

15. Behaviour and Attendance

This Chapter outlines:

- the school and governing body's responsibility for school discipline and attendance;
- the procedures for excluding pupils either for a fixed period or permanently; and
- attendance.

A Whole School Approach to Behaviour and Attendance

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

Duty to Promote High Standards of Education

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

Legal Requirements for School Behaviour Policies

3. Section 61 of the School Standards and Framework Act 1998 requires a governing body to ensure that its school pursues policies designed to promote positive behaviour. In particular it requires:

- a governing body to make and review a written statement of principles to guide the head teacher in determining measures for promoting positive behaviour; and
- where a governing body wants particular measures introduced or particular issues addressed, the governing body to notify the head teacher and enables it to give further guidance.

4. In carrying out these functions the governing body must:

- have regard to guidance given by the WAG; and
- before making or revising its statement of principles, consult the head teacher and parents and carers.

5. The head teacher must determine measures (which may include a code of conduct and its application) designed to secure an acceptable standard of behaviour and to promote self-discipline, proper regard for authority and respect for others. In particular these measures should aim to prevent all forms of bullying among pupils.
6. These measures should be consistent with the statement of principles made by the governing body and any specific notification or guidance it has given. These may go a long way towards defining an acceptable standard of behaviour. In so far as they do not, the head teacher is responsible for defining the acceptable standard.
7. The measures determined by the head teacher must be published as a written document, made generally known within the school and to parents and carers and, at least once a year, brought to the attention of all pupils, parents and carers and staff.
8. The WAG has issued a guidance circular entitled Inclusion and Pupil Support, Circular No. 47/2006, which covers the inclusion and support of learners of compulsory school age (although some elements will apply to all learners). It provides advice and sets out responsibilities for maintaining high levels of attendance and positive behaviour in schools.
9. Circular 47/2006 states:

“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 3 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.”

and that:

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

10. It also gives guidance on what should be included in a behaviour policy.
11. Whilst the policy and code will promote good behaviour, the school will also need a scale of sanctions for misbehaviour, lateness and alerts/warnings for poor attendance. The policy should explain the reasons why these sanctions are necessary. Effective sanctions are designed to promote positive behaviour and attendance rather than punish miscreants. They are most useful when seen by everyone as a deterrent.
12. The authority of the school should be supported with a range of sanctions for breaches of the code, ranging from letters to parents and carers, loss of privileges, a variety of forms of detention right up to exclusion for the most serious misbehaviour. The circular includes information on the rules governing detentions. The behaviour and attendance policy should set out the school's policy on exclusion and needs to be consistent with guidance set out in National Assembly for Wales Circular 1/2004 Exclusions from Schools and Pupil Referral Units.

Learner Travel Measure and the Travel Behaviour Code

13. The Learner Travel (Wales) Measure 2008 has received assent and its provisions will come into force in the period from April 2009 through to the early part of 2010. Further information on the Measure is contained in Chapter 25 entitled Health, Safety and Welfare.
14. The Measure places a duty on a LA to make transport arrangements for children of compulsory school age in specified circumstances and subject to specified conditions. The duty does not extend to travel during the day or to travel for purposes other than for attendance at a relevant place for education and training, the LA is not required to take account of travel needs that might arise during the day. School trips and residential visits are also outside the scope of the duties.
15. Section 12 of the Measure requires Welsh Ministers to make and periodically review a travel behaviour code which sets out the standards of behaviour required of learners while travelling to and from their place of learning. The Code will apply to all learners under the age of 19 and those who have attained the age of 19 and started a course of education or training when under 19 and continue to attend that course.
16. Section 13 of the Measure amends section 89 of the Education and Inspections Act 2006, which requires a head teacher to determine a school's behaviour policy. Subsection (2) of that section requires a head teacher when determining the measures for children's behaviour to follow a governing body's statement or guidance on school discipline. The new subsection of section 89, inserted by the Measure, places a duty on a head teacher to determine disciplinary measures to require their pupils to comply with the travel behaviour code.
17. A LA is permitted to withdraw transport arrangements for a learner who does not comply with the behaviour code.

Exclusions from Schools

Excluding Pupils

18. The Education Act 2002 (“the Act”) (Section 52) and Regulations (“the Regulations”) made under the Act, namely the Education (Pupil Exclusions and Appeals) (Maintained Schools) (Wales) Regulations 2003 and The Education (Pupil Exclusions and Appeals) (Wales) (Miscellaneous Amendments) Regulations 2004 govern the exclusion of pupils from maintained schools.

