

Behaviour and Discipline in Schools

A Guide for Head Teachers
and Schools 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 the 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 autumn 2011 after the Education Bill, currently before Parliament, receives Royal Assent.

What Legislation Does This Guide Relate To?

Education and Inspections Act 2006

School Standards and Framework Act 1998

Education Act 2002

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.¹

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 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 agreement² 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 behaviour policies, the head teacher should reflect on the following ten key aspects of school practice that, when effective, contribute to improving the quality of pupil behaviour³:

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

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

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

- 1) A consistent approach to behaviour management;
- 2) Strong school leadership;
- 3) Classroom management;
- 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 and in respect of pupils with 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 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 reasonable. In determining whether a punishment is reasonable, section 91 of the Education and Inspections Act 2006 says the penalty must be proportionate in 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. Where detention

is outside school hours they must give parents 24 hours notice, in writing.⁴ They do not have to give 24 hours notice for a lunchtime detention.

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;
- 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. The school must act reasonably when imposing a detention as with any disciplinary penalty. In addition, when deciding the timing, the teacher should consider whether suitable travel arrangements can be made by the parent for the pupil. It does not matter if making these arrangements is inconvenient.

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

Confiscation of Inappropriate Items

What the law allows

29. 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 following paragraph 12 above) 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.

⁴ A clause in the Education Bill currently before Parliament proposes to remove the requirement in England to give parents 24 hours notice of a detention. If Parliament approves this change we will update this guidance accordingly.

- 2) **Power to search without consent** for weapons, knives, alcohol, illegal drugs and stolen items ('prohibited items')⁵. The legislation sets out what must be done with prohibited items found as a result of a search and this is described in more detail in separate guidance in 'Screening, Searching and Confiscation – guidance for school leaders, staff and governing bodies'. See Associated Resources section below for a link to this document.

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

31. More detailed advice on confiscation is provided in 'Screening, Searching and Confiscation – advice for school leaders, staff and governing bodies'.

Power to use Reasonable Force

32. 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. Separate advice is available in 'Use of Reasonable Force – advice for school leaders, staff and governing bodies'.

Associated Resources

Link to Use of Reasonable Force – advice for school leaders, staff and governing bodies

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

Link to Screening, Searching and Confiscation – advice for school leaders, staff and governing bodies

<http://www.education.gov.uk/schools/pupilsupport/behaviour/f0076897/screening>

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>

⁵ The Government announced their intention to make regulations to add pornography, fireworks, cigarettes and other tobacco products to the list of prohibited items. Subject to Parliamentary approval, we will update this section of the guidance in due course.

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>

You can download this booklet online at: <http://www.education.gov.uk/publications>
Search using the ref: DfE-00058-2011

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