

DCSF Consultation on Regulations and Guidance on School Governing Bodies' Power to Refer Pupils to Off-site Provision to Receive Education or Training to Improve their Behaviour

***Response from the Association of Teachers and Lecturers,
March 2010***

ATL, as a leading education union, recognises the link between education policy and our members' conditions of employment. Our evidence-based policy making enables us to campaign and negotiate from a position of strength. We champion good practice and achieve better working lives for our members.

We help our members, as their careers develop, through first-rate research, advice, information and legal support. Our 160,000 members – teachers, lecturers, headteachers and support staff – are empowered to get active locally and nationally. We are affiliated to the TUC, and work with government and employers by lobbying and through social partnership.

ATL Policy

ATL's education policy is underpinned by the professionalism of teachers. Teachers should be recognised for their knowledge, expertise and judgement, at the level of the individual pupil and in articulating the role of education in promoting social justice. Development of the education system should take place at a local level: the curriculum should be developed in partnership with local stakeholders and assessment should be carried out through local professional networks. Schools should work collaboratively to provide excellent teaching and learning with a broad and balanced curriculum, and to support pupils' well-being, across a local area. This means that mechanisms must be developed that ensure a proper balance of accountability to national government and the local community, and which supports collaboration rather than competition.

Introduction

ATL is committed to the principles of the Every Child Matters agenda. We welcome the commitment, with these Regulations, to improving the chances of all children and young people within the education system and to ensuring that those most vulnerable and in need of additional support do not fall through cracks in the system.

Learning and behaviour are intimately linked; pupils need to manage their behaviour so that they can engage with their learning and avoid disrupting teaching and pupil participation. School staff also need to understand each pupil's behaviour, in order that they can set up systems of risk assessment and

identify the triggers which precede challenging behaviour and outbursts. The intentions of these Regulations, to help pupils with behaviour issues to have the space, support and most suitable environment to gain the skills to manage their behaviour, is positive. We also recognise the need to build in safeguards for the most vulnerable pupils and welcome the Regulations' addressing of that issue.

However, we are concerned that little attention has been paid to the workload implications of these Regulations and the attached Guidance document. Aspects of extended services are involved which introduce concerns about appropriate role boundaries, cross-sector communication and workload.

Improving behaviour

Behaviour is a key issue for staff in schools. Often the balance between engaging pupils in learning and managing their behaviour has become distorted towards the latter, leading to many pupils becoming disengaged and to many teachers leaving the profession. Many children attend schools where, despite staff experience and expertise, there are insufficient resources for their particular needs to be met. These resources include time, specialist professional training and flexibility.

Schools have already attempted to meet this need by securing access for some of their pupils to off-site education provision intended to improve their behaviour, having to use legislation which was designed and intended for other purposes. Therefore we welcome these Regulations in that they are directly related to education provision with a focus on behaviour improvement, providing both structures and safeguards.

Behaviour and Learning

ATL, the education union, welcomes the emphasis in *Back on Track* on increasing the effectiveness of information provision between schools and off-site provision, We welcome particularly its emphasis on the individual pupil and their learning, built upon the Information Passport and Personalised Education Plan documents.

As we stated in our response to the *Back on Track* consultation in July 2008, the Information Passport must be a working document, with a key focus on information which will be useful and relevant to staff in alternative provision. Many of the children and young people being referred to off-site provision with the aim to improve behaviour will already have generated documentary evidence in relation to their behaviour and learning needs and it is vital that these passports do not duplicate functions and information provided elsewhere, thus creating an unnecessary bureaucratic burden on hardworking school staff.

The passport's focus must remain on transition, relating to information needed by the new setting, and must be up to date. This makes it all the more necessary that the function of the passport be clearly defined and the responsibilities for providing the information allocated appropriately; it is a significant piece of work and will confer a workload and responsibility burden on the staff member(s) in whose remit it falls.

ATL also supports the principle of the personalised education plan. However, both documents will involve significant work for education staff and with the learning aspect, a bulk of that burden is likely to fall on the classroom teacher. This raises a workload issue and also concerns about excessive bureaucracy bearing in mind the range of documents which are now required for pupils with additional needs, eg. the CAF.

