

16. School Uniform and Appearance Policies

This chapter provides information relating to school uniform and appearance policies and the responsibilities of governing bodies in these issues.

Background

1. In February 2008, the WAG issued a new guidance circular 006/2008 entitled Guidance for Governing Bodies on School Uniform and Appearance Policies. The basis of the guidance is non-statutory but it is based on related legislation.

Scope of guidance

2. The guidance provides information for governing bodies and head teachers on issues relating to implementing or changing a school uniform and appearance policy. It replaced the guidance previously available and governing bodies and head teachers should have regard to it if they are considering implementing or changing their policies.

3. The guidance circular is aimed at school governing bodies and head teachers, and focuses on:

- ensuring that due regard is given to securing equality of treatment between boys and girls and for pupils from different ethnic and religious backgrounds and disabled pupils in relation to school uniform and appearance policies;
- cost;
- practical considerations involved in introducing or changing school uniform and appearance policies;
- consultation with parents and pupils; and
- the position in Wales regarding financial assistance for parents towards the cost of purchasing school uniform.

Legal Context

4. There is no education legislation specifically covering the wearing of school uniform or other aspects of appearance such as hair colour and style, and the wearing of jewellery and makeup. As part of its responsibility for the conduct of the school, however, a governing body can specify rules relating to appearance and a uniform which pupils are required to wear. Secondary schools in Wales almost invariably specify a uniform for pupils to age 16; many do not specify uniform for sixth formers. The position in primary schools is more mixed.

5. The guidance circular does not provide exhaustive advice on a governing body's responsibilities in relation to discrimination or human rights. It states that where governing bodies have concerns about possible harmful consequences of certain types of dress, they may wish to consider taking their own legal advice and to consulting community and faith organisations, parents and children and the Equality and Human Rights Commission (EHRC).

Conduct of the School

6. Section 21 of the Education Act 2002 places the conduct of a maintained school under the direction of its governing body. The governing body is required to conduct the school with a view to promoting high standards of educational achievement. Section 175 of the Education Act 2002 requires governing bodies to exercise their functions in education legislation in relation to the conduct the school with a view to safeguarding and promoting the welfare of children who are pupils at the school.

7. The School Government (Terms of Reference) (Wales) Regulations 2000 made under Section 38 of the Schools Standards and Framework Act 1998 imposes a duty on governing bodies and head teachers to exercise their responsibilities with the need to:

- a. eliminate unlawful discrimination on grounds of race and sex; and
- b. promote equal opportunities and good relations between persons of different racial groups and between males and females.

8. However, the duties set out in paragraph 7(a) and (b) do not prevent the governing body from taking proper measures to secure the religious character of the school. The power to introduce a school uniform policy is contained in Section 61(1) of the School Standards and Framework Act 1998. (to be replaced by Section 88 of the Education and Inspections Act 2006 from January 2010). Whilst this section does not specifically relate to school uniforms it is broad enough to include it. It places a duty on governing bodies to ensure that policies designed to promote good behaviour and discipline are pursued at the school.

9. In addition section 61(4) of the School Standards and Framework Act 1998 (to be replaced by Section 89 of the Education and Inspections Act 2006 from January 2010) also places a duty on a head teacher to determine measures (including rules and provisions for enforcing them) to be taken with a view to promoting discipline among pupils, a proper regard for authority, encouraging good behaviour and respect for others and otherwise securing an acceptable standard of behaviour.

10. It is a requirement of section 61(4) of the School Standards and Framework Act 1998 that any measure introduced by the head teacher under that section should be publicised by him or her in the form of a written document. That document should be made known within the school and to parents of pupils at the school. The head teacher is also required once in

every school year to take steps to bring it to the attention of pupils, to their parents and all those employed or otherwise engaged to work at the school.

