

REGULATORY APPRAISAL

EDUCATION, WALES

THE EDUCATION (PARENTING ORDERS) (WALES) REGULATIONS 2006

Background

1. Section 8 of the Crime and Disorder Act 1998 allows local authorities to apply to magistrates courts for Parenting Orders in respect of parents convicted under sections 443 and 444 of the Education Act 1996 of failing to comply with a school attendance order or failing to secure regular attendance at school of a registered pupil.

Purpose and intended effect of the measure

2. These Regulations prescribe additional conditions to be met (additional to those in section 20 of the Anti-social Behaviour Act 2003) before a local education authority (LEA) may apply to a magistrates court for a Parenting Order, under section 20 (1)(b) of the Anti-Social Behaviour Act 2003. The Regulations apply to pupils excluded from schools in Wales. They provide an extra means by which LEAs can work with parents to improve pupils' behaviour. They set out:

that a pupil must have been excluded either for a fixed term on more than one occasion within a twelve month period or permanently;

that an application must be made within 6 months of the last occasion on which the pupil was excluded; and

that the costs associated with the requirements of a parenting order shall be borne by the LEA.

Risk Assessment

3. These Regulations need to be introduced to ensure that LEAs are clear on the circumstances in which they may apply to magistrates courts for Parenting Orders and that they have to bear full responsibility for costs associated with Parenting Order requirements.

Benefits

4. The Regulations will allow LEAs to plan their use of Parenting Orders and reduce potential misunderstandings between governing bodies and LEAs as to who is financially responsible.

Options

Option 1: Do Nothing

5. Not implementing Parenting Contracts and Parenting Orders and the associated Regulations would deny schools and LEAs another vehicle by which they could work with parents on their children's behaviour and attendance and help their educational achievement.

Option 2: Define the Prescribed Conditions

6. Whilst the conditions in which a Parenting Order can be applied for are set out broadly in the Act, defining these more fully in Regulations ensures that both LEAs and magistrates courts are clear on their detail.

Option 3: Define the Prescribed Conditions and the Relevant Period

7. As the process of exclusion is relatively complex in terms of timings on consideration by the governing body and appeals it is important that the period in which a Parenting Order can be applied for is fully defined.

8. Option 4: Define the Prescribed Conditions, the Relevant Period and the duties in bearing the costs

As implementing Parenting Orders will normally have cost implications it is important that the responsibility for bearing these is set out in Regulations to ensure that there is no confusion between governing bodies and LEAs, which may have the consequence of protracted dispute and damage to relationships. This option is being implemented.

Costs

9. Any direct costs associated with preparing and implementing Parenting Contracts will be incurred voluntarily by either the governing body of a school or the local education authority as the provisions are not statutory. For this reason no additional funding is being provided by the Welsh Assembly Government to directly fund their implementation. However each LEA in Wales has been provided with a grant of £15K for 2005-06 and 2006-07 to help them develop the ways in which they work with parents, which may

include setting up processes for implementing Parenting Contracts and Parenting Orders. In many cases it is expected that the cost of implementing Parenting Contracts will avoid the escalation of behavioural or attendance problems and avoid further more costly interventions at a later date.

10. The range of costs could vary greatly depending on the nature of what is agreed within a Parenting Contract. Parenting Contracts may, at their simplest, contain agreements on improvements in attendance levels and punctuality, which will incur little or no direct cost. At the other extreme they may include more costly interventions such as out-of-school provision that may lawfully be provided, either on a part-time or full-time basis. There will also be indirect costs incurred by governing bodies and LEAs through the staff time required to negotiate any Parenting Contracts with parents and to prepare and conduct applications for Parenting Orders in the magistrates courts.

11. Parenting Orders on average are likely to be more cost intensive than Parenting Contracts as they are likely to include counselling or guidance programmes. The range of costs may vary greatly depending on the nature of the requirements stipulated in the Parenting Order, and on aspects such as whether the LEA provides parenting classes internally or buys these in from an external provider. The Youth Justice Board estimate that a typical cost of a Parenting Order, including application, supervision and provision of parenting classes would be around £1,000.

12. The proposed Regulations provide that the costs associated with the requirements of Parenting Orders, including the costs of providing counselling or guidance programmes, shall be borne by the local education authority. This would appear to be the most appropriate approach as the primary legislation as it stands, only allows LEAs rather than governing bodies of schools to apply for Parenting Orders. Legislation which would allow LEAs to pursue Parenting Orders and subsequently force expenditure on governing bodies is considered inappropriate and impracticable.

