happen.

Progress check in Year 9

4.18.20 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 local authorities to decide how to carry out progress checks but they should consider the factors highlighted in paragraph 4.18.15 to assess whether the pupils are particularly at risk.

4.18.21 The progress check might be led by a school-based education welfare officer (EWO), educational psychologist, or other designated officer within the local authority. 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.

4.18.22 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 14–19 develop the learning coach will also have a significant role for pupils aged 14 and over.

4.19 Parenting contracts and parenting orders

4.19.1 Section 19 of the Anti-social Behaviour Act 2003 sets out the provisions in Wales and England for governing bodies and local authorities to enter into parenting contracts in cases of exclusion from school, serious misbehaviour and truancy. Section 25 of the Anti-social Behaviour Act 2003 enables YOTs to enter into parenting contracts in respect of criminal conduct and anti-social behaviour.

4.19.2 Section 20 of the Anti-social Behaviour Act 2003 also sets out the provision for local authorities to apply for parenting orders for exclusion from school and serious misbehaviour.

4.19.3 New provisions commenced in 2010, under sections 98 and 99 of the E and I Act 2006, amended sections 20 and 21 of the Anti-social Behaviour Act 2003 which added to provisions previously in place for parenting orders for truancy. These new provisions:

- extend the use of parenting contracts so that they may be used for serious misbehaviour as well as for exclusion. They also clarify that the behaviour in question can take place at school or elsewhere if reasonable for the school to regulate it
- allow parenting orders to also be applied for in cases of serious misbehaviour where exclusion might have been warranted rather than solely in cases where exclusion actually occurred
- add a requirement for courts to take into account the failure of parents to attend a reintegration interview when considering whether to issue a parenting order

- add clarification on arrangements for cross-border or dual-registered pupils.

4.19.4 Power to impose parenting orders in response to truancy is available to courts under section 8 of the Crime and Disorder Act 1998 for parents convicted under sections 443 or 444 of the Education Act 1996. Guidance on parenting orders for truancy is covered in the Welsh Government's *All Wales Attendance Framework* (2015)[132].

4.19.5 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 antisocial behaviour.

4.19.6 These measures are intended to help ensure that parents/carers 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/carers.

Parenting contracts

4.19.7 If a pupil fails to attend school regularly or is excluded from school, the local authority or school may consider whether it would be appropriate to offer a parenting contract to the parent. Section 19 of the Anti-social Behaviour Act 2003 allows for a parenting contract for sufficient misbehaviour to be put in place where the school or local authority has reason to believe that a pupil has behaved in such a way as to:

- cause, or be likely to cause, significant disruption to the education of other pupils or significant detriment to the welfare of that pupil or other pupils or to the health or safety of any staff
- form part of a pattern of behaviour which, if continued, could lead to the pupil being excluded.

Where a school is able to regulate such behaviour, it does not matter where the behaviour in question took place. What is reasonable will depend on all the circumstances and will be set out in the school's behaviour policy.

4.19.8 A parenting contract is a formal written agreement between a parent/carer and either the local authority or the governing body of a school and should contain:

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

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

[132] wales.gov.uk/topics/educationandskills/schoolshome/pupilsupport/framework/?lang=en

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

4.19.10 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/carers to address these issues.

4.19.11 The local authority or governing body should be responsive to the needs of the parent/carer 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.

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

4.19.13 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/carer'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.

4.19.14 All those defined as a parent/carer under section 576 of the Education Act 1996 are parents/carers 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/carer coming within the definition.

4.19.15 A parenting contract can be used in conjunction with a PSP 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 a local authority or school entering into an agreement (either formal or informal) with a parent/carer 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

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

4.19.17 A parenting contract may be used in cases of truancy where a pupil has failed to attend regularly at the school at which they are registered or has been excluded from school, whether for a fixed-term or permanently, as an early intervention in response to emerging serious misbehaviour problems.

4.19.18 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/carer. Nor will it be appropriate in all cases. A parenting contract will be an appropriate course of action, in cases where the parent/carer is willing to address their child's truanting or behaviour, but needs support to do so effectively.

4.19.19 Parenting contracts can apply to parents/carers of pupils of a:

- community, foundation, voluntary-controlled or voluntary-aided school
- community or foundation special school
- maintained nursery school
- PRU.

4.19.20 The local authority 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/carer and how a parenting contract arranged by the local authority or governing body will be funded.

4.19.21 Governing bodies and local authorities should consider in each case whether the contract should cover exclusion, truancy, misbehaviour and/or criminal conduct and antisocial behaviour. If the YOT agrees that the contract 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 contract. Local protocols will need to be agreed about cooperating and supplying resources for such cases.

Making contact with other agencies involved with the pupil and family

4.19.22 The pupil and family may already be in contact with or receiving support from other agencies, e.g. social services, the YOT or a voluntary organisation.

4.19.23 Before the local authority 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/carer to ascertain any underlying issues that should be taken into account when deciding whether a parenting contract would be appropriate and, if it is, the types of support that could usefully be included.

4.19.24 In addition, the organisation proposing to use these powers must request information from any other body which may be able to use the powers to decide whether this is the best course of action to avoid multiple applications.

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

Types of support that might be included in a parenting contract

4.19.26 Parents/carers will often be unaware of the different types of support available and the local authority 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/carer and help with transport to and from school.

This list is not exhaustive.

Funding a parenting contract

4.19.27 The party entering into the parenting contract with the parent/carer (namely the local authority or the governing body of a school) is responsible for bearing the costs of any support provided under a parenting contract although these costs may be recovered from another body, e.g. a school may incur the costs but these will be recovered from the local authority.

4.19.28 The cost of a parenting contract will be largely dependent on the type of support provided. Local authorities and schools are encouraged to use parenting contracts innovatively, making use of existing resources where appropriate. This might include:

- 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
- asking another parent/carer to act as a mentor.

At what point should the contract be arranged?

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

4.19.30 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.

4.19.31 In the case of permanent exclusions this would be:

- the date by which it is known that the parent/carer does not wish to lodge an appeal against the headteacher'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/carer by the governing body as the date by which time the parent/carer must have notified the local authority that they wish to lodge an appeal
- the date upon which the independent appeal panel endorses the decision to exclude.

4.19.32 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 headteacher's decision to exclude

- if the exclusion is not considered by the governing body, the date on which the exclusion began.

4.19.33 In the case of misbehaviour schools and local authorities need to ascertain that there has been misbehaviour sufficient enough to trigger the statutory parenting contract, e.g. where the school or local authority have reason to believe that a pupil has behaved in such a way as to:

- cause, or be likely to cause, significant disruption to the education of other pupils or significant detriment to the welfare of that pupil or other pupils or to the health or safety of any staff
- form part of a pattern of behaviour which if continued could lead to the pupil being excluded.

4.19.34 For a PRU, the review process is complete when the local authority endorses the decision of the teacher in charge to exclude or in cases where the local authority does not consider it, the date on which the exclusion began.

Duration of contracts

4.19.35 There is no specified time limit for contracts in the Anti-social Behaviour Act 2003 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 three months. It will often be desirable, however, to

maintain some level of support after the contract has come to an end; schools and local authorities will need to consider how to ensure that such support is sustainable after the end of the contract.

Delivering the contract

4.19.36 Responsibility for delivering the local authority's or school's part of the contract and for helping to manage its overall outcome must be allocated to an officer of the local authority or a member of the school's governing body, whether that be a member of the governing body or a senior member of school staff.

4.19.37 Delivering the contract will involve regular contact with the parent/carer 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/carers and drawing up a parenting contract with them

4.19.38 Once all agencies involved with the family have been consulted, the school governing body or local authority should arrange a meeting with the parent/carer to discuss the pupil's non-attendance and any related issues. In contacting the parent/carer, the school governing body or local authority should give consideration to the best way to approach the parent/carer, bearing in mind that some parents/carers may find it harder to engage than others. Ideally all parents/carers 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 local authority to consider which parents/carers should attend and whether it would be appropriate for parents/carers to attend separate meetings.

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

4.19.40 The local authority or governing body should write to the parent/carer 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/carer and improve the pupil's attendance or behaviour.

4.19.41 At the meeting, the local authority or governing body should explain the purpose of the meeting and the parenting contract and why they feel it may be helpful. The parent/carer 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/carers will often be unaware of different types of support and the local authority 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/carer 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 to improve the behaviour or attendance of the child.

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

4.19.43 The contract should strike an effective balance between specific and general requirements. General requirements are normally to clarify aims whereas specific requirements should be clear about exactly what the parent/carer must do.

4.19.44 If the parent/carer 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.

4.19.45 The specified requirements for the parent/carer under section19 (4) (a) of the Anti-social Behaviour Act 2003 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 education other than at school (EOTAS) provision punctually and regularly
- attending meetings with the school or local authority
- signing weekly behaviour reports
- ensuring that the pupil does not contact certain pupils.

This list is not exhaustive.

4.19.46 Where there is separate work being carried out with the pupil (e.g. through a PSP) it may be desirable for the contract to support this or include work involving the parent/carer and pupil together.

4.19.47 The governing body or local authority's side of the contract is a statement that it agrees to provide the parent/carer 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.

4.19.48 The parent/carer and a representative of the governing body or local authority (preferably the person who will deliver the governing body or local authority'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/carers who refuse to enter into a parenting contract or with whom it is impossible to agree a contract

4.19.49 Parenting contracts are voluntary, but the local authority or governing body should make all efforts to engage with the parent/carer to negotiate a parenting contract if it considers that it would be appropriate and helpful to the parent/carer to do so. If a parent/carer refuses to enter into a contract then the local authority officer or a 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/carer was at least willing to meet to discuss the possibility and, if so, what was said.

4.19.50 If a parent/carer refuses to enter into a contract or fails to agree to an appropriate contract, the local authority 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, a local authority may consider prosecution. The local authority officer or member of staff responsible for liaising with the parent/carer 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 2003 and that the refusal may be presented in evidence in the event of a prosecution for irregular attendance.

4.19.51 In deciding whether a parenting contract might be appropriate, the local authority 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/carer and providing support to them and, if so, what form this support should take.

Dealing with breaches of the parenting contract

4.19.52 The local authority or governing body (or headteacher on behalf of the governing body) should be working with the parent/carer to gain their cooperation and compliance with the contract but will have to judge whether any breaches are reasonable and whether the contract remains useful and should continue.

4.19.53 There is no liability in law for breaching a parenting contract.

4.19.54 However, in cases of exclusion from school, failure by the parent/carer to comply with the contract would be a relevant consideration for the local authority in deciding whether to apply for a parenting order; additionally, when deciding whether to make a parenting order, a court must take into account any failure by the parent/carer to comply with the requirements specified in a parenting contract.

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

4.19.56 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.

4.19.57 Every breach discovered should have a response. Upon learning of a breach the local authority officer or member of the governing body/senior school staff responsible for overseeing the contract should contact the parent/carer 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/carer, then a meeting should be arranged with the parent/carer to review the contract and amend it, if appropriate.

4.19.58 If no explanation is given or the local authority 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/carer with a warning, which may be in the form of a letter, and keep a record of this. If there are further breaches, the local authority officer or member of the governing body/senior school staff responsible for overseeing the contract should arrange a meeting with the parent/carer to review the contract and how it can be made to work. The parent/carer should be reminded that if a contract fails the local authority 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 local authority may seek to prosecute the parent/carer under section 444 of the Education Act 1996 if the parent/carer 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/carer'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.

4.19.59 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 headteacher, governing body, local authority and other agencies involved

4.19.60 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 and 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.

