

# Behaviour and discipline in schools

A guide for head teachers and school staff

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### **About this guide**

1. This guide is from the Department for Education. It provides advice to head teachers and school staff on developing the school behaviour policy and explains the powers members of staff have to discipline pupils.
2. The purpose of this document is to provide an overview of the powers and duties for school staff. It is for individual schools to develop their own best practice for managing behaviour in their school.
3. This guide replaces the 'School discipline and pupil behaviour policies – guidance for schools'.

### **Expiry/review date**

This guide will be reviewed in March 2012.

### **What legislation does this guide relate to?**

Education Act 1996

School Standards and Framework Act 1998

Education Act 2002

Education and Inspections Act 2006

Education Act 2011

### **Who is this guide for?**

This guide is for head teachers and school staff of maintained schools.

### **Key points**

- Teachers have statutory authority to discipline pupils for misbehaviour which occurs in school and, in some circumstances, outside of school.
- The power to discipline also applies to all paid staff (unless the head teacher says otherwise) with responsibility for pupils, such as teaching assistants.
- Heads and governing bodies must ensure they have a strong behaviour policy to support staff in managing behaviour, including the use of rewards and sanctions.
- Governing bodies have a duty under section 175 of the Education Act

2002 requiring them to make arrangements to ensure that their functions are carried out with a view to safeguarding and promoting the welfare of children.

## **The school behaviour policy**

### **What the law says:**

4. The head teacher must set out measures in the behaviour policy which aim to:

- promote good behaviour, self discipline and respect;
- prevent bullying;
- ensure that pupils complete assigned work;

and which

- regulate the conduct of pupils.<sup>1</sup>

5. When deciding what these measures should be, the head teacher must take account of the governing body's statement of behaviour principles. The head teacher must also take account of any guidance or notification provided by the governing body, including in relation to screening and searching pupils, the power to use reasonable force, other physical contact, the power to discipline beyond the school gate and pastoral care for school staff.

6. The head teacher must decide the standard of behaviour expected of pupils at the school. He or she must also determine the school rules and any disciplinary penalties for breaking the rules.

7. Teachers' powers to discipline include the power to discipline pupils even when they are not at school or in the charge of a member of staff.

8. The head teacher must publicise the school behaviour policy, in writing, to staff, parents<sup>2</sup> and pupils at least once a year.

9. The standard of behaviour expected of all pupils must be included in the school's home-school agreement<sup>3</sup> which parents must be asked to sign following their child's admission to a school. Further advice on home school agreements is available – see Associated Resources section below for a link.

## **Developing the behaviour policy**

10. It is vital that the behaviour policy is clear, that it is well understood by staff, parents and pupils, and that it is consistently applied. In developing the

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1 Section 89 (1) (a to e) of the Education and Inspections Act 2006

2 References to parent or parents are to fathers as well as mothers, unless otherwise stated.

3 Sections 110 and 111 of the School Standards and Framework Act 1998

behaviour policy, the head teacher should reflect on the following ten key aspects of school practice that, when effective, contribute to improving the quality of pupil behaviour<sup>4</sup>:

- 1) A consistent approach to behaviour management;
- 2) Strong school leadership;
- 3) Classroom management<sup>5</sup>;
- 4) Rewards and sanctions;
- 5) Behaviour strategies and the teaching of good behaviour;
- 6) Staff development and support;
- 7) Pupil support systems;
- 8) Liaison with parents and other agencies;
- 9) Managing pupil transition; and
- 10) Organisation and facilities.

11. The school's behaviour policy should set out the disciplinary action that will be taken against pupils who are found to have made malicious accusations against school staff.

12. The behaviour policy should acknowledge the school's legal duties under the Equality Act 2010, in respect of safeguarding and in respect of pupils with special educational needs (SEN).

## **Discipline in schools – teachers' powers**

### **Key Points**

- Teachers have statutory authority to discipline pupils whose behaviour is unacceptable, who break the school rules or who fail to follow a reasonable instruction (Section 91 of the Education and Inspections Act 2006).
- The power also applies to all paid staff (unless the head teacher says otherwise) with responsibility for pupils, such as teaching assistants.
- Teachers can discipline pupils at any time the pupil is in school or

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4 Learning behaviour - the Report of the Practitioners' Group on School Behaviour and Discipline" (2005).

