

TEACHER PROTECTION

Teachers should not be placed in positions where their confidence and welfare are undermined by pupils' behaviour. These guidelines provide advice for teachers who consider their professional or personal safety is at risk.

INTO defines 'Disruptive behaviour' as:

"Any actions by a pupil or pupils or third party which are physical or verbal in nature and which interrupts the smooth running of a lesson or class or school and as a consequence impedes the education of the pupils. Such disruptive behaviour will necessitate the principal, vice principal or teacher or other designated individual to take action and / or intervention to affect order within the environment of the classroom or school."

RESPONSIBILITY FOR DISCIPLINE

Principals are responsible for promoting good behaviour amongst pupils, in line with Department of Education [DE] Guidance. In drawing up policies, principals need to:

- promote self-discipline and proper regard for authority amongst pupils;
- encourage good behaviour and respect for others and prevent all forms of bullying amongst pupils;
- ensure pupils' standards of behaviour are acceptable; and
- regulate pupils' conduct.

A discipline policy should contain

- the standards of behaviour the school wants to achieve;
- the widest possible measure of agreement on those standards and how to achieve them; and
- a **fair and consistent** approach to the adoption of the standards throughout the school.

Governors are required to agree written statements of general principles to accompany their school discipline policies. Such statements are to be reviewed regularly. Governors should have regard for the:

- ethos of the school, its values and the boundaries of acceptable pupil behaviour;
- school's moral code;
- positive and constructive rules of conduct; and
- rewards and punishments, which are to be **fairly and consistently** applied.

Governors must consult the principal and pupils' parents before making or revising the statement.

ADVICE ON SCHOOL DISCIPLINE STATEMENTS AND POLICIES

School discipline policies should be practical to be effective. They should include:

- A commitment to regular, professional development on behaviour strategies for all staff;
- A definition of disciplinary measures used, including curtailment of voluntary activities, detention and exclusion;
- Guidelines for teachers on who to turn to in a disciplinary crises, including intervention in pupil fights;
- Restraint of pupils, and recording incidents of violent or poor behaviour;
- A commitment within the school day to give the necessary time to all staff to share information and experiences on the behavioural needs of individual pupils;
- A summary of school strategies on pupil bullying, use of drugs, sexual and racial harassment; and a commitment to the gathering of views of all sections of the school community on behaviour and discipline.

School disciplinary procedures should provide answers to the following questions.

- Do all teachers know who to approach within the school when they need support?
- What is an acceptable 'cooling off' period for the pupil, and where should that pupil go to 'cool off'?
- When is excluding a child from a class activity an appropriate sanction?
- Are there flexible arrangements that enable teachers to ask others to take pupils for short periods of time?
- How can teachers, within directed time, share views and information about pupils with particular problems?
- What are the arrangements for withdrawal of pupils from class?
- What is the school's policy on pupil exclusion?

- What are the arrangements for recording and reporting incidents?

Discipline policies should be subject to consultation with teaching staff and their trade union representatives.

THE USE OF FORCE TO RESTRAIN PUPILS

DE Guidance states reasonable force may be used to prevent pupils from:

- committing a criminal offence;
- injuring themselves or others;
- causing damage to property, including their own property; and
- engaging in behaviour which has a negative impact on maintaining good order and discipline at the school.

This advice is applicable to ALL teachers, including those in special schools

ADVICE ON PHYSICAL RESTRAINT

Physical restraint must be only used as a last resort. DE Circulars outline the protection available to teachers when they judge that pupil restraint is necessary. Teachers should not feel obliged to intervene where their personal safety is at risk, or where they believe such intervention could lead to assault or child abuse allegations.

Physical restraint should be used only in **exceptional circumstances**. Physical restraint should not be considered a routine act. Guidance on what to do when such risks become apparent is set out under advice on pupil exclusion. Copies of DE Circulars on physical restraint must be available for all staff. Within the school discipline policy, it is advisable that there should be a policy on physical restraint, which outlines the practical implications of the Circular. Training should be provided to relevant members of staff on pupil restraint. Attendance at such training should be on a voluntary basis.