4.19.61 The governing body may delegate responsibility for parenting contracts to the headteacher and the headteacher 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.

4.19.62 Regardless of whether the school or local authority enters into a parenting contract, it is important that both the local authority and the school are aware of the fact that a parenting contract has been entered into with the parent/carer. The local authority and the school should liaise prior to entering into any parenting contract 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 local authority 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. In addition the organisation proposing to use these powers must request information from any other body which may be able to use the powers to decide whether this is the best course of action to avoid multiple applications.

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

4.19.64 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 cannot require a parent/carer to sign a parenting contract as a condition of their child being accepted by the school. The local authority and the school from which the pupil is excluded 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

4.19.65 As outlined earlier, section 444(1) of the Education Act 1996 provides that a parent/carer commits an offence if their 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 offence is committed unless:

- the pupil's absence was authorised by the school
- 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/carer belongs
- the nearest suitable school is not within walking distance of the child's home and the local authority has made no suitable arrangements for:
  - ensuring a safe walking route to the child's nearest suitable school is available
  - the child's statutory transport to and from school
  - boarding accommodation at or near the school
  - enabling the child to attend a school nearer their home
- the parent/carer 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 that child has attended school for at least 200 sessions during the preceding twelve months.

4.19.66 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.

Parenting orders

4.19.67 There are two types of parenting order. Power to impose parenting orders in response to truancy is available to courts under section 8 of the Crime and Disorder Act 1998 for parents/carers convicted under section 443 or 444 of the Education Act 1996. Guidance on parenting orders for truancy is covered in the Welsh Government's *All Wales Attendance Framework* (2011).

4.19.68 Under section 20 of the Anti-social Behaviour Act 2003, where a pupil is permanently excluded from school or receives more than one fixed-term exclusion within 12 months, the local authority may apply to the court for a parenting order. This guidance primarily deals with this type of parenting order.

4.19.69 Parenting orders compel parents/carers 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.

4.19.70 The parenting order consists of the following two elements.

- A requirement for the parent/carer 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 three months.
- Requirements for the parent/carer to comply with such requirements as are specified in the order. This element can last up to 12 months.

4.19.71 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 specimen application for a parenting order is attached at Annex 4.

4.19.72 The local authority 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. Where a number of bodies apply for a parenting order or enter into a parenting contract the one proposing to exercise the power must consult with each other body to avoid multiple applications or contracts and to decide if an order or contract is preferable.

4.19.73 The court can impose a parenting order on any or all parents/carers coming within the definition (see definition in the introduction to this section) and their consent is not required.

4.19.74 All parenting orders must be supervised by a ‘responsible officer’. This could be an officer of the local authority, a headteacher or a senior member of staff nominated by the headteacher. However, neither a headteacher nor a person nominated by him could be named in the order if they have not consented.

4.19.75 If the parent/carer fails to comply with an Order, then breach proceedings must be considered. If proven guilty of breaching a parenting order, the parent/carer is liable for a fine not exceeding Level 3 (currently up to £1,000). In considering the level of fine, the magistrates must take into account the means of the parent/carer 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

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

4.19.77 A local authority 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
- when a pupil has been permanently excluded from school
- for cases of serious misbehaviour where exclusion may have been warranted, rather than solely cases where exclusion actually occurred.

4.19.78 Parenting orders can apply to parents/carers of pupils of a:

- community, foundation, voluntary-controlled or voluntary-aided school
- community or foundation special school
- maintained nursery school
- PRU.

Assessing when a parenting order is appropriate

4.19.79 A parenting order is only appropriate where the exclusion has been made in response to serious misbehaviour, or serious misbehaviour has occurred without an exclusion taking place.

4.19.80 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

- carrying an offensive weapon or replica.

Bullying (including homophobic and racist abuse) could also constitute serious misbehaviour. This list is not exhaustive.

4.19.81 In deciding whether a parenting order might be appropriate, the local authority 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.

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

4.19.83 Section 26 of the Anti-social Behaviour Act 2003 enables YOTs to apply for parenting orders in respect of criminal conduct and antisocial behaviour. Local authorities should consider in each case whether the order for exclusion should also cover criminal conduct and antisocial behaviour. If the YOT 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

4.19.84 An application for a parenting order must be made after the date upon which the exclusion review and appeal process ends or serious misbehaviour took place.

4.19.85 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/carer does not wish to lodge an appeal against the headteacher'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/carer by the governing body, as the deadline by which the parent/carer must have notified the local authority that they wish to lodge an appeal
- the date upon which the independent appeal panel endorses the decision to exclude.

4.19.86 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 (or the local authority in the case of a PRU) endorses the headteacher's decision to exclude
- if there is no consideration by the governing body (or the local authority in the case of a PRU), the date on which the exclusion began.

4.19.87 If there is no parenting contract in place, the local authority 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.

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

Liaison between the headteacher, governing body, local authority and other agencies involved

4.19.89 Although only the local authority can apply for the parenting order and the final decision as to whether the application is appropriate will rest with the local authority, the headteacher may in the case of fixed-term exclusions, where the child remains a registered pupil at the school, ask the local authority to apply for a parenting order where they consider that this may have a positive impact on the pupil's behaviour, preventing further fixed-term exclusions or permanent exclusion.

4.19.90 Making any application for a parenting order in cases of exclusion from school will require close collaborative working between the school and the local authority. Both the local authority and school 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.

4.19.91 The organisation proposing to use these powers must request information from any other body which may be able to use the powers to decide whether this is the best course of action to avoid multiple applications.

Costs

4.19.92 Local authorities are under no obligation to apply for a parenting order in cases of exclusion from school or serious misbehaviour. Nor will it be appropriate in all circumstances.

4.19.93 Where an application for a parenting order is made, the local authority making the application 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. These costs can be recovered from another body with prior agreement.

Making the application

4.19.94 Applications must be made in accordance with the Magistrates' Courts (Parenting Order) Rules 2004 (SI 2004/247)[133] which specify the form of application that should be used. A copy of the specimen application form for a parenting order is included in Annex 4.

[133] www.legislation.gov.uk/uksi/2004/247/contents/made

Providing evidence

4.19.95 In addition, the local authority or school will need to prepare evidence in support of the application. Evidence that the pupil has been excluded from school or has exhibited serious misbehaviour should take the form of a statement by the headteacher of the school, the minutes of the governing body (where applicable) and, in the case of permanent exclusions where the parent/carer lodges an appeal, the minutes or decision letter of the independent appeal panel hearing.

4.19.96 In the case of serious misbehaviour the behaviour that has caused or is likely to cause significant disruption to the education of other pupils or significant detriment to the welfare of that pupil or other pupils or to the health or safety of any staff or a pattern of behaviour that could lead to the exclusion of the child.

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

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

4.19.99 The local authority should also provide evidence of any experience of trying to engage the parent/carer 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 exclusion. If the parent/carer will fully engage with support offered on a voluntary basis, a parenting order would not usually be desirable.

Providing information about family circumstances

4.19.100 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/carer's family circumstances and the likely effect of the order on those circumstances.

4.19.101 The local authority should be prepared to provide information about the parent's/carer's family circumstances. The local authority 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 local authority), or ask questions of the parent/carer 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

4.19.102 Parenting orders in cases of exclusion or serious misbehaviour apply only to parents/carers 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/carers.

Parental attendance at court

4.19.103 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/carers falling within the definition (see definition given at 4.19.14 attend court and that all parents/carers are involved in any parenting intervention.

Requirements of parenting orders

4.19.104 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/carer's religious beliefs and any interference with the times at which the parent/carer 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

4.19.105 The core requirement of a parenting order is that the parent/carer 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/carer 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.

4.19.106 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 local authority should be aware of what provision exists in its area and in neighbouring authorities (for cross-border cases).

4.19.107 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 six or seven 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.

4.19.108 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 12 months if it considers it reasonable to do so to allow for the possibility of the order being

breached or varied to require the parent/carer to attend a new counselling or guidance programme.

4.19.109 During the course of the parent's/carer's attendance at the counselling or guidance programme the parent/carer, 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/carer 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/carer support group or similar activity.

Residential requirement

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

- that the attendance of the parent/carer 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
- that any likely interference with family life is proportionate in all the circumstances.

4.19.111 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. Local authorities should therefore consider whether there would be a breach of Article 8 and, if so, whether that is justifiable.

4.19.112 If a local authority 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/carer's home life is so chaotic that they need a structured setting where sustained counselling and guidance can be undertaken.

4.19.113 For the court to decide whether any likely interference with family life is proportionate local authorities 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

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

4.19.115 The local authority 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.

4.19.116 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 to address their behaviour. The local authority 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.

4.19.117 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 local authority or school with the pupil.

4.19.118 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/carer to know when they are breaching them and for the responsible officer to be able to monitor their compliance.

Managing parenting orders and further court involvement

Role of the responsible officer

4.19.119 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 local authority, a headteacher or a senior member of staff nominated by the headteacher.

4.19.120 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 YOT, any voluntary organisations) to ensure that all interventions fit together well and are complementary.

4.19.121 In deciding who is best placed to act as the responsible officer for a parenting order, the local authority or headteacher 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/carer. Ideally they should have training, experience or a qualification in social work issues, 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 local authority.

4.19.122 Headteachers 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, headteachers should have regard to the time commitment, skills and experience necessary to supervise the order effectively (as set out in paragraph 4.17.121). Local authorities may only designate a headteacher or a person nominated by the headteacher to be the responsible officer if they are satisfied that the school's governing body is supportive of this arrangement.

4.19.123 It is good practice for the initial contact between the responsible officer and the parent/carer 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/carer 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/carer and that person should take place no more than two weeks before the sessions are due to start.

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

Variation and discharge

4.19.125 A parent/carer or responsible officer may apply to the court which made the parenting order to request that it be varied or discharged. Rule 31.5 of the Criminal Procedure Rules 2015 states that applications should be made by a person in writing as soon as practicable after becoming aware of the grounds for doing so, explaining—

(i) what material circumstances have changed since the order was made, and
(ii) why the order should be varied or revoked as a result;

Also, the application must be served on—

(i) the court officer,
(ii) as appropriate, the prosecutor or defendant, and

(iii) any other person listed in paragraph (1)(b) of Rule 31.5 of the Criminal Procedure Rules 2015, if the court so directs

4.19.126 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, e.g. where the family moves to another area or where the requirements are not proving effective.

4.19.127 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

4.19.128 Where a parenting order has been made, any appeal against the order should be made to the Crown Court.

Breach

4.19.129 The parenting order is primarily designed to help and support the parent/carer in addressing their child's behaviour. The responsible officer should be seeking to secure and maintain the parent's/carer's cooperation 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.

4.19.130 If a parent/carer fails to comply with a requirement of the order it is good practice for the responsible officer to make contact with the parent/carer 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/carer a written warning and, if possible, a warning in person.

4.19.131 If the parent/carer 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.

4.19.132 In the event of more than one unacceptable failure to comply within a period of three months, the responsible officer should meet the parent/carer 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.

4.19.133 If a prosecution is brought, there will be a hearing to determine whether the parent/carer 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/carer 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/carer to explain why a failure to comply with a requirement of the order has occurred.

4.19.134 If the parent/carer 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 section 148 of the Criminal Justice Act 2003. Courts cannot reissue parenting orders in breach proceedings but the original order will continue to be valid.

4.19.135 Under section 127 of the Magistrates' Courts 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/carer 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/carer attending a new programme and meeting other requirements.

Cross-border aspects

4.19.136 The Education (Parenting Contracts and Parenting Orders) (Wales) Regulations 2010[134] set out the following requirements and conditions.

