

# Introduction

As a general rule, schools are orderly, safe places, where relationships between staff and visitors, especially parents, demonstrate mutual respect and a recognition of shared responsibility for pupils' welfare and educational progress. Parental involvement is an important factor in educational success and in dealing with emerging problems at an early stage.

However, in a minority of schools, the behaviour of a few parents can cause severe disruption or worse, resulting in abusive or aggressive behaviour towards staff.

Local Education Authorities are responsible for protecting the health and safety of their staff and pupils in community and voluntary controlled schools. In the case of foundation and voluntary aided schools it is the governing body that is responsible.

Where reference is made to the LEA in this document, it should also be read to cover the governing body in foundation and voluntary aided schools where appropriate. The Department for Education and Skills publication *Health & Safety: Responsibilities and Powers* gives more detailed information on the health and safety roles of LEAs and governing bodies as employers of school staff (see Annex I).

This document is mainly about dealing with violence, threatening behaviour or abuse by parents of a pupil in a school, including those cases where the parent has been asked not to come

onto the premises. Some of the remedies listed are also applicable when dealing with other intruders on school premises.

Violence, threatening behaviour and abuse against school staff or other members of the school community will not be tolerated. All members of the school community have a right to expect that their school is a safe place in which to work and learn. There is no place for violence, threatening behaviour or abuse in schools. Where such behaviour does occur, schools must know that their LEA will play a proactive role in taking all possible action to deal with it, in response to the wishes of the school. The police should be involved in agreeing a policy for dealing with such incidents and, where appropriate, should become involved in particular incidents. (For more detail on the police role, see below.)

In certain circumstances, this will mean the LEA taking the lead in initiating action on the school's behalf with the school's support, and in other circumstances we expect the LEA to support the school in action that the school itself will initiate. For their part, schools will need to ensure they present proper evidence to the LEA when asking for specific legal action to be taken forward, with an assurance that where necessary members of staff will be prepared to testify in a court. If there is a reluctance to do this, LEAs and schools might consider providing training on preparing statements and giving evidence in court. However, suitable advice will be needed as inappropriate



training could lead to allegations that the witness had been coached.

At all times the common purpose remains clear: to achieve zero tolerance of violence, threatening behaviour or abuse in schools, and to ensure all members of the school community, and all visitors to the school, can be confident that they are operating within a safe environment.

We know from recent consultations that most schools are not fully aware of the range of legal remedies available. Those that are may be unsure about how to put them into effect. This toolkit is designed to help schools and LEAs in that process. It consists of:

- A **poster** that schools may wish to display, setting out clearly the rights and responsibilities of visitors to the school, and explaining that steps may be taken to remove visitors who are violent, threatening or abusive to any member of the school community;
- Recommendations on drawing up a **school policy** for dealing with incidents;
- Advice on **risk assessment**;
- A **model incident report form** (Annex A);
- Examples of **model letters** which can be used by LEAs as staging posts in warning abusive or violent visitors to schools (Annexes B-G); and

- Details (in Annex H) of a **range of other remedies** available to schools and LEAs that can be used in response to various incidents, identifying who can access the remedies. Schools should in the first instance ask their LEA for advice on the appropriateness of the remedies available and LEAs should, where they have the power to do so, take the lead in initiating action. In circumstances where power does not lie with the LEA (eg. under the criminal law) we would expect LEAs to support and advise schools and they should remove as much of the burden from them as possible.

Annex H is very wide in its remit; it effectively provides a remedy for all threatening, abusive or violent behaviour by any person on school premises.

We will write to Chief Education Officers separately, with a copy of the toolkit, reinforcing that we expect them to play a proactive role in supporting schools in these circumstances.

*Violence, threatening behaviour and abuse against school staff or other members of the school community will not be tolerated*

## Poster

A poster for display on school premises is included within this pack. You may find it useful to display in a public area, for example your reception area, so that all visitors to your school are made aware that they are welcome, as long as they do not behave in an abusive or aggressive way. The poster makes clear that in such circumstances they will be removed from the premises and may be subject to prosecution.