11. Under section 61(4) of the School Standards and Framework Act 1998 a head teacher shall determine measures (including the making and enforcement of rules) with a view to:

- promoting among pupils, self-discipline and proper regard for authority;
- securing that the standard of behaviour of pupils is acceptable;
- encouraging good behaviour and respect for others on the part of pupils and, in particular, preventing all forms of bullying. Thus a governing body must ensure that when a school uniform or appearance policy is drawn up, modified or operated that grounds are not created for bullying; and
- otherwise regulating the conduct of pupils.

Equality Legislation

12. There are a number of statutory provisions contained in equality legislation which may impact on school uniform and appearance policies and to which governing bodies and head teachers need to have regard, so as not to discriminate unlawfully on the grounds of sex, race, religion or belief and disability. These are set out at the end of this Chapter (see also Chapter 9 entitled Equal Opportunities and School Governors).

13. The essential point is that governing bodies should act fairly and reasonably when choosing or reviewing their school uniform and appearance policies.

Consultation

14. When considering the introduction of new school uniform and appearance policies or changes to existing school uniform or appearance policies, in accordance with the principles of good practice, the WAG expects governing bodies to consult widely with current pupils and parents/carers and prospective pupils and parents/carers, especially as change could give rise to additional costs. Consultation should also include representatives of different pupil groups in the wider community, taking care to identify community leaders representing minority ethnic and religious groups (an outline of the types of dress issues that may be relevant to adherents of some religions is included in the circular) as well as groups representing pupils with special educational needs or disabilities.

15. In addition to this, pupils have a right to be consulted on and influence decisions that affect them. To support pupils and schools the WAG made The School Councils (Wales) Regulations 2005, which require all maintained primary (excluding nursery and infant schools), secondary and special schools in Wales to establish a school council. NAW Circular 42/2006 –

Guidance for Governing Bodies on the Establishment and Operation of School Councils - advises that school uniform is one of the issues that a school council should be asked to consider at its meetings, and in consultation with the pupil body of the school.

Cost of School Uniform

16. The WAG recognises that school uniform and other items that are required to be purchased in accordance with a school uniform policy can be a financial burden, particularly for low income and large families.

17. Consequently, when introducing a new uniform and/or considering changes in school uniform requirements, the WAG expects governing bodies to give high priority to the cost considerations. No school uniform should be so expensive as to leave pupils or their families feeling unable to apply for admission or to attend a particular school.

18. The WAG encourages governing bodies to have regard to the wide availability of school uniform garments when considering their school uniform supplier arrangements. The Office of Fair Trading (OFT) carried out a fact finding review in 2006 of the practice of some schools in the UK of requiring parents to purchase school uniform from particular retailers or from the school itself. This review found that such exclusive arrangements were on average 23% more expensive than school uniform retailers generally and 150% more expensive than supermarkets.

Complaints

19. Complaints about school uniform (or dress) and appearance codes/policies should be dealt with in accordance with the governing body's complaints procedure.

Non-Compliance with School Uniform and Appearance Policies

20. Where the governing body has put in place a school uniform policy and/or rules about appearance, it is for the head teacher to enforce these as part of his or her overall responsibility for the day-to-day running of the school and for maintaining discipline.

21. The WAG does not consider in normal circumstances, exclusion to be an appropriate response to breaches of school uniform/appearance policies.

22. The circular contains further advice on both these issues.

The Law

The Sex Discrimination Act 1975

The Race Relations Act 1976

The Disability Discrimination Act 1995

The Schools Standards and Framework Act 1998

The Human Rights Act 1998

The School Government (Terms of Reference) (Wales) Regulations 2000

The Education Act 2002

The Disability Discrimination Act 2005

The School Councils (Wales) Regulations 2005

The Equality Act 2006

The Education and Inspections Act 2006, Section 88 (from January 2010)

Guidance

Guidance for Governing Bodies on School Uniform and Appearance Policies

WAG Circular 006/2008

The European Convention on Human Rights (ECHR)

Respecting Others: Anti-bullying Guidance – Welsh Assembly Government
Circular number 23/2003.

Guidance for Governing Bodies on the Establishment and Operation of
School Councils - NAW Circular 42/2006