- Where the pupil attends school in one local authority and lives in another, the local authority where the pupil attends school should normally take the lead in any local authority-level action necessary to improve the pupil's attendance or behaviour.
- If a parenting order is made consideration should be given to referring the parent/carer to a parenting programme in the local authority where the pupil lives. The local authority where the pupil lives and the local authority where they attend school will need to work closely together.
- Where a pupil is permanently excluded the local authority where the pupil lives would normally take the lead. In these circumstances if any action is school-led it would be expected that this would be undertaken by the school to which the pupil is moving rather than the original school.
- Local authorities or schools pursuing parenting contracts or orders should ensure that the decision to do so is the most appropriate approach and request information from each other when they are considering pursuing a contract or order. This approach will ensure that multiple parenting contracts or orders are avoided.

4.19.137 Local authorities should draw up protocols setting out the basis under which cross-border and inter-school working will take place.

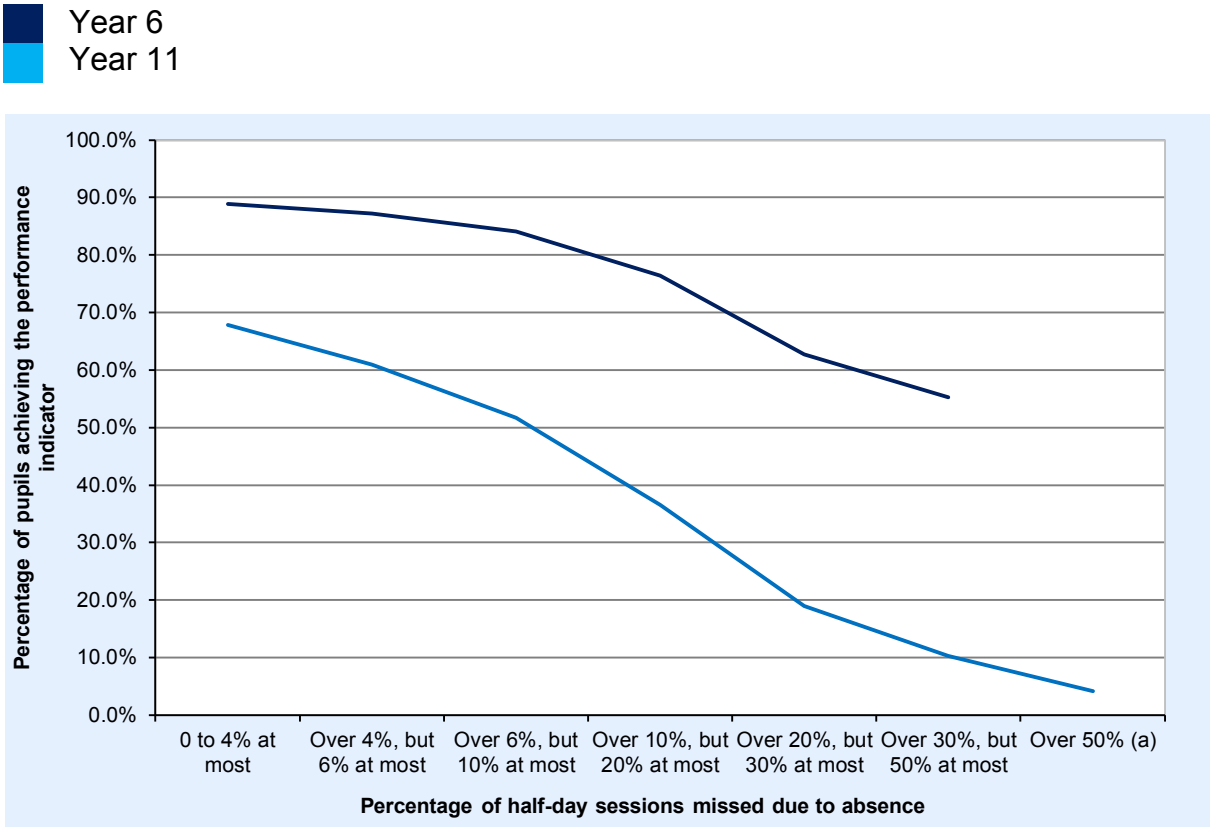
[134] www.legislation.gov.uk/wsi/2010/2954/contents/made

5. Attendance

5.1 Introduction

5.1.1 Attendance in schools needs to remain a priority. Regular school attendance is vital in helping ensure that children and young people are given the chance to achieve their full potential.

5.1.2 The statistical links between attendance and achievement are very strong.



5.1.3 Attendance cannot be thought of in isolation and this section should be read in conjunction with other elements of this guidance, particularly inclusive education and behaviour. Effective leadership, an engaging curriculum and inspiring teachers are all imperative once pupils are in school to ensure continued attendance.

5.1.4 In addition, findings from Estyn's 2014 report on attendance in secondary schools[135] highlight that, despite improvement, absenteeism is a concern in nearly a third of secondary schools inspected in the first three years of the current inspection cycle and disproportionately disadvantages vulnerable groups of pupils, including:

- pupils who are eligible for free school meals (eFSM), who are more likely to be absent, to be persistent absentees, and to under perform

[135] www.estyn.gov.uk/english/docViewer/329401.8/attendance-in-secondary-schools-september-2014/?navmap=30,163

- absence rates for pupils with special educational needs (SEN) is higher than for pupils with no SEN. Pupils with behaviour, emotional and social difficulties have a higher absence rate than any other groups of pupils with SEN; this group of pupils had the highest rate of unauthorised absence too.

5.1.5 As well as helping young people to achieve their potential, active follow-up of non-attenders is a key element in their protection and in helping them to avoid being involved in criminal activity. Studies conducted in England have shown that pupils not attending school on a regular basis are far more likely to commit crime (National Audit Office, 2005)[136].

5.1.6 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 making the appropriate links with local authority services and external organisations in cases where a multi-agency approach is required.

5.1.7 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. 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.

5.1.8 Schools and local authorities should work with parents/carers and pupils as far as possible to encourage attendance and provide any necessary additional support, before taking forward any prosecution.

5.1.9 The *National model for regional working* (Welsh Government, 2015)[137] outlines the responsibility of regional consortia which are also there to support and promote the development of school improvement linked to pupil well-being, including behaviour and attendance. Local authorities will continue to be responsible for delivery of education welfare, and supporting schools in managing behaviour and attendance.

The legal background

5.1.10 Under section 7 of the Education Act 1996[138], the parent/carer is responsible for making sure that their child of compulsory school age (broadly this means children aged 5–16) receives efficient full-time education that is suitable to the child's age, ability and aptitude and to any SEN the child may have. This is by regular attendance at school or otherwise (the parent/carer can choose to educate their child at home).

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[136] www.nao.org.uk/report/improving-school-attendance-in-england/
[137] www.wales.gov.uk/topics/educationandskills/publications/guidance/national-model-for-regional-working/?lang=en
[138] www.legislation.gov.uk/ukpga/1996/56/section/7

5.1.11 If it appears to the local authority 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[139].

5.1.12 If a child of compulsory school age who is registered at a school fails to attend regularly at the school then the parent/carer is guilty of an offence under section 444(1) of the Education Act 1996[140].

5.1.13 Under the Education Act 1996, section 444(1A) as amended by the Criminal Justice and Court Services Act 2000, a parent/carer who knows that their child is failing to attend regularly at school and who fails without reasonable justification to cause them to attend is guilty of a further offence. This offence requires proof that the parent/carer knew of their child's non-attendance and failed to act. Under this aggravated offence a warrant can be issued compelling a parent/carer to attend court and conviction can lead to a custodial sentence.

5.1.14 Section 444ZA of the Education Act 1996 (as inserted by section 116 of the Education Act 2005) extends the circumstances in which a parent/carer can be prosecuted for failing to ensure that a child for whom they are responsible attends regularly to include alternative provision that has been made for the child.

5.1.15 A local authority must consider applying for an education supervision order (ESO) before prosecuting a parent/carer (Children Act 1989, section 36)[141]. A local authority may apply for an ESO instead of or as well as prosecuting the parent/carer.

5.1.16 Sections 444A and 444B of the Education Act 1996 (introduced by section 23 of the Anti-social Behaviour Act 2003) introduced penalty notices for regular non-attendance at school as an alternative to prosecution under section 444. Parents/carers may discharge potential liability for conviction for an offence under section 444 by paying a penalty.

5.1.17 For further details please see the:

- Education Act 1996
- Education Act 2002
- Education Act 2005
- Children Act 1989
- Crime and Disorder Act 1998.

5.2 Attendance register and codes

5.2.1 Accurate recording of attendance codes is essential to ensure the safety of all pupils and meet legal requirements.

[139] www.legislation.gov.uk/ukpga/1996/56/section/437
[140] www.legislation.gov.uk/ukpga/1996/56/section/444
[141] www.legislation.gov.uk/ukpga/1989/41/section/39

5.2.2 Schools are required under the Education (Pupil Registration) (Wales) Regulations 2010 to take an attendance register twice a day – at the start of the morning session and once during the afternoon session. The afternoon registration must take place at the start or during the afternoon session, not at the end of the morning session or during the break between sessions. The register may be requested in a court of law as evidence in a prosecution for non-attendance.

5.2.3 All staff involved with the registration process should be made aware that the law is specific regarding the keeping of registers. The register shows whether the pupil is present, engaged in approved educational activities off site, absent or not required to attend. Where a pupil is of compulsory school age, the register must show whether the absence was authorised by the school or unauthorised.

5.2.4 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/carers, 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.

5.2.5 Registration procedures need to be clearly outlined in the school's attendance policy and repeated in the staff handbook.

5.2.6 Attendances codes are grouped under five statistical categories as noted in the table below.

Statistical category	Notes
Present	
Approved educational activity	(Treated as present.)
Authorised absence	By law only a school can approve absence, not parents/carers.
Unauthorised absence	Absent without the permission of the school.
Not required to attend	Pupils who have not attained the age of five at the start of the term in which the session takes place or were 16 years before the start of the school year in which it takes place.

5.2.7 It is important that:

- all staff have a general understanding of when each code may be used and its statistical meaning
- staff responsible for entering codes should have a thorough understanding of the issues regarding attendance
- staff should also be aware of when and to whom they should refer instances of absence in accordance with school guidelines
- clear guidance also needs to be given on what constitutes 'other authorised circumstances' so that a consistent approach is maintained across the school

- careful use of codes is paramount to avoid safeguarding issues arising, e.g. where pupils attend education other than at school (EOTAS) provision.

School attendance codes

5.2.8 The 2010 guidance on school attendance codes provides assistance to schools (including independent schools) and local authorities in the use of codes to record pupil attendance and absence in schools. It relates to attendance at statutory morning and afternoon registration as schools are required to be open to pupils for 190 days in an academic year or 380 sessions.

5.2.9 Electronic systems support a more consistent approach to collecting school attendance data across Wales, allowing greater potential for exploring further the reasons why pupils are absent, improving the safeguarding and tracking of pupils and in turn putting in place strategies to deal effectively with specific problems.

5.2.10 The use of fixed codes assists schools, local authorities and Welsh Government in monitoring not only whether pupils are absent with or without the permission of the school, but why pupils are absent from school. They can use this information to formulate interventions to address deteriorating attendance, poor attendance, persistent absence and other issues that the data reveals. Education welfare officers (EWOs) should investigate and challenge variations in the use of attendance codes.

5.2.11 Estyn has identified that schools that have both quality assurance procedures in place (with a member of the senior management team responsible for overseeing the coding of attendance) and good systems in place to analyse data are able to adapt their approaches to improve attendance.