## School policy for dealing with incidents

All schools should ensure they have policies covering incidents involving abusive, threatening or violent adult visitors.

A policy can provide a readily available set of **procedures** on:

- what to do when an incident arises (ask the person to leave, or invite them into a room away from other people);
- who to contact during an emergency (i.e. at the school, LEA, police);
- how to record incidents and who to report the incident to (see Annex A for model form);
- what follow up action is necessary (i.e. any legal action to be taken; if a parent, whether they should be refused entry to the premises);

- what support is available from the employer, eg. counselling, occupational health or legal support; and
- liaison with the police whenever necessary.

The police should be involved in drawing up a policy and determining when incidents should be formally reported. All LEAs have been issued with guidance on developing police-school protocols, and schools and LEAs have been advised to review their existing relationships with police against this. Where you have a police-school protocol, your policy for dealing with abusive, threatening or violent parents should be consistent with the protocol. See also *Police-School Protocols: Principles* available on the teachernet website (see Annex I).

Some schools will be involved in Safer School Partnerships under which an operational police officer will be based on school premises. The main aim is to provide a safer environment by minimising the risk of such incidents (whether they involve pupils, parents or others) and enabling incidents which do occur to be quickly and effectively dealt with. Where a Partnership has been established, policy and procedures for dealing with violence, threatening and abusive behaviour by parents should be developed within the context of this. Again, guidance is available at the teachernet website (see Annex I).

## Conducting a risk assessment

Whether you draw up a policy or not, you should prepare an **assessment of risk** to staff and others from abusive or violent visitors. This does not need to be a complicated process, but simply involves raising a number of questions to which you want answers.

A risk assessment should:

- identify and assess the risks;
- determine appropriate actions;
- implement the actions;
- monitor the results; and
- provide feedback.

It is good practice to ask staff directly about the extent of problems that they are aware of as part of the process of assessing risk. It is also helpful to consult school health and safety representatives about possible risks.

This should identify **what** the risks are (eg. abuse, threatening behaviour, violence, and from whom), and **who** is likely to be at risk (eg. reception staff, teachers, caretaker). Identifying what the risks are and who is at risk are the crucial initial steps before considering how to manage these risks and how they can be minimised.

In some cases, potential violence can be reduced and even prevented if staff have the skills to spot conflict before it leads to aggression and to use

techniques to reduce aggression before violence occurs.

We recommend that staff are offered personal safety training, which can help in:

- reducing violent attacks by parents and others;
- enabling staff to defuse aggression and prevent situations escalating;
- teaching staff to recognize verbal and non-verbal precursors to aggression and use techniques to calm a potential assailant;
- improving staff confidence in dealing with aggression and the resulting stress; and
- minimising the risk of an attack causing injury.

The Health and Safety Executive (HSE) has produced guidance on risk assessments which is on its website (see Annex I) which contains details of what to look for when conducting a health and safety risk assessment. (Available from HSE Books tel 01787 881165.)

This advice is relevant whenever looking at possible risks. However, if you are unsure about conducting an assessment, speak to your employer or trade union safety representative, who, under health and safety regulations, is required to conduct H&S risk assessments. They should be able to advise you.

The Department's school security video *Can you see what they see?* gives practical advice on risk assessment, involving both the staff and pupils.

It is available from the Publications Despatch Centre, PO Box 5050, Sherwood Park, Nottingham NG15 0DL (tel 0845 602 2260 or e-mail [DfES@prolog.uk.com](mailto:DfES@prolog.uk.com)). See also the School Security website (details at Annex I).

### **Model incident report form**

This is attached at Annex A. It is good practice to record all incidents of abuse, threatening behaviour or violence against any members of the school community. A record of an incident will help in the collection of evidence where necessary, eg. when proceedings are being brought against an alleged assailant. Available photographic evidence of any injuries or damage, or relevant CCTV footage, can also be helpful. Recording details of incidents will also help in reviewing the school's policy, and should ideally inform future risk assessments.