An agreed school policy on restraint should take into account the personal safety of teachers and the circumstances of each school. Schools should record all incidents of physical restraint. Such recordings should take place as near as possible to the time of the incident. Teachers should ensure they are informed as to the procedure, which applies in their school. Teachers may be subject to false accusations of assault or physical abuse. Situations involving physical restraint can be misconstrued. All incidents of physical restraint of pupils or incidents which involve violence or injury should be recorded, according to each school's procedures.

Contemporaneous recording assists in dealing with complaints. It is essential that incidents are recorded fully. DE Circulars can help in addressing misplaced allegations. Teachers facing accusations of assault or abuse should seek advice from INTO. Members, who consider themselves to be inadequately supported by discipline procedures or physically or professionally threatened by pupil behaviour, should contact Northern Office.

Reasonable force

This depends on all the circumstances of the case. There are two considerations:

- The use of force is reasonable only if the circumstances of the incident warrant it.
- The degree of force employed must be in proportion to the circumstances of the incident and the seriousness of the behaviour. Any force used should always be the minimum needed to achieve the desired result.

The use of force depends on the age, understanding, and sex of the pupil. Before intervening physically a teacher should tell the pupil who is misbehaving to stop, and what will happen if he/she does not. The teacher should attempt to communicate with the pupil, and should make it clear that physical contact or restraint will stop as soon as it is unnecessary. A measured approach to a situation is needed and teachers should never give the impression that they have lost their temper, or are acting out of anger or frustration, or to punish the pupil.

A teacher should not intervene in an incident without help (unless it is an emergency) e.g., when dealing with an older or physically large pupil, or a group. In these circumstances the teacher should remove other pupils who might be at risk, and summon assistance from colleagues, or the Police. Until assistance arrives the teacher should continue to attempt to defuse the situation orally, and try to prevent the incident from escalating.

Application of Force

Physical intervention might involve staff:

- physically interposing between pupils;

- blocking a pupil's path;
- holding or pushing;
- leading a pupil by the hand or arm;
- shepherding a pupil away by placing a hand in the centre of the back; or,
- (in extreme circumstances) using more restrictive holds

In exceptional circumstances, where there is a risk of injury, a teacher may take any action that is consistent with the concept of "reasonable force." Staff should avoid touching or holding a pupil in any way is considered inappropriate. Where the risk is not urgent, the teacher should consider whether, physical intervention is right. Teachers should always try to deal with a situation through other strategies before using force.

Recording Incidents

A contemporaneous, written report of any occasion (except minor incidents) where force is used should be kept. It may help prevent any misrepresentation should there be a complaint. After an incident the member should tell the Principal and provide a written report as soon as possible afterwards. The report should include:

- the name(s) of the pupil(s) involved, and when and where the incident took place;
- the names of any other staff or pupils who witnessed the incident;
- the reason that force was necessary (e.g. to prevent injury to the pupil, another pupil or member of staff);
- how the incident began and progressed, details of the pupil's behaviour, what was said by the parties, the steps taken to defuse the situation, the degree of force used, how that was applied, and for how long;
- the pupil's response, and the outcome of the incident;
- details of any injury suffered by the pupil, another pupil, or a member of staff and of any damage to property.

Seek advice from a union rep. when compiling the report and keep a copy. Incidents involving the use of force can cause the pupil's parents concern. It is school policy to inform parents of an incident involving their child, and give them an opportunity to discuss it. The Principal should consider whether that should be done straight away or at the end of the school day, and whether parents should be told orally or in writing.

PUPIL EXCLUSIONS

Principals can exclude pupils for up to 45 days in any school year. Where it is intended to exclude pupils for single blocks of more than fifteen days in a term, legislation makes it clear that principals must seek, with the relevant employing authority, the most effective educational arrangements for the re-integration of the pupils into schools at the end of the exclusion. Principals must liaise with the employing authority on how the cost of re-integration may be met.

DE guidance indicates what an appeals panel must take note of when considering a principal's decision to exclude:

- the broader interests of other pupils and staff in the school, as well as those of the excluded pupil;
- the school's published discipline policy; and
- the fairness of the permanent exclusion in relation to the sanctions imposed on other pupils involved."

