

ADVICE, GUIDELINES AND PROTECTION

INTRODUCTION

Highly publicised cases, involving pupils in schools who represent dangers to other young people and to teachers, have emphasised the need for teachers to be properly protected when carrying out their duties.

The National Union of Teachers provides that protection and is determined to ensure that members are not placed in positions where their confidence and effectiveness are undermined by the behaviour of pupils.

Evidence from the NUT on procedures for excluding pupils has forced the Government to alter its exclusion arrangements.

These guidelines provide for members advice and protection in relation to pupil behaviour, including advice on the protection available to members where they consider their professional or personal safety is at risk.

RESPONSIBILITY FOR DISCIPLINE

According to education legislation, headteachers are responsible for promoting good behaviour and discipline amongst pupils, in line with each governing body's Statement of General Principles. Headteachers are required to draw up written disciplinary policies. In drawing up policies, headteachers are required to have regard to the 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 must also:

- define the standards of behaviour the school wants to achieve;
- seek the widest possible measure of agreement on those standards and how to achieve them; and
- ensure that these standards are fairly and consistently adopted throughout the school.

Governing bodies are required to agree written statements of general principles to accompany their school discipline policies. Such statements are to be reviewed regularly. In drawing up the statements, each governing body must have regard to the need to refer to:

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

According to legal requirements, each school governing body must consult the headteacher and parents of pupils before making or revising the statement.

ADVICE ON SCHOOL DISCIPLINE STATEMENTS AND POLICIES

The NUT believes that school discipline policies should be practical in order to be effective. They should each include:

- a commitment to regular, professional development on behaviour strategies for all staff;
- a clear definition of the range of disciplinary measures to be used, including the curtailment of voluntary activities, detention and exclusion;
- guidelines for teaching and non-teaching staff on who to turn to in a disciplinary crisis, including guidelines on intervention in fights or dispute between pupils, 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 the bullying of pupils, the use of drugs by pupils, and sexual and racial harassment amongst pupils; and
- a commitment to the gathering and use of views of all sections of the school community on behaviour and discipline.

The NUT believes that school disciplinary procedures should provide answers to the following questions.

- Do all teachers know who to turn to within the school when they need support?
- Where should pupils go if they are removed from the classroom?
- What is an acceptable 'cooling off' period for the pupil, and where should that pupil go to 'cool off'?
- When is standing a child outside a classroom an appropriate sanction?
- Are there flexible arrangements which enable teachers to ask other teachers to take pupils for short periods of time?
- Where can teachers, within directed time, share views and information about pupils with particular problems?
- What are the arrangements for withdrawing 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 full consultation with teaching and non-teaching staff. Policies which do not reflect the views of teaching staff are doomed to failure.

THE USE OF FORCE TO CONTROL OR RESTRAIN PUPILS

There are occasions when the restraint of pupils is necessary. The powers of teachers and other staff on the use of reasonable force to restrain pupils are clarified by DfEE Circular 10/98 and Welsh Office Circular 37/98 on 'Section 550 of the Education Act 1996: The Use of Force to Control or Restrain Pupils'.

Teachers and other persons who are authorised by headteachers to have control or charge of pupils, may use reasonable force to prevent pupils from:

- committing a criminal offence, whether or not the pupil concerned has reached the age of criminal responsibility;
- injuring themselves or others;
- causing damage to property, including their own property; and
- engaging in any behaviour which has a negative impact on maintaining good order and discipline at the school or on other pupils, whether that behaviour occurs in the classroom during a teaching session or elsewhere.

The Government's advice, contained in the above-mentioned Circulars, also applies to teachers who have responsibility for special educational needs, including those in special schools and pupil referral units.

All teachers are authorised to use reasonable force to control or restrain pupils. This applies in any setting where teachers are responsible for the pupils concerned.

ADVICE ON THE PHYSICAL RESTRAINT OF PUPILS

The DfEE and Welsh Office Circulars emphasise that the use of physical restraint must be only used as a last resort. The Circulars do not carry within them the expectation that teachers should change their practice with regard to physical restraint. Rather, the Circulars outline the protection available to teachers where they judge that the restraint of pupils is necessary and appropriate.