If there is an injury to staff from an assault, the employer may need to report the injury to the Health and Safety Executive (HSE) under the requirements of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR). See HSE guidance Reporting School Accidents (see Annex I). You should contact your LEA/School Governing Body (whichever is the employer of staff at your school) for further information.

### **Section 547 Education Act 1996**

The model letters included with this toolkit suggest how use might be made of section 547 of the Education Act 1996 in the letters that are sent to parents.

Section 547 makes it an offence for a trespasser on school premises to cause or permit a nuisance or disturbance, and allows for the removal and prosecution of any person believed to have committed the offence. The penalty for a person convicted of the offence is a fine of up to £500.

A parent of a child attending a school normally has implied permission to be on the school's premises at certain times and for certain purposes but if the parent's behaviour is unreasonable this permission may be withdrawn and they will become a trespasser. At annexes B to G there are model letters which may be adapted by the governing body or LEA to inform a parent or other person that they may not enter a school's premises and how to appeal against this decision.

A person who nevertheless persists in entering the school premises and displaying unreasonable behaviour may be removed and prosecuted under section 547.

The LEA may take the lead in authorising the removal of a person believed to be causing or permitting a nuisance or disturbance and itself bring proceedings against them. Where the headteacher wishes this to happen we would expect the LEA to do this. Both in relation to

authorisation and prosecution, the LEA must first obtain the consent of the school's governing body where a foundation, voluntary or foundation special school is involved.

In the case of a foundation school, a voluntary aided school and a foundation special school, the governing body can itself independently authorise the removal of someone from the premises and may also authorise a person to bring proceedings against that individual. Additionally, in all situations the police are authorised to remove someone from school premises and to bring proceedings for an offence under this section.

It is not set down in law how a person should be authorised. Good practice suggests that this is done in writing. Schools should clarify who has been authorised to remove anyone causing a disturbance, and they should ensure they have received appropriate training.

Schools wishing action to be taken against someone they believe has committed an offence under s547 should contact their LEA as appropriate. If the police have been involved the school should clarify whether the police intend to summons or charge and whether the Crown Prosecution Service has decided that there is sufficient evidence to prosecute. In most cases it will be in the public interest to prosecute if there is sufficient evidence to support a prosecution.

## Model letters

Attached at Annexes B to G are the examples of letters (which can be modified for different legal purposes where necessary) to parents or other visitors to school premises whose permission to be on the premises is to be, or has been, withdrawn by the LEA or governing body on behalf of the school. The letters show that where such a parent re-enters school premises and causes a nuisance or disturbance, section 547 might be used.

A headteacher has the right to decide who can come onto school premises but the letters should be sent by the LEA or – in the case of aided and foundation schools – by the governing body, on behalf of the headteacher.

Using powers under section 547 allows for action which the local authority or governing body can take on behalf of a school and which can be straightforward, quick and effective in removing violent, aggressive or abusive people from school premises. In practice, it is amongst the most widely used remedies.

Section 547 will not be the most appropriate remedy in every circumstance. Serious violence, repeated harassment or racially aggravated behaviour for example, may warrant stronger criminal sanctions. The LEA should be in a position to advise the school of how to achieve this, and we would expect LEAs to take a proactive and highly supportive role in such circumstances. The remedies in these circumstances are set out in Annex H.

# *Annexes*

# Annex A

## Incident report form

This includes trespass, nuisance or disturbance on school premises, verbal abuse, sexual or racial abuse, threats, aggression, physical violence and intentional damage to personal property.

This form should be completed as fully as possible (please use a continuation sheet if necessary). For an incident involving or witnessed by a pupil, a member of staff should complete the form on their behalf. However, any discussion between one witness and another should not precede completion of the form, as this might lead to allegations of collusion.