19. The procedures are the same for all maintained schools. Certain fixed-period exclusions and all permanent exclusions must be reviewed by the governing body. Governors have a role in representing the school before an independent appeal panel at the hearing for a parent’s appeal against their child’s permanent exclusion. Separately, governors may volunteer to be members of such an appeal panel not involving their own school.

20. ‘Exclude’ means exclude on disciplinary grounds. There are two categories of exclusion: fixed-period or permanent. Pupils may also be excluded from the school premises for the duration of the lunchtime break between the morning and afternoon school sessions and this is fixed-period exclusion.

21. Section 52 (4) of the Education Act 2002 requires governing bodies, head teachers, LAs and appeal panels in discharging their functions under the Regulations, to have regard to guidance given by the Welsh Ministers. Guidance on exclusions is contained in the Circular No. 01/2004 entitled Exclusions From Schools and Pupil Referral Units, as amended by Circular 01A/2004, and Circular No. 47/2006: Inclusion and Pupil Support.

22. Exclusion should be used only in response to serious breaches of the school’s discipline policy and only after a range of alternative strategies to resolve the pupil’s disciplinary problems have been tried and proven to have failed. It should also only be used where allowing the pupil to remain in school would be seriously detrimental to the education or welfare of other pupils, or of the pupil himself or herself, or to the welfare of staff.

23. Circular No. 01/2004 states that the decision to exclude permanently is a serious step. However, the current guidance does indicate that there may be circumstances where, in the head teacher’s judgement, it is appropriate to permanently exclude a child for a first or one-off offence, for example:

- serious actual or threatened violence against another pupil or a member of staff;
- sexual abuse or assault;
- supplying an illegal drug; or
- use or threatened use of an offensive weapon.

24. Informal or unofficial exclusions, i.e. asking parents to remove their children from school to avoid the stigma of exclusion, are illegal and not permitted under the Regulations.

Procedures for Exclusion: Action by the Head Teacher

25. Only the head teacher (or acting head teacher) has the power to exclude a pupil from school. He or she may not delegate that power to someone else. The head teacher may exclude a pupil for one or more fixed-periods not exceeding a total of 45 school days in any one school year (for this purpose a lunchtime exclusion counts as a quarter day). He or she may also exclude a pupil permanently or convert a fixed-period exclusion into a permanent exclusion, if he or she decides the circumstances warrant this.

26. In all cases the head teacher must immediately notify the relevant person, (please see paragraph 27 below), ideally by telephone or other suitable method, followed up by a letter within one school day. The information given should include:

- the period of the exclusion, or that the exclusion is permanent;
- the reasons for the exclusion;
- advice to the parent /pupil that he or she may make representations about the exclusion to the governing body; and
- advice to the parent/pupil as to how his or her representations may be made.

27. The 'relevant person', as defined in the regulations, means:

- the parent - if the pupil was aged ten or below on the day before the beginning of the school year in which he or she was excluded;
- both the parent and pupil - if the pupil is of compulsory school age and was aged 11 or above on the day before the beginning of school year in which he or she was excluded; or
- the pupil - if aged over compulsory school age (normally 16).

28. This will give all excluded pupils from aged 11 and above, the right to be notified formally of their exclusion and enable them to appeal. In the case of pupils aged 11-16, i.e. in most cases secondary school pupils of compulsory school age, parents will also be notified of the exclusion. For these pupils, if the parent sends a written notice to the LA saying that they don't intend to appeal, that notice will be treated as final, whether or not the pupil has given such notice. The right to appeal for pupils above compulsory school age rests solely with the pupil.

29. The head teacher must without delay and in any event within one school day notify both the LA and the disciplinary committee of the governing body of the details of the exclusion, including the reason for it in the case of:

- permanent exclusions and fixed-period exclusions which are converted to permanent exclusions;

- fixed-period exclusions totalling more than five school days (or 20 lunch times) in any one term; or
- any exclusion that would result in the loss of an opportunity to take a public examination.

30. The head teacher must report to the discipline committee of the governing body and LA once a term any exclusions that do not fall into the categories listed in paragraph 29 above.