5.2.12 The guidance may be used in conjunction with systems to record attendance in lesson-by-lesson systems, but schools may find that they need to record other reasons in this type of system. However, in schools where such systems are used and the first lesson in the morning or any session in the afternoon is used to substitute for the morning and afternoon registration, the codes in this guidance must be used for those sessions.

Computerised registers

5.2.13 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.

5.2.14 Schools using computers for attendance registration must make a hard copy 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 EWOs, to allow easy checking of individual pupils' attendance patterns.

School leaving date

5.2.15 All young people, including those attend EOTAS, are required to remain at school until the leaving date. Since 1998, Wales has had 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 an Order made under section 8(3) of the Education Act 1996[142].

5.2.16 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.

Deleting pupils from the school roll

5.2.17 There are clear and strict regulations on the circumstances in which schools can delete pupils from their admissions register. These are outlined in the Education (Pupil Registration)(Wales) Regulations 2010.

5.2.18 Schools should consider the regulations carefully before deciding to remove a pupil from their roll, taking advice from the local authority as appropriate. Where a school has made the decision to remove a pupil from their roll, they should notify their local authority immediately.

5.2.19 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/carers do not name the new school
- a pupil has 'disappeared' from the area without explanation
- a pupil has not returned to school within 10 school days of the agreed return date where a holiday during term time has previously been approved.

5.2.20 If schools are concerned they should alert the Local Safeguarding Children's Board without delay. If they have no named contact they should inform the local authority'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.

5.2.21 Guidance on attendance codes was updated in 2010. Issues have arisen regarding study leave and flexi-learning – additional advice is provided here.

[142] www.legislation.gov.uk/uksi/1997/1970/made

Study leave

5.2.22 Study leave used to be confined to the period after the late May bank holiday, but it is becoming more common for the exam period to start as early as the beginning of May. This has resulted in a number of schools issuing extended periods of study leave which may not necessarily be in the best interest of the pupils.

5.2.23 At age 15–16 a high proportion of pupils do not have the skills, or are not inclined, to make the best use of large amounts of unsupervised and unstructured revision time. While it may be a positive experience for some pupils, for many study leave can be wholly inappropriate and they are best working in school with their teachers and peers up until their last exam. Successful preparation for examinations needs to be a deliberate and carefully planned experience for pupils.

5.2.24 The decision to issue study leave to Year 11 pupils is at the discretion of the headteacher and the school's management team. Where a school decides to issue study leave it should do so sparingly and should not exceed 15 days. Study leave cannot be counted as an 'approved educational activity' as it is unsupervised. Study leave should always be recorded in school management information systems (MIS) using code 'S' which has the statistical meaning of an authorised absence. When used in excess study leave will ultimately have a negative impact on a school's overall attendance rate.

Flexi-learning

5.2.25 'Flexi-schooling' or 'flexible school attendance' is an arrangement between the parent/carers and the school where the child is registered in the normal way, but where the child attends the school only part-time; the rest of the time the child is home-educated. This is sometimes done as a short-term measure for a particular reason.

5.2.26 Flexi-schooling is a legal option as long as the headteacher at the school concerned and, in many cases, the local authority also agrees to the arrangement. This agreement by the school to the flexi-schooling arrangement is effectively also agreeing an authorised absence. Registration code 'C' – other authorised circumstances – should be used.

Holidays in term time

5.2.27 Parents/carers do not have an automatic right to withdraw their children from school for a holiday during term time. However, there may be circumstances that warrant a pupil taking time off in term time and this is why headteachers are best placed to make the decision. The Education (Pupil Registration) (Wales) Regulations 2010 state that headteachers have a discretionary power to authorise leave for a family holiday during term time where parents/carers seek permission. Except for exceptional circumstances, no more than 10 days' leave should be granted for this purpose.

5.2.28 A headteacher should consider individual circumstances on a case-by-case basis. A number of aspects will be taken into account, including the time of year,

length and purpose of the holiday, impact on continuity of learning, timing of exams or tests, circumstances of the family and the wishes of parents/carers, as well as the overall attendance and attainment of the pupil.

5.2.29 If a headteacher decides not to grant a parent's/carer's request for a holiday in term time, but the parent/carer takes the child on holiday regardless, this is classed as an 'unauthorised' absence.

5.2.30 The Education (Penalty Notice) (Wales) Regulations 2013 set out the amount of the penalty that will be incurred by parent/carers if they fail to regularly secure their child's attendance at school or at EOTAS provision, i.e. regular 'unauthorised' absence.

5.2.31 Parents/carers have a legal responsibility to ensure their child/children receive an education that is suitable to the child's age, ability and aptitude, and which takes account of any SEN of that child regardless of their socio-economic background. That said local authorities have a social and moral obligation to work with and understand the needs of individual families to ensure the best outcomes for the child. Targeted intervention and effective engagement with families play a vital role in resolving poor school attendance. Where there is regular 'unauthorised' absence, schools and local authorities have a number of options to help secure attendance[143].

5.3 Data analysis

5.3.1 The primary use of registration is to ensure the safety of all pupils.
An accurate and consistent registration system is also crucial if poor attendance and punctuality within a school are to be tackled.

5.3.2 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.

5.3.3 Analysis of attendance data at code level for individual pupils, classes, year groups and specific groups allows a school to identify trends in attendance and absence level. This can then enable the school to target its efforts.

5.3.4 All schools hold a great deal of information about attendance. Schools that have been successful in improving attendance and reducing persistent absence have a clear understanding of the attendance issues within the school. The majority were identified through the analysis of data as anecdotal evidence can be misleading.

5.3.5 The *All Wales Attendance Framework* (Welsh Government, 2011)[144] is an operating tool for the Education Welfare Service (EWS) that provides detailed information on data analysis.

[143] www.wales.gov.uk/topics/educationandskills/schoolshome/pupilsupport/framework/?lang=en
[144] www.wales.gov.uk/topics/educationandskills/schoolshome/pupilsupport/framework/?lang=en

5.3.6 Estyn's 2014 report on attendance in secondary schools[145] highlights the benefit of using data to inform strategy and set informed targets.

Strategic planning

5.3.7 Attendance data helps strategic planning and can enable schools to manage attendance issues more effectively. Whole-school attendance figures produced monthly, termly or yearly, based on year groups, can indicate factors such as:

- declining attendance in year groupings
- declining attendance for particular lessons
- the effect of seasonal attendance, e.g. attendance may decline during colder months and preceding school holidays.

5.3.8 Continuous analysis of individual pupil attendance and of the whole school can give scope for strategic planning. By identifying those levels which the school considers are indicators of persistent absenteeism or irregular attendance, it is possible to identify the extent of the problem. The school can then target time provided by the EWO and pastoral staff more effectively by producing:

- individual attendance records which highlight reasons for absence and the pattern and rate of unauthorised absence
- lists of all pupils with unexplained absence which can be fed back to the responsible member of staff.

Setting attendance targets

5.3.9 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 can counteract these inconsistencies.

5.3.10 The School Performance and Absence Targets (Wales) Regulations 2011[146] set out:

- targets to be set on total absence
- targets to be submitted to the local authority.

5.3.11 Under the regulations governing bodies of every maintained school (other than a special school established in a hospital) are required to set targets for the reduction of all absences of the pupils at the school. They require the following targets for total absences to be set and submitted to the local authority by no later than the 31 December in each school year:

- a final target for the next school year
- a reviewed target for the next-but-one school year (to be reviewed in light of actual outcomes in the previous school year)

[145] www.estyn.gov.wales/thematic-reports/attendance-secondary-schools-training-material
[146] www.wales.gov.uk/topics/educationandskills/schoolshome/schooldata/ims/imsregulations/?lang=en

- a provisional target for the next-but-two school year.

5.3.12 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)
- a statement setting out the extent to which the actual absence rate met the final target set for the same school year.

5.3.13 To enable local authorities to set realistic targets it is essential that they have access to information on all school-level attendance targets. This would also enable local authorities to provide feedback to schools on their proposed targets and allow for consistency of approach to target setting across the local authority.

5.3.14 Wherever possible schools and local authorities should work together to develop acceptable targets; however local authorities 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 local authority then the local authority should set the target for the governing body.

5.4 Non-attendance

5.4.1 While the parent/carer is primarily responsible for ensuring their child attends school regularly, where school attendance problems occur the key to successfully resolving these problems is engaging the child through collaborative working between the parent/carer, the school and the local authority.

5.4.2 Evidence has shown that tackling absence can be most effective when a school adopts a number of different approaches to meet individual needs. The initiatives used by schools to encourage attendance are partly dictated by a number of factors including the:

- age of pupils
- level of parental engagement
- geographical location
- social and economic circumstances.

5.4.3 Individual schools need to respond to their own particular problems in their own way.

5.4.4 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/carers to inform them of their child's absence have also proven effective in reducing absence and locating children and young people.

Unauthorised absence

5.4.5 By law, only a school can approve absence.

5.4.6 Unauthorised absence is absence without approval from an authorised representative of the school. This includes all unexplained absences. The decision taken by the school to give or withhold authorisation for an absence is a critical factor in determining the local authority's decision to prosecute parents/carers as prosecution is only possible for unauthorised absences.

5.4.7 It is important that schools exercise caution in the authorisation of absence. If they are suspicious of the explanation given by parents/carers, the absence should be further investigated and left unauthorised until the matter has been clarified to the satisfaction of the school. If the school has authorised a pupil's absence they have, in effect, given leave, therefore there is no case in law for the parents/carers to answer.

Parentally condoned unauthorised absence

5.4.8 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.

5.4.9 Only the school can approve absence, not parents/carers. 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.

5.4.10 Any further investigation should be handled sensitively but if, after this, questions remain, or 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 EWS at an early stage.

5.4.11 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 for individual pupils or groups of pupils.

5.4.12 Schools should explain to parents/carers at the start of the school year how to notify them when a pupil is absent. Some parents/carers, e.g. 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/carers make alternative arrangements, either through a neighbour, a community worker or elder sibling to notify a child's absence. To comply with equality legislation, it is important for schools to ensure that there is equal access to information. 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.

5.4.13 There is no legal requirement for parents'/carers' 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.

Post-registration truancy

5.4.14 Missing lessons after registration can have just as serious an effect on a pupil's progress as full-scale truancy, and is also potentially a safeguarding issue. It can also erode discipline in a school. If post-registration truancy is a problem, headteachers 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.

5.5 The school's role in dealing with attendance

School attendance policy

5.5.1 All schools should have an attendance policy in place and this should be reviewed regularly.

5.5.2 A school's attendance policy should set out its systems and procedures for ensuring regular school attendance and investigating the underlying causes of poor attendance.

5.5.3 Schools should develop a whole-school policy on attendance in discussion with staff, governors, parents/carers and pupils. The policy should clearly set out staff roles and responsibilities for dealing with attendance and should link to the school's behaviour and bullying policies.

5.5.4 The headteacher is responsible for the operational management of the attendance policy. However, it is important that it is not just one member of staff who writes the policy. The policy is more meaningful if developed in consultation with teachers, pupils, families, the EWS, administrative and ancillary staff, governors and senior management.

5.5.5 Parents/carers and pupils should have been consulted on the initial policy and it should reflect the local authority's attendance strategy. It should be endorsed by the school governors. Schools should make pupils and parents/carers aware of the school's attendance policy and should be encouraged to cooperate with the systems and procedures that the policy describes.