Date of incident \_\_\_\_\_

Day of week \_\_\_\_\_

Time \_\_\_\_\_

### ***1. Member of staff reporting incident***

Name \_\_\_\_\_

Work address (if different from school address) \_\_\_\_\_

Position \_\_\_\_\_

### ***2. Personal details of person assaulted/verbally abused (if appropriate)***

Name \_\_\_\_\_

Work address (if different from school address)/home address (if pupil)

\_\_\_\_\_

Job/Position (if member of staff) \_\_\_\_\_

Dept/Section/Class \_\_\_\_\_

Age \_\_\_\_\_ Sex \_\_\_\_\_

**3. Details of trespasser/assailant(s) (if known)**

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**4. Witness(es) if any**

Name \_\_\_\_\_

Address \_\_\_\_\_

Age (approx) \_\_\_\_\_ Sex \_\_\_\_\_

**Other information**

Relationship between member of staff/pupil and trespasser/assailant, if any

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**5. Details of incident**

a) **Type of incident** (eg. if trespass, was the trespasser causing a nuisance or disturbance and how; if assault, give details of any injury suffered, treatment received etc)

\_\_\_\_\_

b) **Location of incident** (attach sketch if appropriate)

\_\_\_\_\_

c) **Other details:** describe incident, including, where relevant, events leading up to it; relevant details of trespasser/assailant not given above; if a weapon was involved, who else was present

\_\_\_\_\_

**6. Outcome:** (eg. whether police called; whether trespasser was removed from premises under section 547; whether parents contacted; what happened after the incident; any legal action)

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**7. Other information (to be completed as appropriate)**

a) Possible contributory factors

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b) Is trespasser/assailant known to have been involved in any previous incidents YES/NO

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c) Give date and brief details of (b) if known

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d) Had any measures been taken to try to prevent an incident of this type occurring? If so, what?  
Could they be improved?

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e) If no measures had been taken beforehand, could action now be taken? If so, what?

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f) Name and contact details of police officer involved, and incident number or crime reference number,  
as appropriate

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g) Any other relevant information

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Signed \_\_\_\_\_

Date \_\_\_\_\_

Please return as soon as possible to:

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## Annex B

### RECORDED DELIVERY

Dear Sir/Madam,

I have received a report from the headteacher at (insert name) School about your conduct on (enter date and time).

[Add summary of the incident and of its effect on staff, pupils, other parents.]

I must inform you that the Local Education Authority will not tolerate conduct of this nature on its premises and will act to defend its staff and pupils. On the advice of the headteacher I am therefore instructing that (for a temporary period) you are not to reappear on the premises of the School. If you do not comply with this instruction I shall arrange for you to be removed from the premises and prosecuted under Section 547 of the Education Act 1996. If convicted under this section, you are liable to a fine of up to £500.

In the case of a primary school include: For the duration of this decision you may bring your son(s)/daughter(s) (complete as appropriate) to school and collect them/him/her (delete as appropriate) at the end of the school day, but you must not go beyond the school gate.

(In the case of infant children, also insert) Arrangements have been made for your (delete as appropriate) son(s)/daughter(s) (insert child/rens names) to be collected, and returned to you, at the school gate by a member of the School's staff.

The withdrawal of permission for you to enter the school premises takes effect straightaway. However, I still need to decide whether it is appropriate to confirm this decision. Before I do so, I wish to give you an opportunity to give me in writing any comments or observations of your own in relation to the report which I have received from the headteacher. These comments may include any expressions of regret on your part and any assurances you are prepared to give about your future good conduct. To enable me to take a decision on this matter at an early point, you are asked to send me any written comments you wish to make by (state date ten working days from the date of letter).

If on receipt of your comments I consider that my decision should be confirmed, you will be supplied with details of how to pursue a review of the circumstances of your case.

Yours faithfully,

BAN LETTER-1

Letter to Parent with child/ren at the school

## **Annex C**

### **RECORDED DELIVERY**

Dear Sir/Madam,

I have received a report from the headteacher at (insert name) School about your conduct on (enter date and time).

[Add summary of the incident and of its effect on staff, pupils, other parents.]