Procedures for Exclusion: Action by the Governing Body

31. Under The Government of Maintained Schools (Wales) Regulations 2005 the governing body must establish a pupil discipline committee and it should consist of 3 or 5 members. The governing body should appoint a clerk to the committee. The head teacher may not be a member of this committee.

32. The discipline committee of the governing body has no power to exclude a pupil, nor can it make the head teacher's original exclusion more severe by extending the period of a fixed-period exclusion, or by converting a fixed-period exclusion to a permanent exclusion. The governors' role is essentially one of reviewing the head teacher's decision to exclude.

Discipline Committee Meetings to Consider Exclusions

33. On receiving notice of an exclusion from the head teacher:

the Chair:

- a. must, in the case of one or more fixed-period exclusions totalling five school days or less in any one term, consider any representations from the parent and pupil. He/she cannot direct reinstatement but can put a record of their considerations on the pupil's educational record;

the Clerk or Chair:

- b. must, in the case of one or more fixed-period exclusions totalling more than five but not more than 15 school days in any one term, convene a meeting between the 6th and the 50th school day after receiving the notice of exclusion, to consider the exclusion if the parent and/or pupil requests a meeting. The meeting may direct reinstatement;
- c. must, in the case of a permanent exclusion, or one or more fixed period exclusions (including lunchtimes) totalling more than 15 school days in any one term, convene a meeting between the sixth and fifteenth school day after the date of receipt to consider the exclusion. Where a meeting of the discipline committee has previously been convened and further exclusions take place within

the term, the discipline committee is required to meet in relation to each exclusion to assess the effectiveness of the support plans put in place for that pupil;

- d. must, in the case where a pupil is to miss a public examination, (so far as is practical for them to do so), convene a meeting before the date on which the pupil is due to take the examination and in any event no later than as outlined in paragraphs b and c above;
- e. must invite the parent and/or pupil, head teacher and a LA officer to the meeting at a time and place convenient to all parties (within the statutory time limit); and
- f. must offer the opportunity for the views of the excluded pupil to be considered at the meeting, irrespective of their age.

34. In reaching its decision on whether to direct reinstatement, the discipline committee is required to have regard to the guidance referred to in paragraph 4 of this Chapter. It should consider any representations made by the pupil, the parent and the LA, as well as whether the head teacher has complied with the exclusions procedure.

35. The disciplinary committee should inform the parent/pupil and LA of their decision and reasons for it, in writing, within 1 school day of the hearing.

36. In the case of a permanent exclusion they must also advise the pupil/parent of their right to appeal against their decision, whom to contact, the last date for lodging an appeal, and that the notice of appeal should set out the grounds of appeal.

Procedures for Exclusion: the Independent Appeal Panel

37. Where the governing body has upheld a permanent exclusion the parents may appeal against its decision. The Schedule to the Regulations governs appeals against exclusion of pupils. No appeal may be made by the parent after the 15th school day after the day on which notice in writing was given of the disciplinary committee's decision. The LA should also write to the parent and/or pupil as soon as possible after the discipline committee hearing, and in any event within three working days, indicating the latest date by which an appeal may be lodged. The letter must also include the name and contact details for the clerk to the appeal panel, and explain that the notice of appeal must be in writing setting out the grounds on which it is made.

38. The LA must establish an appeal panel consisting of three or five members. One member must be a lay member who takes the chair. Another member (or, in the case of a five-member panel, two members) must be an education practitioner (a head teacher or other person working in education management). The other member (or, in the case of a five-member panel, two members) must be, or have been within the last six years, a governor for a consecutive period of 12 months. They must also not have been a teacher or head teacher during the last five years.

39. A parent/pupil's appeal must be heard no later than the 15th school day after the day on which the appeal was lodged, although the panel may adjourn. The appeal panel must give the parent/pupil the opportunity to attend and make oral representations. The parent/pupil may be represented or accompanied by a friend.

40. The panel may decide:

- to uphold the exclusion;
- to overturn the exclusion and direct reinstatement; or
- that because of exceptional circumstances or other reasons, it is not practical to direct reinstatement, but that it would otherwise have been appropriate to do so.

41. The panel must let all parties know its decision by the end of the second working day after the hearing. The decision letter should give the panel's reasons for its decision in sufficient detail for the parties to understand why the decision was made.