Teachers should not feel obliged to intervene where their own personal safety is at risk, or where they believe such intervention could lead to accusations of assault or child abuse. If teachers judge that they should intervene to use physical restraint, they should make every reasonable effort to summon assistance as soon as possible.

Physical restraint should be used only in exceptional circumstances. The physical restraint of a particular pupil, or pupils, should not be considered a regular or routine act. The use of physical restraint of pupils on a regular basis will place the teacher at both physical and professional risk. Guidance on what to do when such risks become apparent is set out under advice on pupil exclusion.

The NUT would expect copies of the relevant DfEE and Welsh Office Circulars on physical restraint to be available for every member of staff, in all schools. 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 varying circumstances of each school in its pupil population.

In addition, the NUT recommends, as does the DfEE and National Assembly, that schools should have systems in place for the recording of 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 or misplaced accusations of assault or physical abuse. Situations involving physical restraint can be misconstrued or misinterpreted. All incidents of physical restraint of pupils or incidents which involve violence or injury should be reported and recorded, according to each school's procedures. Contemporaneous recording will assist in dealing with any subsequent complaint. It is essential that such incidents are reported and recorded fully. The DfEE's Circular 10/98 and Welsh Office Circular 37/98 clarify the position for teachers and will help in addressing misplaced allegations. Teachers facing accusations of assault or abuse should seek urgent Union advice.

The NUT believes that all teachers should have access to procedures and training within schools which support them professionally. NUT members who are unsure or consider themselves to be inadequately supported by discipline procedures or feel physically or professionally threatened by the behaviour of pupils, should contact their relevant regional office or, in Wales, the NUT Wales Office, NUT Cymru, immediately for advice.

Members in special schools and other special educational needs' settings may need specific guidance from the NUT. If members consider that despite the specialist nature of their posts and the support given they are vulnerable physically or professionally, they should contact also their regional office or in Wales, the NUT Wales Office, NUT Cymru, immediately for advice.

PUPIL EXCLUSIONS

Headteachers 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, education legislation makes it clear that headteachers must seek, with local education

authorities, the most effective educational arrangements for the re-integration of the pupils into schools at the end of the exclusion. Headteachers must also liaise with their authorities on how the cost of re-integration may be met.

When published originally, DfEE Circular 10/99 'Social Inclusion: Pupil Support' and the National Assembly for Wales Circular 3/99 on 'Pupil Support and Social Inclusion' were fundamentally inadequate, both in terms of the criteria each headteacher had to have regard to before considering exclusion and the criteria which each governing body discipline committee and local education authority appeal panel had to take into account when considering appeals against exclusions.

Supplementary guidance to DfEE Circular 10/99 now indicates the factors which an appeals panel must take into account when considering a headteacher's decision to exclude. In Wales, the Assembly has yet to agree such a supplement.

The relevant sections of the supplementary guidance are set out below for information.

Relevant factors that must be taken into account include:

- "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."

The supplementary guidance also includes the following paragraphs.

"Where a headteacher has excluded a pupil in accordance with clearly stated provisions in the school's published discipline policy, for example, zero tolerance of drug dealing, then the appeal panel should not normally direct reinstatement".

"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. The Secretary of State would normally regard 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** (the DfEE's emphasis) 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 child, or a young person, disrupts a class, it is not only the teacher who faces enormous stress and demoralisation, other pupils in the class resent the disruption of their education. Both teachers and pupils have a right to effective support of the right quality and at the right time.

When all reasonable strategies have been attempted and have failed, including sanctions internal to the school and the application of any available support, exclusion should be the next option. Where pupils assault teachers or commit serious breaches of the discipline policy, such as bullying, including homophobic bullying, or assaulting other pupils, then exclusion should be the response.