5.5.6 Emphasis should be placed on the role of the school, governors, parents/carers and pupils in developing and maintaining a culture of positivity surrounding attendance. The policy should detail what strategies it has in place for continuously improving attendance, tackling absenteeism and reintegrating pupils. The attendance policy should ensure it is updated when new legislation comes into force, e.g. the introduction of fixed penalty notices for regular non-attendance at school.

5.5.7 An attendance policy should:

- give a high priority to attendance and punctuality
- ensure compliance with all statutory requirements
- ensure that clear information is regularly communicated to all parents/carers and pupils
- make effective use of attendance data
- provide clear guidance to staff and parents/carers on the process of registration and recording of attendance
- contain clear procedures to identify and follow up all absence and lateness
- recognise the importance of early intervention
- make provision for first-day contact absence
- monitor post-registration truancy through the taking of class registers and spot checks
- be alert to critical times, e.g. Key Stage 2/3 transfer
- identify a range of strategies to deal with absenteeism and lateness
- provide a clear hierarchy of sanctions
- develop attendance incentive schemes which recognise pupils' attendance achievements
- consider the setting of targets for individuals, class, year groups, etc.
- establish procedures for identifying and reintegrating long-term absentees
- provide for regular structured meetings between school staff and the EWO
- ensure that reasonable steps are taken by the school before an appropriate referral is made to the EWO
- stress to parents/carers the importance of continuity of learning, particularly in relation to family holidays during term time, while being mindful of current legislation
- highlight opportunities such as parents'/carers' evenings and the school prospectus/brochure to remind parents/carers of the school policy on attendance
- involve governors
- identify a key senior member of staff with overall responsibility for attendance
- ensure that good practice is identified and disseminated
- include how often the attendance policy will be monitored and reviewed
- take steps to create a culture which encourages attendance, addressing school-based causes of poor attendance such as bullying, racism, the curriculum, etc.
- state what rewards/incentives will be used to encourage attendance
- identify how attendance data will be used to identify trends and enable action to be taken
- set out what measures will be taken to ensure pupils complete work which has been missed
- outline how the school will assess the effectiveness of its strategies.

5.5.8 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.

5.5.9 The attendance policy should also set out the circumstances in which the school will consider entering into a parenting contract (see section 3 of this guidance). The systems should be reviewed regularly and modified, where necessary, to reflect the circumstances of the school.

5.5.10 Schools should make pupils and parents/carers aware of the school's attendance policy and they should be encouraged to cooperate with the systems and procedures that the policy describes.

5.5.11 Schools should have systems and procedures for:

- registering pupils
- the length of time registers should be kept open
- categorising absence, in line with the 2010 guidance on school attendance codes
- collating and analysing attendance data to identify trends and enable action to be taken
- determining in which 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, including:
  - when contact will be made with parents/carers
  - 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
  - what sanctions can be taken by the school
- referring cases to the local authority, 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 section 6 of *Exclusion from schools and pupil referral units*[147] (Welsh Government, 2015) for more information on reintegrating excluded pupils).

Raising the profile of attendance and involving parents/carers

5.5.12 Effective engagement is the foundation on which all work with parents/carers is built. Key to this is respecting parents'/carers' rights and supporting them in meeting their responsibilities.

5.5.13 When welcoming and inducting new parents/carers and pupils it is crucial to raise awareness of the importance of punctuality and attendance. As part of staff induction, new staff should be briefed on the school's philosophy on attendance and introduced to their responsibilities for attendance management.

5.5.14 Schools should communicate frequently with parents/carers about positive achievements and improvements, emphasising the responsibility and role of parents/carers in partnership with the school.

[147] www.wales.gov.uk/topics/educationandskills/publications/guidance/exclusionguidance/?lang=en

5.5.15 Schools can raise the profile of attendance with parents/carers and the wider community through the use of parents'/carers' evenings, school newsletters or other communications. This will ensure the importance of attendance is spread widely throughout the school community.

5.5.16 It can be helpful to issue regular reminders to parents/carers of school procedures for notifying the school of a pupil's absence. To overcome attendance problems, it can be useful to have meetings with parents/carers to discuss strategies in school and at home which encourage regular school attendance and the production of an action plan for improving attendance. Many schools send out a letter automatically if attendance falls below a certain level.

5.5.17 The Facebook page for the 'Education begins at home' campaign[148] provides information on how parents/carers can support their child at home and help their performance in school.

Early intervention

5.5.18 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.

5.5.19 Before considering whether to make a referral to the local authority 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 SEN, or unidentified SEN or disability.

5.5.20 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/carer, for example:

- early discussion of unauthorised absence between the pupil and the teacher responsible for their registration
- meetings between the school, parents/carers 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 or School Action Plus, or a request for a statutory assessment
- meeting with parents/carers to discuss strategies in school and at home which encourage regular school attendance
- engaging the parent/carer in a parenting contract

[148] www.facebook.com/beginsathome

- consideration of timetable and subject choice with regard to engaging the pupil
- use of pastoral staff to ascertain and understand reasons for absence
- use of learning mentors to build positive relationships with pupils and parents/carers
- 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. letters home)
- providing extra help with work missed
- providing lunchtime and homework clubs
- ensuring pupils know who to go to if they have a worry
- referring the pupil to the local authority counselling services for children and young people (an independent evaluation of the Welsh School-based Counselling Strategy found that 69 per cent of link teachers reported counselling services had made a positive impact on the attendance of pupils)
- using an advocate
- where a pupil is at risk of failure at school through long-term disaffection the headteacher should establish a pastoral support programme (PSP) for the pupil (see section 3 of this guidance).

5.5.21 Those initiatives 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'/carers' evenings, school newsletters or other communications
- regular reminders to parents/carers of school procedures for notifying absence, and of school policy
- 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 regular non-attendees and with their parents/carers, including early intervention and parental engagement schemes
- creating a strong sense of community that values the views of parents/carers as well as building trust and open communication to enable effective relationships with them
- in schools where pupils have mature attitudes to learning and are supportive of each other, attendance is better; older pupils provide good role models and schools have effective mentoring schemes.

Contact on the first day of absence

5.5.22 Schools should emphasise parents'/carers' prime responsibility for ensuring attendance by asking parents/carers 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/carers that same day, particularly for cases where the pupil skips lessons after registration.

5.6.23 An active policy of first-day contact makes clear to pupils and parents/carers that absence is a matter of concern and will be followed up. By contacting the parent/carer the school also ensures that the parent/carer is aware that their child is not in school enabling them to take steps, where necessary, to establish that their child is safe.

5.6 The local authority's role in dealing with non-attendance

5.6.1 Local authorities 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 of the Education Act 1996). The service responsible for carrying out the local authority's duty is often known as the EWS and staffed by EWOs. References to the EWS or EWOs should be taken to mean any service or individual carrying out the local authority's duty under section 437.

5.6.2 The EWS provides support to schools, pupils and parents/carers to ensure regular attendance and address problems relating to absenteeism. EWOs 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 role and responsibilities of the EWS
- ensuring that policies and operational practices are shared between the EWS and schools
- agreeing arrangements for referral, regular review, monitoring and evaluation
- agreeing procedures for resolving enquiries.

5.6.3 The local authority 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/carer only unauthorised absence can be considered by the court because by definition any authorised absence has been approved by the school.

5.6.4 The local authority should set out the amount of support that schools can expect from the EWS. 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.

5.6.5 Each school maintained by the local authority should have a named EWO who is responsible for liaison with the school. Local authorities should monitor carefully the use of all different types of intervention strategies to assess whether they are effective and appropriate.

5.6.6 When a case is referred to the local authority, 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 discussion between home and school.

5.6.7 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 EWO has undertaken casework to address possible reasons for non-attendance. This should also include evidence of action taken by the school.

5.6.8 The EWS should engage other agencies where appropriate. It may be that the pupil is a child in need (within the meaning of section 17 of the Children Act 1989) 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 gatekeeping restrictions on obtaining help and/or information from other agencies such as the Department for Work and Pensions, 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.

5.7 Working in partnership

5.7.1 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
- local authorities' counselling services for children and young people
- child and adolescent mental health services (CAMHS)
- learning mentors
- special educational needs coordinators (SENCOs)
- youth offending teams (YOTs)
- behaviour support teams
- cultural, faith and community groups
- the police, including school community police officers.

5.7.2 This list is not exhaustive and schools and local authorities should endeavour to make links with all relevant organisations in their area.

5.7.3 Where intervention at school level fails to bring about an improvement in school attendance, a referral to the local authority must be made. The types of actions to be taken at school level and the trigger for referral to the local authority should be set through negotiation between the school and the local authority. Schools should work closely with the EWS to establish a clear protocol for referral.

5.7.4 All schools, including independent schools, must inform the local authority 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 10 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 local authority's responsibility is usually exercised through the EWS and its EWOs. It is important that EWOs check maintained school attendance registers at regular intervals.

Out-of-county working

5.7.5 Where the pupil lives in a different local authority, the local authority where the pupil attends school should take the lead in any local authority-level action necessary to improve the pupil's attendance. In such cases, the local authority where the pupil lives and the local authority where they attend 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 local authority where the pupil lives.

5.7.6 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/carers to the magistrates court covering the pupil's home and would likely need the assistance of the home authority in doing so.

5.7.7 Local authorities are advised to draw up protocols setting out the basis under which out-of-county working will take place.

Cross-border working

5.7.8 The latest available data shows approximately 2,000 pupils (Welsh Government Statistical Bulletin 28/2010) crossed the Wales/England border in both directions each day to attend school. Local authorities are advised to ensure protocols are in place with their counterparts in England to ensure effective transition for pupils.

Community-based action against truancy

5.7.9 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/carers (especially in areas where parentally condoned absence is a problem)
- publicity materials in local shopping centres and leisure centres
- advertising campaigns on local buses
- pupil pass schemes
- truancy hot lines
- 'truancy-free zone' posters displayed in shops and information packs for staff in shops.

5.7.10 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/carers of their responsibilities
- attract significant media attention and help to publicise the important work of those charged with enforcing attendance
- foster closer links between agencies concerned with the welfare of children.

5.7.11 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 local authority, can strengthen truancy sweeps and similar activities.

Fixed penalty notices

5.7.12 The Education (Penalty Notice) (Wales) Regulations 2013[149] came into force on 2 September 2013.

5.7.13 Penalty notices for regular non-attendance at school or at EOTAS provision should be viewed as part of the package of measures to improve attendance. Parenting contracts, parenting orders, school attendance orders and ESOs are other tools that local authorities are already able to use to help secure regular attendance.

5.7.14 As well as providing a suitable, quick and effective measure for improving levels of unauthorised absences, penalty notices have the potential to reduce the need for prosecution cases. Penalty notices provide another option that can be utilised in lieu of prosecuting parents/carers for the same offence before such procedures are initiated.

5.7.15 Penalty notices would be applied for unauthorised absences, such as:

- obvious truancy (including pupils caught on truancy sweeps)
- excessive unauthorised holidays in term time
- excessive delayed return from extended holidays without prior school agreement
- persistent lateness (after the register has closed and an unauthorised absence is created)
- regular parentally condoned absence that would warrant a prosecution for regular non-school attendance.

5.7.16 A penalty notice is a suitable intervention in circumstances where the parent/carer is deemed capable of securing their child's attendance but is not willing to take responsibility for doing so. Penalty notices are for use only where parental cooperation in this process is either absent or deemed insufficient to resolve the problem. They are used as a means of enforcing attendance.

[149] www.gov.wales/topics/educationandskills/schoolshome/pupilsupport/penalty-notices-for-regular-non-attendance/?lang=en

5.7.17 Specific criteria for issuing a fixed penalty notice for regular non-attendance at school will be set out in the relevant local authority code of conduct in accordance with guidance.