5 The Government's expert adviser on behaviour, Charlie Taylor, has produced a checklist on the basics of classroom management. Teachers can use it to develop between five and ten essential actions to encourage good behaviour in pupils – see Associated Resources section for a link to the checklist.

elsewhere under the charge of a teacher, including on school visits.

- Teachers can also discipline pupils for misbehaviour outside school.
- Teachers have a specific legal power to impose detention outside school hours.
- Teachers can confiscate pupils' property.

## **Punishing poor behaviour**

### **What the law allows:**

13. Teachers can discipline pupils whose conduct falls below the standard which could reasonably be expected of them. This means that if a pupil misbehaves, breaks a school rule or fails to follow a reasonable instruction the teacher can impose a punishment on that pupil.

14. To be lawful, the punishment (including detentions) must satisfy the following three conditions:

- 1) The decision to punish a pupil must be made by a paid member of school staff or a member of staff authorised by the head teacher;
- 2) The decision to punish the pupil and the punishment itself must be made on the school premises or while the pupil is under the charge of the member of staff; and
- 3) It must not breach any other legislation (for example in respect of disability, special educational needs, race and other equalities and human rights) and it must be reasonable in all the circumstances.

15. A punishment must be proportionate. In determining whether a punishment is reasonable, section 91 of the Education and Inspections Act 2006 says the penalty must be reasonable in all the circumstances and that account must be taken of the pupil's age, any special educational needs or disability they may have, and any religious requirements affecting them.

16. The head teacher may limit the power to apply particular punishments to certain staff and/or extend the power to discipline to adult volunteers, for example to parents who have volunteered to help on a school trip.

17. Corporal punishment is illegal in all circumstances.

18. Schools should consider whether the behaviour under review gives cause to suspect that a child is suffering, or is likely to suffer, significant harm. Where this may be the case, school staff should follow the schools'

safeguarding policy. They should also consider whether continuing disruptive behaviour might be the result of unmet educational or other needs. At this point, the school should consider whether a multi-agency assessment is necessary.

## **Pupils' conduct outside the school gates – teachers' powers**

### **What the law allows:**

19. Teachers have a statutory power to discipline pupils for misbehaving outside of the school premises. Section 89(5) of the Education and Inspections Act 2006 gives head teachers a specific statutory power to regulate pupils' behaviour in these circumstances "to such extent as is reasonable."

20. The school's behaviour policy should set out what the school will do in response to all non-criminal bad behaviour and bullying which occurs anywhere off the school premises and which is witnessed by a staff member or reported to the school, including the punishments that will be imposed on pupils.

21. Subject to the school's behaviour policy, the teacher may discipline a pupil for:

- any misbehaviour when the child is:
  - taking part in any school-organised or school-related activity or
  - travelling to or from school or
  - wearing school uniform or
  - in some other way identifiable as a pupil at the school.
- or misbehaviour at any time, whether or not the conditions above apply, that:
  - could have repercussions for the orderly running of the school or
  - poses a threat to another pupil or member of the public or
  - could adversely affect the reputation of the school.

## **Detention**

### **What the law allows:**

22. Teachers have a legal power to put pupils (aged under 18) in detention.

23. Schools must make clear to pupils and parents that they use detention (including detention outside of school hours) as a sanction.

24. The times outside normal school hours when detention can be given (the 'permitted day of detention') include:

- a. any school day where the pupil does not have permission to be absent;
- b. weekends - except the weekend preceding or following the half term break; and
- c. non-teaching days – usually referred to as 'training days', 'INSET days' or 'non-contact days'.

25. The head teacher can decide which members of staff can put pupils in detention. For example, they can limit the power to heads of year or heads of department only or they can decide that all members of staff, including support staff, can impose detentions.

### **Matters schools should consider when imposing detentions**

26. Parental consent is not required for detentions.

27. As with any disciplinary penalty a member of staff must act reasonably, as described in paragraph 15 above, when imposing a detention.