42. If the appeal panel upholds the permanent exclusion, the clerk to the appeal panel should immediately report this to the LA. If the pupil is of compulsory school age, it is for the LA in whose area the pupil lives, to make arrangements as quickly as possible for the pupil to continue in suitable full-time education. If the pupil lives outside the area of the LA arranging the appeal, the clerk should make sure that the home LA is also informed immediately of the position.

Remedies after the Appeal Hearing

Complaint to the Public Services Ombudsman for Wales (PSOW)

43. A parent or pupil can complain to the Public Services Ombudsman for Wales (PSOW). The grounds of complaint would be maladministration by the appeal panel.

44. The Ombudsman has the power to make recommendations. The Ombudsman has no powers to direct reinstatement or to order a fresh appeal hearing, though a fresh appeal hearing could be recommended. It would be for the LA to decide whether to accept the Ombudsman's recommendation, although it would normally be expected to comply.

Judicial Review

45. If the parent or pupil, the governing body or LA consider that the panel's decision is perverse, they may apply for a judicial review. This must be done promptly and usually no later than three months from the date of the decision.

46. If a judicial review were granted, the court would consider the lawfulness of the panel's decision. If it found the panel's decision to be unlawful or unreasonable (in the narrow legal sense of 'unreasonable', i.e. irrational or perverse), it could quash the decision and direct the LA to hold a fresh appeal hearing before a newly constituted panel.

Money following the Child

47. Section 494 of the Education Act 1996 and The Financing of Maintained Schools Regulations 1999 (as amended) provides that funding should follow a pupil who is excluded permanently from a LA maintained school.

48. Where a pupil is permanently excluded from a maintained school, that school's budget share for that year will be reduced by the amount required in The Financing of Maintained Schools Regulations 1999 (as amended).

School Attendance

The School's Role in Dealing with Non-Attendance

49. All schools should have effective systems and procedures for encouraging regular school attendance and investigating the underlying causes of poor attendance. These should be set out in an attendance policy and should link to the school's behaviour and bullying policies. The systems should be reviewed regularly and modified, where necessary, to reflect the circumstances of the school.

50. Schools' attendance policies should clearly set out staff roles and responsibilities for dealing with attendance. Parents and pupils should be consulted on the policy and should be encouraged to co-operate with the systems and procedures that the policy describes.

51. The policies should reflect the LA's attendance strategy; and should be endorsed by the school governors. The head teacher is responsible for the operational management of the attendance policy.

Attendance and Admissions Records

52. Under the Education (Pupil Registration) Regulations 1995, the governing body is responsible for making sure that two registers are kept, one for admissions and one for attendance. An admission register is the school's roll. It must give details of every pupil currently on roll at the school including their full name, date of birth and the name and address of at least one parent or guardian in case of emergency.

53. The attendance register has to be called at the start of each morning session and during the afternoon session. The register must show whether each pupil is present, engaged in approved educational activity off-site, or absent. In addition, where a pupil of compulsory school age is absent, the register must also show whether absence was authorised by the school or unauthorised. Authorised absence means either the school has given approval in advance; or that a satisfactory explanation has been given afterwards (the absence should be classified unauthorised until that time). Both registers need to be up-to-date, so schools can account for all their pupils, particularly in an emergency.

54. Guidance on how to classify absence is contained in the Annex 4.i Registration practices and codes of the National Assembly for Wales Circular No. 47/2006, 'Inclusion and Pupil Support' (November 2006). Available from the WAG Website.

55. Registers are important documents and must be kept in a safe place since they may be called in evidence in legal proceedings. They may be the only record of who was on site in the event of an emergency such as a fire.

56. Where possible and practicable schools should use electronic packages to record attendance. Electronic registration enables more effective and efficient monitoring of attendance on a daily basis as well as allowing the identification of longer-term trends in absence which can be used to inform school policy and practice. Electronic packages which automate the contacting of parents to inform them of their child's absence have also proven effective in reducing absence and locating children and young people. More information on the use of electronic packages to monitor attendance is contained in The National Foundation for Education Research's (NFER) report 'Review of Electronic Software to Monitor School Attendance', published in September 2005.

Computerised Registers

57. Schools which use computers to maintain attendance and admission registers must (if the computer package allows) distinguish the appropriate change to the original entry in a register and any subsequent correction. 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. This also applies to schools using manual records. Prints of the register must clearly distinguish between the original entry and the corrected entry.