13. Magistrates courts may also incur costs through processing applications for Parenting Orders, staff time required to hear cases and undergoing any training required to implement the new provisions. The Welsh Assembly Government is working with the Department for Constitutional Affairs to ensure that magistrates courts are provided with information and guidance on the changes.

14. Primary legislation as it stands only allows LEAs rather than governing bodies to apply for Parenting Orders. Legislation which would allow LEAs to pursue Parenting Orders and subsequently force expenditure on a governing body is considered impracticable.

15. It is intended to produce guidance for LEAs and schools covering all elements of

Parenting Orders, which will incur the associated costs of preparation and distribution. It is anticipated that these costs will be met out of the existing Pupil Support Division publicity budget for 2006-07

Consultation

With Stakeholders

16. The intention to introduce Parenting Contracts for parents of excluded and poor attending pupils and Parenting Orders for parents of excluded pupils was consulted on as part of the wider consultation on revisions to National Assembly for Wales Guidance Circular 3/99 'Inclusion and Pupil Support' published on 4 May 2005. The closing date for the consultation was 29 July 2005 and a list of consultees is attached at Annex A.

17. The consultation responses on this issue were largely favourable and justified continuing with the implementation and the content of the regulations. Around 2/3 of those who expressed a preference said that they were likely to use the new provisions and there were no comments that the provision should not be introduced. 29 of 34 respondents who commented felt that the definition of serious misbehaviour was suitable and 27 out of 31 thought the time limits within which a local education authority must make an application for a parenting order were appropriate.

18. The views of all respondents have been taken into account in preparing the final draft of the Regulations.

With Subject Committee

19. These Regulations were notified to the Education and Lifelong Learning (ELL) Committee, via the list of forthcoming legislation, on 22 September 2004 (ELL(2)11-04 (p6), item no: ELL-11-05) and have remained on the list ever since. They were identified for detailed scrutiny at the ELL Committee on Feb 8th, 2006 following oral notification of the Commencement Order. The Regulations are due to be scrutinised by the ELL Committee on 2 March, 2006.

20. In addition, the consultation document was made available to Members of the Committee in May 2005 and no comments were received.

Enforcement, monitoring and Review

21. Enforcement of the provisions is not relevant in this case as there are no statutory compulsion requirements. However the Welsh Assembly Government will be looking to review the extent to which LEAs and governing bodies adopt the new provisions.

Summary

22. The new provisions within sections 19-22 and 24 of the Anti-Social Behaviour Act 2003 (Parenting Contracts and Parenting Orders) will give an extra power for schools and LEAs to work with parents to enhance the educational attainment of their pupils by improving their behaviour and attendance at school.

Annex A

Inclusion and Pupil Support – Consultation list

In each of the 22 LEAs:

Director of Education

Pupil Support Managers

Education Welfare Service Managers

Other organisations (from main consultation list only)

Teachers Unions

Diocesan Directors

Children's Commissioner for Wales

ACCAC

Estyn

Governors Wales

General Teaching Council for Wales

Welsh Joint Education Committee

Welsh Language Board

Welsh Local Government Association

Funky Dragon

SNAP Cymru

NSPCC Cymru

Welsh Association of Foundation/Aided schools

Voluntary Sector Assembly Liaison

National Association of Governors and Managers

PTA Wales

Education Otherwise

Schools

A ten percent sample of independent and maintained primary, secondary and special schools, and pupil referral units in Wales:

Aberbargoed Primary School

Abercarn Primary School

Abercynon Infants School

Alltwen Primary School

Archdeacon John Lewis

Arddleen C.P. School

Argoed Primary School

Ashgrove School

Betws Primary School

Bodfari C.P. School

Brecon Road Infants School

Broad Haven C.P. School

Bryn Bach County Primary School

Bryn Deri Primary School

Brynglas Primary School

Bryngwyn Comprehensive School

Bryngwyn Primary

Brynteg County School

Bryntirion Comprehensive School

Caehopkin C.P. School

Caereinion High School

Caerleon (Lodge Hill) Junior School

Cefn Mawr Primary School

Clase Primary School

Clydach Infant School

Coed Eva Junior Mixed School

Coed Glas Primary School

Coedffranc Junior School

Coedylan Primary School

Comin Junior Mixed School

Connah's Quay High School

Conwy Secondary PRU Unit

Cowbridge Comprehensive School

Craigfelen Primary School

Croesyceiliog School

Cross Hands C.P. School

Cross Inn C.P. School

Cwmafan Infant School

Cwmbach C.I.W. Primary School

Cwrt Henry

Deiniol C.P. School

Derwendeg Primary School

Duffryn High School

Dunvant Infant School

Dunvant Junior School

Eveswell Primary School

Ffaldau Primary School

Fitzalan High School

George Street Primary School

Gladstone Primary School

Glan Afan Comprehensive School

Glanffrwd Infant School

Grange Town Primary

Grangetown Nursery School

Greenhill Special School

Gurnos Nursery School

Gwynedd C.P. School

Hafren C.P. Junior School

Hengoed Primary School

Heol-Y-Celyn Primary School

Hillside Primary School

Hirwaun Primary School

Holy Name V.R.C. School

Hook C.P. School

Howey C.I.W. School

John Summers High School

Johnstown C.P. School

Kemys Fawr Infants School

Lewis School Pengam

Llandinam C.P. School

Llandrindod Wells C.P. School

Llanfoist C.P. School

Llangattock C.I.W. School

Llangunnor C.P. School

Llangwm VCP School

Llanhari Primary School

Llanrhidian Primary School

Llanwnnen C.P. School

Maes-Y-Coed Primary School

Marlborough Infant School

Meadowbank Special School

Millbank Primary School

Morrison Comprehensive School

Nantymoel Primary School

Neath Abbey Infants

Neyland Junior C.P. School

Ninian Park Primary School

Old Road C.P. Primary School

Pennant C.P. School

Pentyrch Primary School

Penyreglyn Primary School

Pil Primary School

Plasmarl Primary School

Pontlloftyn Primary School

Porthcawl Primary School

Queen's Hill PRU

Rhosddu Primary School

Rhydlewys C.P. School

Rhydyfelin Nursery School

Sennybridge C.P. School

Shirenewton Junior & Infant School

St Alban's R.C. Primary School

St Asaph V.P. Infants

St Cenydd Comprehensive School

St David's C.I.W. Primary

St David's R.C. Junior & Infants

St Elfod Junior School

St Fagans C.I.W. Primary School

St Giles Junior Controlled School

St John Baptist C.I.W. High School

St Josephs C.P. School

St Mary`s R.C. (A) School

St Mary's Aided Primary School

St Mary's Junior & SEN Unit

St Mary's R.C. Primary

St Monica's C.I.W. Primary School

St Peter's C.V. Junior & Infants

Sully Primary School

Tenby Junior Community School

Tonyrefail Comprehensive School

Trefnanney C.P. School

Trelawnyd V.A.

Tremains Junior School

Twynrobyn Community School

Ty Afan Primary Centre

Ty Isaf Infants & Nursery School

Upper Rhymney Primary School

Wepre C.P. School

Windsor Clive Infant School

Y.G. Abergynolwyn

Y.G. Llwyngwrl

Y.G. Nantgaredig

Y.G. Sirol Hayscastle

Y.G. Swyddffynnon

YGGD Gwauncaegurwen

YGGD Trebannws

Ynysmaerdy Primary School

Ynyswen Infant School

Ysgol Bod Alaw

Ysgol Bro Carmel

Ysgol Caer Drewyn

Ysgol Capel Cynfab

Ysgol Capelulo

Ysgol Carreg Hirfaen

Ysgol Clydau

Ysgol Croes Atti

Ysgol Delyn

Ysgol Dewi Sant

Ysgol Dyffryn Ardudwy

Ysgol Eifionydd

Ysgol Emrys Ap Iwan

Ysgol G.G. Aberdar

Ysgol Glanrafon

Ysgol Gyfun Gwyr

Ysgol Gyfun Gymraeg Plasmawr

Ysgol Gyfun Penweddig

Ysgol Gymraeg Llantrisant

Ysgol Gymuned Bryngwran

Ysgol Gynradd Beddgelert

Ysgol Gynradd Chwilog

Ysgol Gynradd Dolgellau

Ysgol Gynradd Gymraeg Lonlas

Ysgol Gynradd Llanfachraeth

Ysgol Gynradd Maesincla

Ysgol Gynradd Parcyrhun

Ysgol Gynradd Pum Heol

Ysgol Gynradd Rhiwlas

Ysgol Gynradd Santes Gwenfaen

Ysgol Gynradd Trefeurig

Ysgol Hiraddug

Ysgol Ieuan Gwynedd

Ysgol Llanbedrog

Ysgol Llanfarian

Ysgol Mair R.C. School

Ysgol Pen Barras

Ysgol Penmachno

Ysgol Porth y Felin

Ysgol Rhiwabon

Ysgol Rhydygors

Ysgol Sant Baruc

Ysgol Sant Dunawd

Ysgol Santes Tudful

Ysgol Teilo Sant

Ysgol Uwchradd Glan Clwyd

Ysgol Waunfawr

Ysgol Y Bannau

Ysgol Y Ddol

Ysgol Y Parc Infants

Ysgol y Tywyn