

## Direction off-site for the improvement of behaviour

Section [29A Education Act 2002](#) sets out the power to direct a pupil off site to improve the pupil's behaviour. It is often used when a pupil is at risk of permanent exclusion and parental consent is not required, however, it makes sense for it to be a collaborative process so far as is reasonably practicable.

Off-site direction is when a governing board of a maintained school requires a pupil to attend another education setting to improve their behaviour<sup>i</sup>. Whilst the legislation does not apply to academies, they can arrange off-site provision for such purposes under their general powers. Where interventions or targeted support have not been successful in improving a pupil's behaviour, off-site direction should be used to arrange time limited placements at an alternative provision or another mainstream school. During the off-site direction to another school, pupils must be dual registered. Code B should be used for any off-site educational activity, if the provision is an approved educational activity that does not involve the pupil being registered at any other school.

When possible, in school interventions or targeted support from alternative provision schools should be used to meet a pupil's individual needs and circumstances – whether behavioural or special educational.

Depending on the individual needs and circumstances of the pupil, off-site direction into alternative provision can be full-time or a combination of part-time support in alternative provision and continued mainstream education. A proposed maximum period of time should be discussed and agreed upon as part of the planning phase for an off-site direction. As part of planning, alternative options should be considered once the time limit has been reached, including a managed move on a permanent basis (if a pupil is placed in a mainstream school) upon review of the time limited placement.

The governing board must comply with the Education (Educational Provision for Improving Behaviour) Regulations 2010 and must show regard to the Alternative Provision: Statutory guidance for local authorities, headteachers and governing bodies. Whilst the alternative provision guidance section does legally apply to maintained schools, academy trusts are also encouraged to follow this guidance.

The Education (Educational Provision for Improving Behaviour) Regulations 2010 and The Education (Educational Provision for Improving Behaviour) (Amendment) Regulations 2012<sup>ii</sup> outline the procedure that must be followed when directing a pupil off-site:

Where a governing body determine that they will impose a requirement on a pupil under section 29A(1) of the 2002 Act, they must:

Give notice in writing to the parent/carer of a child, the child if over 18, and the LA if the child has an EHCP, (The notice must be given as soon as practicable after the determination has been made and not less than two school days before the relevant day) including the following information:

- ✓ the address at which the educational provision is to be provided for the pupil;
- ✓ particulars identifying the person to whom the pupil should report on first attending that address for the purposes of receiving the educational provision;
- ✓ the number of days for which the requirement is to be imposed;
- ✓ the reasons for, and objectives of, imposing the requirement; and
- ✓ in relation to the educational provision—

- ✓ where two sessions per day are provided, the times at which the morning session commences, the afternoon session ends and the break between them commences and ends, or where a single session per day is provided, the times at which the session commences and ends.

The governing body must keep the placement under review for as long as the requirement remains in effect and must decide following each review meeting as to whether the requirement should continue to have effect and, if so, for what period of time. The meeting should include arrangements for reviews, including how often the placement will be reviewed, when the next review will be and who should be involved in the reviews.

For example, review meetings should take place between the school, parents, the pupil, and other agencies e.g. a pupil's social worker, Child and Adolescent Mental Health Services (CAMHS), Multi-Agency Safeguarding Hubs (MASH) and Youth Justice Teams, and the local authority (if a pupil has an EHC plan) to establish agreed monitoring points to discuss the pupil's ongoing behaviour. These reviews should be recorded in writing and be frequent enough to provide assurance that the off-site direction is achieving its objectives.

Where a governing body have imposed a requirement upon a pupil under section 29A(1) of the 2002 Act, they must keep under review the imposition of any such requirement by:

- holding review meetings at such intervals as they, having regard to the needs of the pupil, consider appropriate; and for as long as the requirement remains in effect; and
- making a decision following each review meeting as to whether the requirement should continue to have effect and, if so, for what further period of time.

In making a decision on this the governing body must take into account the views of:

1. the parent, or pupil if over 18,
2. the person providing the educational provision,
3. the headteacher of the school
4. a representative from the governing body and
5. where a pupil has an EHCP a representative of the Local Authority.

This includes any persons who have attended the review meeting or have submitted their views in writing.

### **Persons who may request a review meeting:**

Where a governing body have imposed a requirement upon a pupil under section 29A(1) of the 2002 Act the parent, or pupil where over 18, or where a pupil has an EHCP, the Local Authority can request a review meeting.

It must be made in writing to the governing body who must carry out a review meeting, in accordance with regulation 5, set out below, as soon as reasonably practicable. However there is no requirement on the governing body to carry out a review meeting following a request if there has been a review meeting during the period of 10 weeks preceding the day on which the request is made.

## **Regulation 5 Conduct of the review meetings**

Not later than six days before the date of any review meeting, a governing body must give a written invitation to the persons listed above requesting them to attend the review meeting, or to submit in writing before the date of the meeting their views as to whether a requirement imposed upon a pupil under section 29A(1) of the 2002 should continue to have effect.

Not later than six days before the date of any review meeting, a governing body must give a written invitation to the following persons requesting them to attend the review meeting, or to submit in writing before the date of the meeting their views as to whether the direction off site should continue.

A representative of the governing body may be any member of the governing body who is not—

- the head teacher of the school in question or any person who has held that position within the previous five years;
- any person employed by the local authority which maintains the school; or
- any person who has, or at any time has had, any connection with the pupil in question of a kind which might reasonably be taken to raise doubts about their ability to act impartially.

Written notification of the decision and the reasons for it should be given to those involved not later than six days after the date of the review meeting.

To support a pupil with reintegration into their referring school, the focus of intervention whilst off-site should remain on ensuring that a pupil continues to receive a broad and balanced curriculum whilst any inappropriate behaviours which require intervention are being addressed. If a pupil with a disability or SEN has been moved off site, the duties under the Equality Act 2010 and the Children and Families Act 2014 continue to apply (for example, to make reasonable adjustments or to put support in place to meet SEN).

The length of time a pupil spends in another mainstream school or alternative provision will depend on what best supports the pupil's needs and potential improvement in behaviour.

## Guidance

**A governing body exercising functions under section 29A(1) of the 2002 Act, or under these Regulations, must have regard to any guidance given from time to time by the Secretary of State.**

It could be considered an unlawful use of this provision if the school fails to adhere to the regulations above.

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<sup>i</sup> [Education Act 2002 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2002/32/section/29A)

<sup>ii</sup> [https://docs.google.com/document/d/1By\\_-YzYxcfQ8V3u9YevGLDFA-vgNj0ba83alYyaFFB8/edit?pli=1](https://docs.google.com/document/d/1By_-YzYxcfQ8V3u9YevGLDFA-vgNj0ba83alYyaFFB8/edit?pli=1)