The criteria set out by the Secretary of State clarify the circumstances for permanent exclusions and represent a significant achievement by the NUT. The references to, “serious actual or threatened violence against another pupil or member of staff” and to “persistent and malicious disruptive behaviour”, alongside the other criteria now set out by the Government, will enable headteachers to act more confidently in the application of exclusion procedures necessary to protect pupils and staff.

In particular, the NUT would expect headteachers to apply permanent exclusion where violence, sexual or racist abuse, health and safety risks, and persistent malicious disruptive behaviour are involved. In the context of physical restraint, the NUT believes that pupils who require physical restraint in anything other than exceptional circumstances should be excluded.

The NUT will protect members where the exclusion of pupils would be the next logical step but has been ruled out by headteachers, governing bodies or appeal panels. Following appropriate procedures and in accordance with its rules, the NUT will apply industrial action, up to and including strike action, to secure the exclusion of pupils where:

- i “the retention of that pupil would disrupt education or threaten the welfare of pupils or staff”; and
- ii. “the headteacher, governing body or appeal panel refuses to exclude a pupil”.

In such circumstances, the relevant NUT regional office or, in Wales, the NUT Wales Office, NUT Cymru, should be contacted as soon as possible.

CORPORAL PUNISHMENT

It is unlawful to use any degree of physical contact which is deliberately intended to punish pupils or which is primarily intended to cause pain, injury, or humiliation.

THE PASTORAL SUPPORT PROGRAMME

DfEE Circular 10/99, 'Social Inclusion: Pupil Support', and the National Assembly for Wales' Circular 3/99, 'Pupil Support: Social Inclusion', indicate that pastoral support programmes (PSPs) should be initiated by headteachers where they believe that pupils are at serious risk of exclusion.

The guidelines on Pastoral Support Programmes are summarised below. The programme should identify causes of concern and what can be reasonably required of such pupils. Prior to establishing a pastoral support programme for a pupil, the headteacher, or the headteacher's designate, should discuss the case with relevant officers of the local education authority and with parents. The local education authority should agree the nature and the extent of the monitoring of pupils' progress in the programme and the help and support it can offer to the school for a pastoral support programme. Local authorities can also activate the pastoral support programme procedures. Pastoral support programmes do not replace the SEN assessment process.

ADVICE ON PASTORAL SUPPORT PROGRAMMES

The NUT believes that decisions on setting up PSPs should rest with headteachers. PSPs should not be considered a barrier to be overcome before exclusion is considered. If the exclusion of pupils is warranted immediately because of the severity of their behaviour, then the programme should be bypassed.

Where members consider that pastoral support programmes are being used as a way of slowing down or preventing pupil exclusions and that such exclusions are necessary immediately, they should contact their NUT regional office or, in Wales, the NUT Wales Office, NUT Cymru.

ADVICE ON WORK-RELATED VIOLENCE

A number of responses are open to teachers who are subjected to assault. Such members should be advised to contact their NUT regional office or, in Wales, the NUT Wales Office, NUT Cymru.

Depending on the circumstances, or severity of the case, the NUT's response may involve a solicitor's letter or court proceedings. In the case of serious injuries to teachers, the matter is normally dealt with by the Police, with those teachers appearing as witnesses. If assaults occur in public places, even though they do not result in serious bodily harm, they may involve the Police taking action and charging the relevant 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. The NUT will provide advice on entitlement to social security benefits, such as sickness and invalidity benefits.

The DfEE's guidelines advise that injuries or assaults should be reported and recorded in accident report books or programmes. Members of staff should know where to go to complete reports in if they need to. Further advice is available in NUT Guidance, 'Reporting Accidents and Injuries at School'.

NUT regional offices or, in Wales, the NUT Wales Office, NUT Cymru, will provide advice to victims of assault on support available to them. Such support may include:

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

TEACHERS' PROFESSIONAL JUDGEMENT AND PUPIL BEHAVIOUR

The NUT believes that at the heart of teaching and learning should be 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 members do not receive backing for that professional judgements from employers or governing bodies, the NUT will act unequivocally and effectively to support its members.

The NUT will use its full powers to protect members who experience violence or other unacceptable pupil behaviour.