Pupils with SEND

Reflecting the high proportion of pupils with SEN amongst referred or excluded pupils, ATL welcomes the focus within the Guidance on extra safeguards for SEN pupils. ATL has long fought for a greater emphasis on SEN and inclusive policies within schools. It is significant that, in cases of pupils with SEN, the Guidance calls for an assessment to be carried out to examine what more could be done to improve the pupil's behaviour within the school setting before any move to send the pupil off-site for educational provision to improve their behaviour. ATL supports the inclusion in this assessment of whether the pupil's special educational needs are being met.

Although the Guidance doesn't indicate any further action to be taken should that assessment conclude that the pupil's special educational needs are not being met, we believe that this should include an indication of the actions and resources required, at school and local authority levels, to meet them.

We also support the principle of a pre-placement meeting for pupils with SEN, and the inclusion at the meeting of the SENCO, other agencies working with the child, parents and where the pupil has a statement, a Local Authority representative who has expertise in SEN. However, there is a timeline in operation here and we are concerned that schools will have no power to compel the attendance of individuals from outside the school within a reasonable timeframe. This reflects ATL's concern that the existing schools-based focus of extended services provision and multi-agency co-ordination creates unrealistic expectations and overwhelming workload. Therefore, we propose that the Local Authority should have a more central co-ordinating role in matters such as off-site referral where external agencies are involved.

ATL also welcomes the inclusion, in the Guidance, of pupils' rights under the Disability Discrimination Acts, in its application to the selection of provision appropriate to each pupil's needs.

Meeting arrangements

We welcome the requirements around meetings as they provide a useful structure for governing bodies to operate within. However, as we stated earlier, schools should not bear the sole responsibility of co-ordinating external professionals, particularly as staff turnover is often high in other sectors, causing difficulties with communication and ensuring meeting attendance.

The meeting structure, while providing a good framework of review within which governing bodies and staff can operate, is onerous in terms of workload. This workload of meetings, passport and plan completion will not only fall on dedicated roles within school such as the SENCO but also on classroom teachers.

However, we are concerned that there is no indication of this workload impact nor that extra time will be allocated to allow for these duties.

Breaks in the process

ATL agrees with the principle that off-site directions cannot continue beyond the end of the academic year in which they are made and that any requirement to attend off-site provision in a subsequent academic year would be a new requirement and not just a continuation of the previous one. We also welcome the recognition of cases where there may be sufficient grounds to impose a new requirement where the provider reports to the governing body that the pupils could benefit from further time in the provision.

We strongly support the inclusion in the guidance of a re-integration plan; it is times of transition that are most challenging for vulnerable pupils when gains made are most vulnerable to being lost or undermined. It again highlights a workload issue and it is vital that governing bodies and senior leadership teams realise the implications for teachers' work/life balance and their ability to balance it with the many other priorities and duties they face. This plan must be developed jointly between, and agreed by, the alternative provider and the school, including staff who will be key to the re-integration process and shared with parents and pupils.

We are also concerned by the statement in the risk assessment attached to the Regulations and Guidance documents that "it should be possible for a classroom assistant to provide, at no extra cost, any extra support a pupil will need as part of a reintegration plan once they have returned to school". This seems to presuppose the content of a re-integration plan and a reluctance to provide any extra resources to schools to manage the transition of pupils who had been unable to manage their behaviour within a school environment before. It also assumes that classroom assistants will be available to give this support with no acknowledgement of their current role and how their re-deployment will affect other pupils and staff.

Conclusion

The stated aim of these proposed Regulations and guidance is to reduce exclusions, ensuring that pupils who have not been able to manage their behaviour in school despite school-based strategies can gain access to off-site education provision designed to improve their behaviour while adding in safeguards to ensure that the provision and its impact is regularly reviewed. ATL strongly supports this aim. However, the DCSF will need to ensure that there is sufficient support for schools and external providers so that this access does result in more positive pupil behaviour and therefore opportunity for such pupils to engage with school and the learning opportunities it offers.

We welcome the safeguarding elements of the Regulations and Guidance, particularly the additional requirements relating to pupils with SEN, not only to ensure the best practice in relation to off-site referrals but also to reassure families that their children are in environments which best suit their learning and behaviour needs at that time.