58. Schools using computers for attendance registration must make a print of the attendance register at least once a month. As soon as practicable after the end of the school year the printed sheets must be bound into annual volumes and, as with manual registers, retained for a period of not less than four years after the end of the school year to which each volume relates. This would mean that year 11 pupils would have attendance records from year 7. Electronic records should be readily accessible to authorised officers, such as Education Welfare Officers to allow easy checking of individual pupils' attendance patterns.

Information

59. Levels of pupils' absence are published every year in local comparative tables.

Target Setting

60. LAs are required to set targets for attendance at secondary schools within their Children's and Young People's Plans (CYPPs). For information on these see WAG Circular No. 31/2007 entitled Shared Planning for Better Outcomes.

61. New regulations came into force in Wales on 1 February 2006 which made amendments to a previous set of regulations which set out the requirements on schools to set targets on school attendance. The Education (School Performance and Unauthorised Absence Targets) (Wales) (Amendment) Regulations 2006 were made under section 63 of the

SSFA 1998 as amended by section 53 of the Education Act 2002. These amendments introduced 3 main changes:

- targets to be set on total absence rather than unauthorised absence;
- primary schools to be required to set targets on school attendance; and for
- targets to be submitted to the LA.

62. Under the new consolidated regulations (The Education (School Performance and Absence Targets) (Wales) Regulations 1999), governing bodies of every maintained school (other than a special school established in a hospital) will be required to set targets for the reduction of all absences of the day pupils at the school. They require the following targets for total absences to be set and submitted to the LA by no later than the 31 December in each school year:

- a final target for the next school year;
- a reviewed target for the school year next but one (to be reviewed in light of actual outcomes in the previous school year); and
- a provisional target for the school year next but two.

63. Regulations also place a duty on schools to publish within the annual report for every school year, the following information:

- actual absence rate in the relevant school year;
- all absence targets (as outlined above); and
- a statement setting out the extent to which the actual absence rate met the final target set for the same school year.

64. Data will continue to be collected on both authorised and unauthorised absences to enable schools to continue to target their action to tackle attendance issues, and to aid in early intervention.

65. To enable LAs to set realistic targets it is essential that they have access to information on all school-level attendance targets. This would also enable LAs to provide feedback to schools on their proposed targets and allow for consistency of approach to target setting across the authority. For this reason the regulations require governing bodies to communicate their absence targets to the LA by 31 December each year.

66. Wherever possible schools and LAs should work together to develop acceptable targets, however LAs may request a revision to targets set by school governing bodies if they are not satisfied with the original targets. The governing body then has 21 days from receipt of the notice to submit a revised target to the LA. If the revised targets submitted still fail to satisfy the LA then the LA should set the target for the governing body.

Monitoring Attendance Levels

67. 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.

68. Pastoral or support staff should follow up individual pupils and analyse attendance data to identify trends for individual pupils, classes, year groups and specific groups such as Traveller and Gypsy children, children looked after by the LA, young carers and black and minority ethnic pupils. This can then enable the school to target its efforts.

Early Intervention

69. 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.

70. Wherever practicable, action should be taken by the school to improve a pupil's attendance and investigate and address any underlying cause of problems, such as bullying, experience of racism, caring responsibilities, ill-health, unmet additional learning needs (ALN), or unidentified ALN or disability before considering whether to make a referral to the LA.

Contact on the First Day of Absence

71. Schools should emphasise parents' prime responsibility for ensuring attendance by asking parents to inform them as soon as possible if their child will not be attending school on a particular day. If a pupil is absent without explanation, a member of the school staff should, wherever possible, contact the parents that same day, including in cases where the pupil skips lessons after registration. A declared and active policy of first day contact makes clear to pupils and parents that absence is a matter of concern and will be followed up. By contacting the parent the school also ensures that the parent is aware that their child is not in school enabling the parent to take steps, where necessary, to establish that their child is safe. It would normally be expected that this work would be undertaken by school administrative staff or volunteers.

Parentally-Condoned Unauthorised Absence

72. 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.

73. By law, only the school can approve absence, not parents. School staff need not accept a parental explanation for a child's absence, whether written, telephoned or given in person, if they doubt the explanation. And it is for schools to judge whether the explanation given is satisfactory justification for the absence.