6. Education otherwise than at school (EOTAS)

6.1 Introduction

6.1.1 This section sets out the duties on local authorities and schools for education other than at school (EOTAS) provision – sometimes known as 'alternative provision'.

6.1.2 The guidance contained in this section relates to specific provision required to ensure pupils who may not receive suitable education by reason of:

- illness
- exclusion from school
- or otherwise.

Legal background

6.1.3 Section 19 of the Education Act 1996 is the primary legislation relating to the duty on local authorities 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 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.

6.1.4 Section 19(4) of the 1996 Act gives local authorities the power to provide suitable EOTAS 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, a local authority may arrange continuing education for a young person over compulsory school age, but under the age of 18.

6.1.5 Under section 19(6) of the 1996 Act suitable education is defined as 'efficient' education suitable to the age, ability, aptitude, and to any special educational needs (SEN) the child (or young person) may have. Local authorities must decide, in consultation with parents/carers, what may be regarded as a suitable education outside of school for a particular child, in accordance with the local authority's policies, the efficient use of resources and having regard to this guidance. Local authorities 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 local authority to arrange part-time attendance at a mainstream school as part of a package of measures designed to provide suitable education.

6.1.6 Part 4 of the Well-being of Future Generations (Wales) Act 2015 reforms and streamlines partnership working, making more effective use of public resources by requiring different public services to work together and to make plans to address the

well-being of their areas in an integrated way, instead of seeking to address problems in siloes. To reduce complexity and duplication information about the way in which public services are cooperating to improve well-being, including arrangements to promote cooperation to improve the well-being of children, can now be included in a local well-being plan. This replaces the need to produce a separate children and young people's plan. Further guidance on local well-being plans can be found in *Shared Purpose – Shared Future: Statutory Guidance for the Well-being of Future Generations (Wales) Act 2015 SPSF3 – Collective role (public services boards)* (Welsh Government, 2015).

6.1.7 Under section 19(4) of the Education Act 1996, a local authority should arrange continuing education for a young person over compulsory school age, but under the age of 18. Consideration should be given to providing continuing education 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
- a student has shown a high level of commitment prior to the point when they could no longer attend school.

6.1.8 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.

6.1.9 While mainstream schooling should be the objective for the majority of pupils, some may go further in reaching their potential through EOTAS 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 appropriate for a pupil, consideration should 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 in an EOTAS setting. The amount of time spent in school should be based on the needs of the pupil and should be reviewed on a regular basis.

Provision for pupils with special educational needs (SEN)

6.1.10 The *Special Educational Needs Code of Practice for Wales* (Welsh Government, 2004)[150] states that parents/carers may express a preference for the maintained school (but not a pupil referral unit (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 the:

- local authority has made other arrangements
- parents/carers have made suitable arrangements of their own.

[150] learning.wales.gov.uk/resources/browse-all/special-education-needs-code-of-practice/?lang=en

6.1.11 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 PRU, home tuition or education which 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.

6.1.12 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.

6.2 The school's role

Avoiding and dealing with exclusion

6.2.1 The majority of pupils educated outside school have behavioural problems and are likely to have been, or are in danger of being, permanently excluded on a fixed-term or permanent basis. A school's primary 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 for any extra support the pupils may have. The Welsh 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.

6.2.2 Exclusion from school can lead to an increased risk of social exclusion via unemployment caused by a lack of appropriate qualifications or training, and potentially a risk of becoming involved in criminal activity.

6.2.3 Where a school has concerns about a pupil's behaviour it should try to identify whether there are any causal factors. Looking for and recognising early indicators of difficulty can help to ensure pupils feel supported and cared for. The implementation of effective early intervention strategies can prevent problems from becoming entrenched or escalating to a stage where exclusion is being considered. Further information on early intervention strategies can be found at section 4 (subsection 4.12).

6.2.4 Exclusion from school should be a sanction of last resort. All other strategies should be exhausted before the decision to exclude a pupil is taken. There are a number of tools available to staff in dealing with disciplinary matters. Section 4 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 (PSP) (subsection 4.26) 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 local authorities over problems with individual pupils and particularly with behaviour support teams and the Education Welfare Service.

Provision for excluded pupils

6.2.5 If headteachers 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. The Welsh Government recommends that all pupils excluded for 10 days or more should have PSPs.

6.2.6 Influencing or encouraging parents/carers to 'voluntarily' withdraw their child from school as a way of dealing with difficult or challenging behaviour, is not an appropriate response. Schools acting in this manner could potentially be considered as acting contrary to educational law.

6.2.7 'Voluntary withdrawals' bypass the formal exclusion process and therefore deny parents/carers and pupils the right to appeal against decisions to exclude. This type of unlawful exclusion can also lead to young people being lost to education and training and significantly increases their risk of being socially excluded.

6.2.8 The Welsh Government guidance on pupil exclusions emphasises the importance of providing 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 headteacher has taken the decision to exclude a pupil. Full-time in this instance means offering supervised education or other activity equivalent to that offered by mainstream schools in the area.

6.2.9 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.

6.2.10 Schools continue to have an obligation to provide education for excluded pupils as long as they are still on the school 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/carers and/or pupils give notice in writing that they do not intend to appeal.

Dual-registered and part-time pupils

6.2.11 Where pupils are registered at a school and attend out-of-school provision 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 EOTAS provision. Headteachers should liaise with the teachers in charge of PRUs and local authorities to ensure that well-established arrangements are in place for reviewing pupils' circumstances as well as 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.

Provision of information to local authorities

6.2.12 Schools are required to provide certain key elements of information on all excluded pupils to local authorities. They should also provide any other additional information, such as patterns of behaviour and attendance and details of any extra support to ensure that the local authority has sufficient information to adequately plan the future provision.

Working with further education (FE) colleges

6.2.13 In November 2012, the Welsh Government introduced the Collaboration Between Education Bodies (Wales) Regulations 2012. These regulations enable governing bodies, local authorities and FE bodies to work collaboratively through the establishment of joint committees. There are a number of matters on which education bodies may collaborate including 'front of house' services such as the sharing of teaching staff or facilities.

6.2.14 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.

Discussion with parents/carers and pupils

6.2.15 As with all aspects of individual provision, it is vital that schools discuss alternatives to school-based education with parents/carers and pupils as soon as it becomes clear that it is the most appropriate option. Schools 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/carers and the child. This will involve schools liaising with the local authority at an early stage to ensure that they are fully informed of the options available.

Pupils with medical needs

6.2.16 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 those 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 EOTAS 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.

6.3 The local authority's role

Strategy of provision

6.3.1 Local authorities must consider children and young people when developing their single integrated plans. It is a key statement in each local authority for planning provision. One of its core aims should be for children and young people to have a comprehensive range of education and learning opportunities.

6.3.2 A large number of agents can be involved in supporting a young person for whom out-of-school education needs to be provided. Local authorities need to ensure that all such agents are involved in developing strategies, as well as continuing delivery and refinement. These would involve relevant partner providers who may or may not meet, such as children and young people's partnerships, Learning Pathways 14–19, youth services, Careers Wales, youth offending teams (YOTs), social services, health professionals, and training providers.

6.3.3 Local 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 PRUs and their links to mainstream schools
- links to FE colleges
- work with other agencies, including third sector organisations
- consultation with pupils and their families
- information gathering on individual pupils and sharing this information between different agencies and services
- developing a range of opportunities under the Learning Pathways 14–19 agenda.

Working with schools

6.3.4 A key aspect of the local authority'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 4). In particular they should offer advice and send clear messages on policy on:

- 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 4, subsection 4.26)
- the unacceptability of 'voluntary withdrawals' (see section 6, paragraph 6.2.7).

6.3.5 A number of local 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/carers and pupils who may otherwise not wish to engage in further discussions. Managed moves must be operated within an environment of collaboration and agreement between all parties, and undue pressure must not be put on parents/carers to move their children to

other schools against their wishes. Further guidance on managed moves can be found in *Effective managed moves*[151] (Welsh Government, 2011).

Diversity of provision

6.3.6 In developing strategies for alternative education, local authorities must ensure that there is sufficient flexibility to allow individual pupils' needs to be reflected. Pupils must have the opportunity to attend alternative provision on a part-time basis combined with part-time attendance at a mainstream school. To provide suitable education, local authorities 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.

6.3.7 The University of Edinburgh's research report for Welsh Government, *Evaluation of education provision for children and young people educated outside the school setting* (Welsh Government, 2013)[152] highlighted girls as a minority group in EOTAS, including PRUs. Local authorities, schools and PRUs should ensure that sufficient and appropriate support is made available for female pupils where they are in the minority in PRU settings and other EOTAS settings.

6.3.8 Local authorities should ensure that all parties are kept fully informed of the range of options for alternative education available to them and how they might access them, either directly or through the local authority. To facilitate this, local authorities should have a named officer with responsibility for coordinating alternative 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.

Quality assurance and standards

6.3.9 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 itself that the quality is of a high standard. Local authorities should also establish robust systems to monitor the arrangements on an ongoing basis.

6.3.10 Local authorities cannot delegate their core responsibilities in relation to these pupils. These include responsibilities for health and safety, and duties under the Equality Act 2010, which replaced all previous equality legislation. In addition, the local authority has an ongoing duty of care towards all pupils.

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[151] learning.wales.gov.uk/resources/browse-all/effectivemoves/?lang=en

[152] wales.gov.uk/statistics-and-research/education-provision-children-young-people-educated-outside-school-setting/?lang=en

6.3.11 Local authorities need to adopt robust procedures to satisfy themselves that the obligations placed on 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, which details the nature of the arrangement, making clear the local authority's expectations and reinforcing statutory requirements
- undertaking an initial assessment 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
- establishing 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 the original school and other agencies
- overseeing curriculum content, which should include PSE
- publishing arrangements for admission
- monitoring patterns of placement
- establishing systems to monitor pupils' progress.

Monitoring and evaluation

6.3.12 The monitoring and evaluation of alternative provision should form a key element in local authorities' strategies and be included in their single integrated plans. Local authorities 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 Learning Pathways 14–19 has led to an increase in the number of pupils and the amount of time they are spending in EOTAS.

6.3.13 A number of indicators should be taken into account in measuring the effectiveness of provision, including:

- unit costs
- quality of provision – in terms of suitable environments and personal development opportunities, as well as curriculum delivery
- attainment levels
- attendance
- numbers of exclusions
- reintegration rates
- numbers moving on to further education and training or getting jobs
- opportunities for appropriate accreditation.

6.3.14 Evidence collected by the Welsh Government through the Pupil Level Annual School Census (PLASC) return, and highlighted in *Evaluation of education provision*

for children and young people educated outside the school setting, indicated that there was an over-representation of certain groups within EOTAS provision. These include:

- boys
- pupils with statements of SEN
- children in public care (looked after children)
- pupils eligible for free school meals (e-FSM).

6.3.15 Local authorities need to ensure that out-of-school education for these pupils adequately reflects any need for specialist provision. Strategies should include ongoing assessment of the breakdown of pupils being educated outside school and a means of addressing over-representation of certain groups.

6.4 Types of local authority provision

6.4.1 There is an increasing range of EOTAS provision, including:

- PRUs
- FE colleges
- individual tuition and tuition at pupils' homes or at hospital
- Youth Gateway
- work-related education
- training providers
- third sector organisations
- tailor-made packages.