Supplementary guidance states:

"The school is responsible for promoting good behaviour and discipline on the part of its pupils and for securing an orderly and safe learning environment for its pupils and staff. In deciding whether to direct reinstatement, therefore, the panel must consider the impact that it may have on other members of the school. DE regards it as inappropriate to reinstate a pupil who has been permanently excluded in circumstances involving any of the following:

- ***serious, actual or threatened violence against another pupil or member of staff; or***
- ***sexual abuse; or***
- ***presenting a significant risk to the health and safety of other pupils by selling illegal drugs; or***
- ***persistent and malicious disruptive behaviour, including open defiance or refusal to conform with agreed school policies on, for example, discipline or dress code."***

ADVICE ON PUPIL EXCLUSIONS

When a young person disrupts a class, the teacher faces stress, and other pupils resent the disruption of their education. Both teachers and pupils have a right to support. After reasonable strategies, including sanctions, have failed,

exclusion should be the next option. Where pupils assault teachers or commit serious breaches of the discipline policy, such as bullying, homophobic bullying, or assaulting other pupils, then exclusion should be the response.

DE guidance on permanent exclusions: “*serious actual or threatened violence against another pupil or member of staff*” and to “*persistent and malicious disruptive behaviour*” enables principals to act more in the application of exclusion procedures. INTO expects principals to apply permanent exclusion where violence, sexual or racist abuse, health and safety risks, and persistent malicious disruptive behaviour are involved.

INTO will protect members where the exclusion of pupils would be the next logical step but has been ruled out by principals, Governors or appeal panels. INTO will seek industrial action, up to and including strike action, to secure the exclusion of pupils where:

1. *The retention of that pupil would disrupt education or threaten the welfare of pupils or staff; and*
2. *The Principal, Board of Governors or appeal panel refuses to exclude a pupil.*

In such circumstances, Northern Office should be contacted as soon as possible. It is unlawful to use any degree of physical contact which is deliberately intended to punish pupils or intended to cause pain, injury, or humiliation.

ADVICE ON WORK-RELATED VIOLENCE

Members should contact their Northern Committee Representative after an assault has occurred. No statements should be provided to anyone until they have been cleared. If assaults occur in public places, they may involve PSNI charging offenders with breaches of the peace. Teachers who are absent from work as a result of assault are entitled to full sick pay for six months in addition to the normal sick pay entitlements due to injuries arising from incidents at work. DE advises that injuries or assaults should be reported and recorded in accident report books or programmes.

INTO provides advice to victims of assault on support available to them such as:

- time off work;
- an offer of counselling;
- compensation and legal advice, and;
- support on return to work.

TEACHERS’ PROFESSIONAL JUDGEMENT AND PUPIL BEHAVIOUR

At the heart of teaching and learning is the professional judgement of teachers. The approach of schools to pupil behaviour and support for teachers will determine whether or not schools are effective. If INTO members do not receive backing for their professional judgements from Governors, INTO will take immediate action.

THE LAW Teachers' duty of care

Teachers owe a duty of care to students. When it starts and ends precisely is not so clear-cut. The following principles apply:

- Teachers must take reasonable care to ensure that their students do not meet with foreseeable injury. They have a duty to protect the children against foreseeable risks of personal injury or harm.
- The standard of care is that of a reasonably prudent parent.
- There must be an efficient system of supervision in operation in the school.

The duty of care applies while students are on school premises during school opening hours. It may also apply if the students are present outside of official school hours, e.g., if they arrive early or leave late and the teacher/school has agreed to the students being present. The same duty of care applies if a teacher voluntarily supervises children.

Practical classes and activities require a greater degree of supervision. If goggles, protective clothing, etc., are supplied for certain activities, it is the teacher's duty to ensure that they are worn. Teachers cannot be responsible for every accident in school hours. The courts accept that some accidents will happen no matter how well supervision is carried out.

The Governors are vicariously liable for the negligence of its teachers. That means that the Board can be sued. The Board is obliged to have comprehensive insurance cover for the school. This insurance must cover public liability, negligence by staff or defects in the buildings. Governors are also liable for negligent acts by employees. To avoid vicarious liability, an employer must demonstrate that the employee was either not negligent and was reasonably careful or the employee was acting in his/her own right rather than on the employer's business.