74. Any further investigation should be handled sensitively, but if, after this, questions remain (or where no satisfactory explanation is forthcoming), the absence must be treated as unauthorised. Where parentally-condoned unauthorised absence appears to be a problem with a particular pupil, schools should involve the Education Welfare Service at an early stage.

75. Excessive amounts of authorised absence can also seriously disrupt continuity of learning and encourage disaffection. School staff should therefore look out for emerging patterns of authorised absence by individual pupils or groups of pupils.

76. Schools should explain to parents through the Home-School Agreement how to notify them when a pupil is absent. Some parents, for example those whose first language is not English, or who have a disability, may have difficulty in providing notes or using the telephone. Schools might suggest that such parents make alternative arrangements, either through a neighbour, a community worker or elder sibling to notify a child's absence.

77. In order to comply with race and disability equality legislation, it is important for schools to ensure that there is equal access to information. Consequently this may mean providing appropriately translated material to ensure that no ethnic group is disadvantaged or providing information in other formats for those with disabilities.

78. There is no legal requirement for parents' notes to be retained by a school, but if a pupil attends irregularly and there is a possibility of legal action, it would be sensible to keep the notes for up to three years. The information could be used in Court.

Family Holidays

79. Parents should not normally take pupils on holiday in term time. Under the Education (Pupil Registration) Regulations 1995 schools have the discretion to grant up to ten school days authorised absence for the purpose of family holidays during term time. Each request for holiday absence should be considered individually, taking into account the pupil's age, the timing of the proposed holiday, its nature and parental wishes, the overall attendance pattern of the pupil and their stage of education and progress. Schools should use their discretion sparingly.

80. Save in exceptional circumstances a parent shall not be granted more than ten school days leave of absence in any one school year.

81. Absences authorised under this discretion should be kept to a minimum. Ten school days should not be regarded as the norm. If a school does not agree absence and the pupil goes on holiday, the absence is unauthorised. If parents keep a child away for longer than was agreed, any extra time is unauthorised. Schools may delete from roll a pupil who fails to return within ten school days of the agreed return date unless there is a good reason for the continued absence, such as illness.

82. Prolonged absences from school as a result of extended visits to a pupil's country of origin can have a negative impact on the attainment of pupils.

Study Leave

83. Study leave should be granted sparingly, not exceeding 5 school days and should be for year 11 only. It is not acceptable for study leave to be recorded as neither present nor absent. The most appropriate time to grant study leave is during the actual examination period itself. If possible the period of study leave should be less than the examination period.

84. Regard should also be paid to the individual pupil's ability to manage study leave and benefit from it. Study leave cannot be counted as 'approved educational activity' as it is unsupervised.

School Leaving Date

85. All young people, including those educated otherwise than at school are required to remain in education until they cease to be of compulsory school age. Since 1998 there is a single school leaving date namely the last Friday in June in the school year in which a child reaches age 16, as set out in section 8(3) of the Education Act 1996. This is also the leaving date for those pupils whose 16th birthday falls after the last Friday in June but before the start of the following school year (section 8(3)(a)). Details about the school-leaving date are given in Welsh Office Circular 49/97 "School Leaving Date for 16-year-olds".

86. 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 their continued attendance.

The LA's Role in Dealing with Non-Attendance

87. LAs are under a duty to ensure that a child for whom they are responsible is receiving a suitable education either by regular attendance at school or otherwise (section 437 Education Act 1996). The service responsible for carrying out the LA's duty is often known as the Education Welfare Service (EWS) and staffed by Education Welfare Officers (EWOs). References to the EWS or EWOs should be taken to mean any service or individual carrying out the LA's duty under section 437.

88. Where intervention at school-level fails to bring about an improvement in school attendance, a referral to the LA must be made. The types of actions to be taken at school level and the trigger for referral to the LA should be set through negotiation between the school and the LA. Schools should work closely with the Education Welfare Service to establish a clear protocol for referral.

89. All schools, including independent schools, must inform the LA at agreed intervals of the name and address of any registered pupil who fails to attend the school regularly or has been absent continuously for ten or more school days. Schools should provide details of the strategies they have used to address the problem, the reason for the absence, if known, including where the absence in question is covered by a medical certificate, whether it has been authorised by the school, or results from a dual registration arrangement. It is important that EWOs check maintained school attendance registers at regular intervals.