Pupil referral units (PRUs)

6.4.2 PRUs are the most frequently used EOTAS setting and in 2012/13 accounted for 46.6 per cent of all EOTAS enrolments. The type and size of provision offered in PRUs varies widely and allows local authorities greater flexibility to meet the needs of the pupils on roll.

Further education colleges

6.4.3 FE colleges are able to provide part- or full-time further education for young people in Years 10 or 11, and may be the most appropriate option, particularly for those with an interest in vocational learning. 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 young people with behavioural, emotional and social difficulties. The local authority remains responsible for the cost of making provision available in the FE sector for excluded pupils, and remains accountable for the performance of that education.

6.4.4 For most young people who are at the beginning of post-compulsory education, a transfer to a sixth form or FE college is likely to be the best option.

Individual tuition and tuition at pupils' homes or at hospital

6.4.5 Individual tuition, particularly at the pupil's home, is not usually well suited to meeting the needs of pupils who have been permanently excluded, but is very often an effective way of providing education to sick children and young people. Individual tuition may be useful for excluded pupils in the short term when carefully coordinated with other education services. Some local authorities have found that an integrated PRU/tuition service is a flexible use of resources and gives those being home tutored professional and social support. It can also help to provide additional curriculum flexibility at the PRU.

6.4.6 Individual tuition or tuition in small groups is likely to be the only option for pupils who are hospitalised for extended periods.

6.4.7 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 replace pastoral support or the planning of reintegration into mainstream education.

6.4.8 As 16 to 18-year-olds are more able to work independently than younger pupils individual tuition may be suitable for some nearing the end of examination courses. They should, however, still have access to components of Learning Pathways 14–19.

Work-related education

6.4.9 Work-based learning providers deliver traineeships or learning programmes which aim to develop 16 to 18-year-olds' employability skills. 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 third sector organisations, may also be included in the timetable.

Third sector organisations and other providers

6.4.10 Some local authorities contract with other bodies (including third sector organisations) to provide alternative education and also place pupils in units run by voluntary bodies. Such contractual arrangements can be an effective way for local authorities to meet their duty to provide education out of school. It is particularly important, given the range and number of possible providers, that local authorities regularly review the cost-effectiveness of such provision and ensure that appropriate child protection procedures are being followed.

Tailor-made packages

6.4.11 Often the best approach for a young person will be tailor-made provision based on a combination of possibilities, perhaps combined with part-time attendance at mainstream school. Local authorities 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

6.4.12 There are a small number of institutions where pupils may be confined, over which local authorities have no direct responsibility. These include youth offending institutions and asylum centres. In such cases, local authorities may still retain some accountability in relation to collaboration/partnership working.

6.4.13 Local authorities have clear responsibilities when a young person of statutory school age leaves an institution and needs to access a place in a local school, or to be provided with suitable education. Local authorities with such establishments in their area should maintain contact with them to identify how many young people of statutory school age are in residence. Where a pupil, who is ordinarily resident in a different local authority, is confined within this type of institution, the 'home' local authority should remain in contact with the 'hosting' local authority to support appropriate arrangements being made for their transition into future educational provision.

6.4.14 Local authorities should, however, provide education for pupils with mental health problems who are compulsorily retained in psychiatric units. Guidance on supporting pupils who require extra support can be found in section 3 and in *Access to Education and Support for Children and Young People with Medical Needs* (Welsh Government, 2010)[153].

Planning individual provision

6.4.15 The type of provision offered to pupils should be based on their individual needs. This should be done by establishing an individual plan for every pupil which has been agreed, following full consultation, between all parties including the pupils, their parent(s)/carer(s), their maintained school, the local authority and those providing the out-of-school provision. Other agents involved in supporting the pupil, such as YOTs, 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. 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, e.g. 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 an FE college.

6.4.16 Parents/carers of children out of school are often isolated. They should be regularly informed of progress and encouraged to help implement the child's plans. The local authority should consider whether the family requires additional support,

[153] learning.wales.gov.uk/resources/browse-all/education-and-support-for-children-and-young-people-with-medical-needs/?lang=en

such as a resource room or parenting skills training, and how this can best be achieved (in particular, which other agencies should be involved).

6.4.17 All pupils being educated in EOTAS provision should have regular reviews of their progress and the suitability of their provision. Reviews should take place at least every six weeks and the results should be 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. Where a pupil is not registered at a mainstream school or PRU, the responsibility would rest with the local authority.

Keeping records of individual pupils

6.4.18 It is vital that local authorities keep records of all pupils being educated otherwise than at school, on a part-time or full-time basis. Without this information, local authorities 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 to strategically plan EOTAS provision, including the level of resources required.

6.4.19 Where local authorities arrange for some form of EOTAS, the following information should be available in respect of each pupil:

- pupil details
- location of provision
- provider details
- part-time arrangements
- type and degree of SEN
- support for additional needs
- presence of pastoral support programmes (PSPs) and dates of reviews
- qualifications being taken/achieved
- attendance and behaviour.

6.4.20 When dealing with exclusions, local authorities cannot rely solely on information provided by schools, as young people are not included on school rolls for a number of reasons, including:

- voluntary withdrawals
- they have moved in from outside the area
- parents/carers were previously educating at home
- they are from Gypsy/Traveller families.

6.4.21 The national *Youth engagement and progression framework* (Welsh Government, 2013)[154] is built around the needs of young people where better availability of information enables stronger tracking and transition of young people at risk of disengaging. Local authorities and regional consortia will be required to engage with schools to utilise the data available so that effective monitoring and evaluation of the impact of any support provided can be achieved.

[154] gov.wales/topics/educationandskills/skillsandtraining/youthengagement/?lang=en

6.4.22 The Welsh Government is working with schools, FE colleges, post-16 providers and Careers Wales to develop and strengthen tracking systems for pre- and post-16 learners through the implementation of the *Youth engagement and progression framework*.

6.4.23 The framework will strengthen and improve the tracking:

- carried out by schools and local authorities
- during the transition from pre and post-16
- of all young people aged 16–18
- from age 18 and beyond
- of all ages by more effective sharing and use of data.

6.4.24 Local authorities will be expected to monitor and evaluate the impact of any support being provided to young people. This will enable them to evaluate, make adjustments and hold the providers of support to account by monitoring the impact of their work.

6.4.25 Other key school-based developments are the Lost Pupil Database and the toolkit to help identify children and young people missing education. These enable schools to find information on pupils who appear at school with little or no warning. It also allows local authorities to enter information on pupils who have left without any warning. Further guidance on tracking 'lost' pupils can be found in *Educational Records, School Reports and the Common Transfer System – the keeping, disposal, disclosure and transfer of pupil information* (National Assembly for Wales, 2006)[155]. Further guidance is also contained within more general guidance on the prevention of children and young people missing education released during 2010[156].

6.4.26 Attendance records need to be kept for pupils attending alternative school provision. This will become increasingly important as the amount of time and variety of provision increases.

[155] wales.gov.uk/topics/educationandskills/schoolshome/schooldata/ims/dataexchange/school2schoolcommon/?lang=en
[156] wales.gov.uk/topics/educationandskills/publications/guidance/missingeducation/?lang=en

Annex 1: Developing inclusive strategies – checklists for local authorities and schools

The following checklist offers questions for consideration by local authorities to help them evaluate the nature and quality of their current provision, and further develop inclusive strategies.

The local authority's strategy for inclusion

- Does the local authority have a strategy for inclusion which includes specific elements for particularly vulnerable groups?
- Does the strategy comply fully with equality legislation relating to education, including the Human Rights Act 1998, Welsh Language Measure 2011, and the Equality Act 2010?
- Is the strategy based on knowledge of current and emerging pupil needs, existing provision and proposals on future levels of provision, associated costs, and targets for pupils with lower attainment?
- Has the local authority 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 timescales 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 take difficult decisions that are consistent with strategic objectives?
- Is the policy developed into clear operational plans that indicate the steps the local authority intends to take toward greater inclusion and improved pupil outcomes?

Partnerships

- Is the local authority's strategy and planning consistent with other plans such as the single integrated plans and other specific theme plans, and provision for Welsh education?
- Have schools (including special schools), pupil referrals units (PRUs), parents/carers, 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/carers informed how to access the service?
- Does the local authority inform parents/carers and schools how to access the independent disagreement resolution service?

- Is the proportion of parents/carers and schools resorting to the disagreement resolution service low?

Specific local authority duties on inclusion

- Are there improvements in the attainment of pupils who require extra support in Foundation Phase and Key Stages 2 and 3 and in the proportion of these pupils gaining GCSE/GNVQ?
- Has local authority support to schools to improve behaviour and attendance reduced the number of permanent and fixed-term exclusions and improved attendance of pupils who require extra support)?
- Has local authority 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 local authority monitor attainment, absences, exclusions and bullying of various pupil groups, including minority ethnic groups, those with SEN and looked-after children (LAC)?
- Does the local authority provide comprehensive provision to meet a diversity of needs, including Welsh-medium support where required?
- Does the local authority provide full-time education for pupils after 15 days of their having been excluded?
- Does the local authority have a comprehensive strategy for the implementation of the Special Educational Needs and Disability Act 2001 to extend accessibility in the curriculum and the physical environment of schools?
- Has the local authority 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 local authority have a clear policy on the full range of SEN that states pupils' entitlement and reflects the *Special Educational Needs Code of Practice for Wales* (Welsh Assembly Government, 2004)?
- Do schools provide all reasonable adjustments to allow disabled pupils to access areas of the building and grounds?
- Is the local authority fully meeting its corporate parent/carer responsibilities for children in its care?

Funding

- Do the local authority's funding arrangements promote inclusion? Are they transparent?
- Do they fairly reflect the pattern of needs in schools?
- Has the local authority produced a sound financial plan to support its inclusion strategy?
- Does the local authority monitor how funding for inclusion is used? Does it evaluate its impact?
- Does the local authority monitor out-of-area placements and 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 local authority able to provide a detailed picture of school admissions, and identify patterns of admission for children with behavioural difficulties?
- Does the local authority have systematic monitoring procedures for incidents of sexual and racial harassment, bullying and hostile behaviour?
- Does the local authority 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 local authority monitor schools' progress in responding to the requirements of the Special Educational Needs and Disability Act 2001 and Education (Wales) Measure 2009, 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 local authority-maintained special schools falling?
- Does the local authority effectively support mainstream schools in providing for pupils with additional learning needs and particularly for those with statements of SEN?
- Is the number of pupils with additional learning needs taught in mainstream schools increasing?
- Is the local authority 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/carer satisfaction)?

Training

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

The role of schools

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.
- Ensure 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.
- 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 requiring extra support 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 systems in place to prevent and tackle bullying and racist incidents.
- Ensure consistency of approach in dealing with behavioural and attendance issues.
- Include those out of school through sickness or other reasons.

Annex 2: 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
Consider the needs of all pupils as part of their annual cycle of self-evaluation and planning and set out in their school development plan how they intend to develop their staff in order to meet their targets and address improvement priorities.			
Make effective use of statutory INSET days as an integral part of the school's arrangements for the professional learning of its staff.			
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/carers.			
Offer opportunities for staff to discuss with other agencies how their joint working practice could be improved.			
Check staff are aware of latest legislation and statutory guidance.			