28. With lunchtime detentions, staff should allow reasonable time for the pupil to eat, drink and use the toilet.

### Detentions outside school hours

29. School staff should not issue a detention where they know that doing so would compromise a child's safety. When ensuring that a detention outside school hours is reasonable, staff issuing the detention should consider the following points:

- Whether the detention is likely to put the pupil at risk.
- Whether the pupil has known caring responsibilities which mean that the detention is unreasonable.
- Whether the parents ought to be informed of the detention. In many cases it will be necessary to do so, but this will depend on the circumstances. For instance, notice may not be necessary for a short after school detention where the pupil can get home safely.
- Whether suitable travel arrangements can be made by the parent for the pupil. It does not matter if making these arrangements is inconvenient for the parent.

## Confiscation of inappropriate items

### What the law allows:

30. There are two sets of legal provisions which enable school staff to confiscate items from pupils:

- 1) The **general power to discipline** (as described in the bullets under the heading “Discipline in Schools – Teachers’ Powers” on pages 3 and 4) enables a member of staff to confiscate, retain or dispose of a pupil’s property as a punishment and protects them from liability for damage to, or loss of, any confiscated items. The legislation does not describe what must be done with the confiscated item and the school behaviour policy may set this out; and
- 2) **Power to search without consent** for weapons, knives, alcohol, illegal drugs and stolen items (‘prohibited items’)<sup>6</sup>. The legislation sets out what must be done with prohibited items found as a result of a search.

31. Weapons and knives must always be handed over to the police otherwise it is for the teacher to decide if and when to return a confiscated item.

32. More detailed advice on confiscation and what must be done with prohibited items found as a result of a search is provided in ‘Screening, Searching and Confiscation – advice for head teachers, staff and governing bodies’. See Associated Resources section below for a link to this document.

### Power to use reasonable force

33. The legal provisions on school discipline also provide members of staff with the power to use reasonable force to prevent pupils committing an offence, injuring themselves or others, or damaging property, and to maintain good order and discipline in the classroom.

34. Head teachers and authorised school staff may also use reasonable force when conducting a search without consent.

35. Separate advice is available in ‘Use of Reasonable Force – advice for school leaders, staff and governing bodies’. See Associated Resources section below for a link to this document.

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<sup>6</sup> The Education Act 2011 includes provisions which extend these powers – this section will be updated when these provisions come into force. Furthermore, on 16 January 2012, the Government laid regulations before Parliament to add tobacco and cigarette papers, fireworks and pornographic images to the list of prohibited items. Subject to Parliamentary approval, the provisions in the Regulations will also be reflected in this section in due course.



## **Associated resources**

Link to advice on Home School Agreements

<http://www.education.gov.uk/schools/pupilsupport/parents/involvement/hsa>

Link to behaviour checklist

<http://www.education.gov.uk/schools/pupilsupport/behaviour/a00199342/getting-the-simple-things-right-charlie-taylors-behaviour-checklists>

Link to Use of Reasonable Force – advice for head teachers, staff and governing bodies

<http://www.education.gov.uk/schools/pupilsupport/behaviour/behaviourpolicies/f0077153/use-of-reasonable-force-advice-for-school-leaders-staff-and-governing-bodies>

Link to Screening, Searching and Confiscation – advice for head teachers, staff and governing bodies

<http://www.education.gov.uk/schools/pupilsupport/behaviour/behaviourpolicies/f0076897/screening-searching-and-confiscation>

Link to Exclusions Guidance

<http://www.education.gov.uk/schools/pupilsupport/behaviour/exclusion/a0076478/exclusion-guidance>

Link to Safeguarding

<http://www.education.gov.uk/aboutdfe/advice/f0076882/ensuring-good-behaviour-in-schools/allegations-of-abuse-against-staff>

Link to SEN Code of Practice

<http://www.education.gov.uk/childrenandyoungpeople/sen/sen/guidance/a0013160/the-sen-code-of-practice>

## **Legislative links**

Education and Inspections Act 2006

<http://www.legislation.gov.uk/ukpga/2006/40/contents>

School Standards and Framework Act 1998

<http://www.legislation.gov.uk/ukpga/1998/31/contents>

Education Act 2002

<http://www.legislation.gov.uk/ukpga/2002/32/contents>

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