Cross-Border Working

90. Where the pupil lives in a different LA, the LA where the pupil attends school should take the lead in any LA level action necessary to improve the pupil's attendance. In such cases, the LA where the pupil lives and the LA where he or she attends school will need to work closely together. LAs are advised to draw up protocols setting out the basis under which cross-border working will take place.

The Legal Background to the Work of the Educational Welfare Service

91. Under **Section 7 of the Education Act 1996**, the parent is responsible for making sure that their child of compulsory school age (5-16) receives efficient full-time education that is suitable to the child's age, ability and aptitude and to any special educational needs the child may have. This can be by regular attendance at school or by education otherwise (the parent can choose to educate their child at home). If it appears to the LA 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.

92. If a child of compulsory school age who is registered at a school fails to attend regularly at the school then the parent is guilty of an offence under **Section 444(1) of the Education Act 1996**.

93. Since March 2001 there has been a further offence where a parent, knowing that their child is failing to attend regularly at school, fails without reasonable justification to cause him/her to attend (Education Act 1996, **Section 444(1A)** as amended by the Criminal Justice and Court Service Act 2000). This offence requires proof that the parent knew of their child's non-attendance and failed to act. Under this aggravated offence a warrant can be issued compelling a parent to attend court and conviction can lead to a custodial sentence.

94. **Section 444(ZA) of the Education Act 1996** (as inserted by section 6 of the Education Act 2005) will extend the circumstances in which a parent can be prosecuted for failing to ensure that a child for whom he/she is responsible attends regularly to include alternative provision that has been made for the child.

95. An LA must consider applying for an **Education Supervision Order (ESO)** before prosecuting a parent (Children Act 1989, Section 36). A LA may apply for an ESO instead of or as well as prosecuting the parent.

96. Whilst the parent is primarily responsible for ensuring their child attends their registered school regularly, where school attendance problems occur, the key to successfully resolving these problems is engaging the child through collaborative working between the parent, the school and the LA.

97. Schools and LAs should work with parents and pupils as far as possible to encourage attendance and provide any necessary additional support, before taking forward any prosecution.

Further detail on aspects of attendance law are on the WAG's Inclusion and Pupil Support web pages. Circular No. 47/2006, 'Inclusion and Pupil Support' (November 2006).

98. The special position of **Traveller families** is also recognised in law (section 444(6), Education Act 1996). Traveller parents are protected from conviction if the parent can demonstrate that:

- he or she is engaged in a trade or business of such a nature as requires travel from place to place;
- the child has attended at a school as a registered pupil as regularly as the nature of that trade or business permits; or
- the child, where aged six or over, has attended school for at least 200 sessions (half days) during the preceding twelve months.

In Brief - The Governing Body:

- will be involved with the head teacher in setting and monitoring the attendance policy;
- must keep an admissions and attendance register and tell the LA about pupils who do not attend regularly or are absent for long periods;
- must show the difference in their attendance registers between authorised and unauthorised absence of pupils of compulsory school age; and
- must include information on pupils' absences to a set format in their prospectuses and annual reports, and send that information to be included in performance tables. Further information on this is contained in Chapter 6, Providing Information.

The Law

The Children Act 1989
The Education Act 1996
The School Standards and Framework Act 1998
The Crime and Disorder Act 1998
The Education Act 2002
The Education Act 2005
The Education (Pupils' Attendance Records) Regulations 1991, SI 1991/1582
The Education (Pupil Registration) Regulations 1995, SI 1995/2089, as amended by Education (Pupil Registration) (Amendment) Regulations 1997, SI 1997/2624
The Education (School Performance and Unauthorised Absence Targets) (Wales) Regulations 1999, SI 1999/1811, as amended by Education (School Performance and Unauthorised Absence Targets) (Wales) (Amendment) Regulations 2006, SI 2006/125
The Education (Pupil Exclusion and Appeals)(Maintained Schools)(Wales) Regulations 2003
The Education (Pupil Exclusions and Appeals) (Wales)(Miscellaneous Amendments) Regulations 2004

Guidance

[Exclusions From Schools and Pupil Referral Units - National Assembly for Wales Circular No. 01/2004](#)

[Exclusions From Schools and Pupil Referral Units Amendments - National Assembly for Wales Circular No. 01A/2004](#)

[Inclusion and Pupil Support - National Assembly for Wales Circular No. 47/2006:](#)

[School Leaving Date for 16 year olds - Welsh Office Circular No. 49/97](#)