Annex 3: Checklist for developing behaviour and attendance policies

The following checklist suggests a sequence for drafting a policy which covers the issues in section 3. The behaviour and attendance policy should be part of a collection of policies on, e.g. on 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 and discourage/address misconduct and bad behaviour?	
10. How does the policy promote effective behaviour outside the school setting (e.g. on home to school travel and school trips)?	
11. What support is available for pupils whose misbehaviour or attendance reflects significant learning or personal problems?	
12. What support and training is available to help staff manage challenging pupil behaviour and absence?	
13. What support is available for parents/carers who wish to learn more about how to improve behaviour and support attendance?	
14. How are staff, parents/carers and pupils involved and consulted when the policy is formulated or revised?	
15. What resources does the school invest in improving behaviour and attendance?	
16. How is the policy monitored and reviewed? How do you know that it is fair?	
17. How does the policy link with the school's other policies, e.g. school improvement plans, teaching policies, race and disability equality, SEN?	

Annex 4: Specimen application form for a parenting order

Application for a 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/carer: _____

Parent's/Carer's address:
_____

_____

which is in the area of [local authority]

Parent/Carer: _____

Parent's/Carer's address:
_____

_____

which is in the area of [local authority]

Applicant local authority: _____

It is alleged that:

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

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

[The parent(s)/carer(s) entered into a parenting contract on [date].] [It is alleged that the parent(s)/carer(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)/carer(s) have refused to enter into a parenting contract.]

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

[It is alleged that:

(a) the attendance of the parent/carer(s) 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)/carer(s):

Further requirements to be included in the order:

Annex 5: Pupil referral units

1. Pupil referral units (PRUs) are legally both a type of school and education otherwise than at school (EOTAS). They are can provide short or medium-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.

2. PRUs are maintained by local authorities and are specially organised to provide education outside the school setting for pupils who might not otherwise receive a suitable and appropriate education.

3. This section provides guidance on the main issues to be considered in maintaining PRUs and should be read alongside the more general guidance on EOTAS in this section.

4. Local authorities should hold termly reviews on 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.

5. The needs of pupils with special educational needs (SEN) should be closely monitored to ensure that the PRU meets their needs, or to assess whether they require the more specialist provision available in a special school.

6. Estyn's Annual Report for 2013–14 recognises that Wales has some excellent PRUs which are working with 'sector-leading' practices. The report highlights that those PRUs which engage with maintained schools, pupils' parents/carers and partner agencies see improved outcomes and behaviour. Estyn has worked with PRUs to develop best practice case studies which are available on Estyn's website[157].

7. The annual report also notes some important shortcomings, particularly in respect of the curriculum offered and the leadership and management of PRUs.

8. A PRU is not a mainstream or special school. They are diverse in terms of the number and type of pupils catered for, the typical length of stay, arrangements for admission and transfer to other education, the nature of the curriculum and length of the school day.

9. Local authorities operate different models of PRU provision, developed to meet local circumstances and in line with local policies. Models of provision which 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

[157] www.estyn.gov.uk/english/best-practice/Signposts%20to%20best%20practice%20/case-studies-pupil-referral-units/

- 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
- umbrella provision to register pupils who follow individual programmes.

10. Due to their size, 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 local authorities, teachers in charge, and the management committee of the unit.

11. PRUs are expected to have the same range of policies as maintained schools, including, but not limited to, an SEN policy, an attendance policy, a behaviour policyand child protection procedures.

Current position in Wales

12. The Welsh Government introduced the Education (Pupil Referral Units) (Management Committees etc.) (Wales) Regulations 2014 on 31 October 2014[158] except for regulations 22 (delegation of functions) and 23 (curriculum) which came into force on 23 February 2015. These regulations provide the legal framework for the constitution and the roles and responsibilities of management committees of PRUs, which includes the procedures for the operation of management committees. The introduction of these regulations puts PRUs on a similar footing to governing bodies of schools.

13. The Welsh Government has produced statutory guidance[159] to accompany the regulations relating to PRU management committees.

Organisation of PRU provision

14. Local authorities are expected to inform the Welsh Government whenever a new PRU is set up or an existing PRU is closed. However, 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 local authority.

15. 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 Government. The Welsh Government regards notification as essential 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.

[158] www.legislation.gov.uk/wsi/2014/2709/contents/made
[159] wales.gov.uk/topics/educationandskills/schoolshome/schoolsandpru/management-committees/?lang=en

16. 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 and ability, a disproportionate number of boys to girls, and reasons for being in the PRU. Local authorities may want to review their policies on this when setting up new PRUs.

Admission and attendance

17. The local authority, with the management committee, determines the admissions policy for the PRU. The local authority 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 local authority or delegated to the management committee or teacher in charge.

18. 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 the local authority. A designated teacher should discuss the issue with the child.

19. 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. A local authority may, therefore, name a PRU in a school attendance order.

20. Many pupils in a PRU will have special educational needs (SEN) and a significant number will have statements, usually for emotional and/or behavioural difficulties. Local authorities should consider carefully how best to meet the long-term needs of pupils with statements. If a mainstream setting is best, a short-term placement in a PRU to tackle immediate problems may aid 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 special schools.

Review of pupils

21. The progress of pupils attending PRUs should be reviewed on a regular basis, through pastoral support programmes (PSPs) (see section 4), 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 separate Welsh Government guidance[160].

22. Teachers in PRUs need to have appropriately high expectations of their pupils' potential, many of whom will have had negative experiences of education. Building on the local authority's initial assessment 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/carers should be encouraged to support this work.

Behaviour policy

23. The teacher in charge of the PRU is responsible for promoting positive behaviour, subject to 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 set out strategies for dealing with bullying. More information on developing behaviour and attendance policies is contained in section 4.

Staffing

24. The teacher in charge of the PRU has the autonomy to take necessary action on site, e.g. in relation to health and safety issues and pupil behaviour.

25. PRU staff must be qualified teachers or 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 require induction when they take up a post on a PRU. They should have opportunities for in-service training on meeting the needs of pupils with challenging behaviour. Staff in mainstream or special schools, home tutors or supply teachers may be used to provide some staffing assistance to PRUs.

26. 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/carers.

27. The management committee should help identify staff development needs, and the local authority should provide opportunities for career development and in-service training. To prevent them from becoming isolated from their mainstream colleagues, PRU staff should be included in all local staff development opportunities as well as information dissemination on curriculum, behaviour management and extra support services. PRU staff should be offered guidance

[160] learning.wales.gov.uk/resources/browse-all/exclusion/?lang=en

from subject advisers on the curriculum, and they could also be given opportunities for mainstream teaching.

Exclusions from a PRU

28. Pupils may be excluded from a PRU for a fixed period or permanently on disciplinary grounds. The Welsh Government considers that this sanction should be used only in exceptional circumstances, e.g. where a pupil poses a threat to their own safety or well-being, or that of other pupils or staff. Parents/carers may appeal to the management committee and the local authority against exclusion from a PRU. Local authorities and management committees should set up arrangements for hearing parents'/carers' views in line with arrangements at other schools. The local authority or the management committee may direct the teacher in charge of the unit to reinstate the pupil.

29. If a pupil's behaviour is such that it cannot be contained in a unit and necessitates permanent exclusion, the pupil may well have SEN for which a statement is needed. In such circumstances, the local authority would need to consider whether to arrange a formal assessment of SEN.

30. It is the local authority's duty to provide education to a pupil excluded from a PRU within 15 days of exclusion, as it is to any other pupil out of school.

Curriculum

31. PRUs should offer a balanced and broadly based curriculum (paragraph 6 (1) of Schedule 1 to the Education Act 1996) which promotes the spiritual, moral, cultural, mental and physical development of pupils at the school in line with the expectations of society, and prepares pupils for the opportunities, responsibilities and experiences of adult life.

32. Curriculum flexibility enables local authorities 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.

33. 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. If pupils are able to be successfully reintegrated back into mainstream schools it is essential that they have access to the core curriculum. The curriculum should include English, Welsh (either as 1st or 2nd language), mathematics and science.

34. For pupils in 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.

35. The local authority 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 local authority's statement. In preparing the statement the teacher in charge must consider representations from the community and from the police. The teacher in charge must also consult the management committee of the unit. It is good practice for a PRU to have a clear statement of how staff intend to deliver the curriculum.

36. 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 teacher assessment would be useful. Progress of the pupils attending the unit should be included in the annual report to the local authority. Pupils at Key Stage 4 should have access a range of recognised, accredited qualifications that meets their needs and provides a balance between vocational and academic learning.

37. A National Record of Achievement (NRA) provides a record of a pupil's achievements at the end of Year 11, which is not limited to academic attainment. The NRA can also reflect a young person's interests, skills, abilities and goals for future achievement and may be useful for schools and colleges.

38. As some pupils may only spend a short time in a PRU, the full annual reporting arrangements do not apply, but parents/carers 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/carers. PRUs must report on pupils when they transfer to other schools or leave compulsory education.

Exchange of information

39. The teacher in charge of a PRU must provide the local authority with information on all exclusions. In addition, they have a duty to provide sufficient management information on individual pupils to the local authority and the home schools of those pupils with dual registration, to ensure that the provision is appropriate.

40. It is important for maintained schools to share comprehensive information regarding all pupils entering a PRU. Where a pupil will remain on a maintained school's roll through dual registration, the maintained school and PRU should ensure that all relevant information regarding attendance, behaviour and attainment is regularly shared. The sharing of information in a thorough and timely manner enables PRUs to ensure that appropriate provision is in place, without which pupils attending a PRU would be unable to meet their full potential.

Careers education and guidance

41. 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 Education Act 1997 requires 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 and refer to the *Careers and the world of work: a framework for 11 to 19-year-olds in Wales* (Welsh Assembly Government, 2008).

Sex education

42. Sex education must be included in the curriculum for PRU pupils of secondary age. The Welsh Government has produced guidance for schools and PRUs on developing policies for *Sex and relationships education in schools* (Welsh Assembly Government, 2010)[161].

43. In PRUs where there are children of primary school age, it is up to the teacher in charge to decide whether it is appropriate to include sex education in the curriculum.

44. In both cases, the teacher in charge must have a written statement of the PRU's policy about the content and organisation of sex education. Alternatively, if sex education is not part of the secular curriculum of the PRU, the teacher in charge must have a written statement on the reasons behind that decision.

Political issues

45. The local authority and teacher in charge must ensure that, while in the charge of a member of staff, either on or off-site, pupils under the age of 12 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 and that, where political issues are raised pupils are offered a balance of opposing views.

School terms and holiday sessions

46. The local authority 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

47. The local authority, in consultation with the management committee, is responsible for the use of school premises outside school hours.

Accommodation

48. PRUs are subject to the Education (School Premises) Regulations 1999 but with certain modifications. PRUs do not have to meet the requirements about playing fields, the provision of a headteacher's room and staff accommodation for use by

[161] learning.wales.gov.uk/resources/improvementareas/curriculum/programmes-of-study/sex-and-relationships-education/?lang=en

teachers for both work and social purposes. Where a PRU provides full-time education, local authorities may provide such accommodation.

49. **Local authorities must 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

50. Estyn uses the Common Inspection Framework to inspect PRUs. Estyn's *Guidance for the inspection of pupil referral units* (2010)[162] sets out the way the inspectorate will inspect PRUs. Following an inspection, the local authority should work closely with the management committee and teacher in charge of the PRU in drawing up an action plan.

51. Under the requirements of section 39 of the Education Act 2005, when a PRU is judged to require follow-up, the local authority is required to draw up an action plan within 20 working days of publication of the report (excluding school holidays of more than a week) to address the key issues identified within it. A draft of the action plan must be sent to Estyn before this deadline so that Estyn can confirm acceptance, or require amendment, to ensure that the action plan is an effective tool in securing improvement.

52. The local authority is required to send a copy of the final action plan to the Welsh Government following approval by Estyn.

[162] www.estyn.gov.uk/english/inspection/inspection-guidance/pupil-referral-units/