I must inform you that the Local Education Authority will not tolerate conduct of this nature on its premises and will act to defend its staff and pupils. On the advice of the headteacher I am therefore instructing that you are not to reappear on the premises of the School. If you do not comply with this instruction I shall arrange for you to be removed from the premises and prosecuted under Section 547 of the Education Act 1996. If convicted, you are liable to a fine of up to £500.

Yours faithfully,

BAN LETTER-1(a)

Letter to member of the public

## Annex D

### RECORDED DELIVERY

Dear Sir/Madam,

On (give date) I wrote to you informing you that on the advice of the headteacher, I had withdrawn permission for you to come onto the premises of (insert name) School. To enable the Local Education Authority to determine whether to confirm this decision for a longer period, I gave you the opportunity to give your written comments on the incident concerned by (give date).

I have not received a written response from you / I have now received a letter from you dated insert date, the contents of which I have noted. (delete either sentence as appropriate).

In the circumstances, and after further consideration of the headteacher's report, I have determined that the decision to withdraw permission for you to come onto school premises should be confirmed. I am therefore instructing that until further notice you are not to come onto the premises of the School without the prior knowledge and approval of the headteacher. If you do not comply with this instruction I shall arrange for you to be removed from the premises and prosecuted under Section 547 of the Education Act 1996. If convicted, you are liable to a fine of up to £500.

Notwithstanding this decision the headteacher and staff at (insert name) School remain committed to the education of your child/children (delete as appropriate), who must continue to attend school as normal insert in the case of a primary school: under the arrangements set out in my previous letter.

The Authority will take steps to review the continuance of this decision on (give date). When deciding whether it is necessary to extend the withdrawal of permission to come onto the School's premises, the Authority will take into account the extent of your compliance with the decision, any appropriate expressions of regret and assurance of future good conduct received from yourself and any evidence of your co-operation with the School in other respects.

/Contd ...

/Contd ... Page Two

[Include where the incident has arisen within the context of a parental complaint against the School:]

Finally I would advise you that I have asked the headteacher to ensure that your complaint that (give brief details) is considered under the appropriate stage of the School's parental complaints procedure. You will be contacted about this by the School in due course.

If you wish to pursue the matter further, you have a right to a review of the circumstances of this case by contacting ... (complete as appropriate with name of LEA officer).

Yours faithfully,

BAN LETTER 2

Letter to parent with child/ren at the school

## Annex E

### RECORDED DELIVERY

Dear Sir/Madam,

I wrote to you on (give date) withdrawing permission for you to come onto the premises of (insert name) School until further notice. In that letter I also advised you that I would take steps to review this decision on (give date).

I have now completed the review. However, after consultation with the headteacher, I have determined that it is not yet appropriate for me to withdraw my decision. (Give a brief summary of reasons.)

I therefore advise that the instruction that you are not to come onto the premises of (insert name) School without the prior knowledge and approval of the headteacher remains in place until further notice.

I shall undertake a further review of this decision on (give date).

[If the letter is from the Governing Body] If you are dissatisfied with this decision, you have a right to complain to the local education authority.

[If the letter is from the LEA] If you are dissatisfied with this decision because you consider it to be unfair, or not to have been made in a correct way, or believe there has been a case of maladministration, you have a right to a further review by the Local Government Ombudsman. They can be contacted at:

21 Queen Anne's Gate  
London  
SW1H 9BU

Or alternatively on 020 7915 3210.

Yours faithfully,

BAN LETTER 3

Letter to parent with child/ren at the school

## **Annex F**

### **RECORDED DELIVERY**

Dear Sir/Madam,

On (insert date) I wrote to you informing you that, on the advice of the headteacher, I had temporarily withdrawn permission for you to come onto the premises of (insert name) School. To enable me to determine whether to confirm this decision for a longer period, I gave you the opportunity to let me have your written comments on this incident by (insert date).

I have not received a written response from you / I have now received a letter from you dated (insert date), the contents of which I have noted. (delete either sentence as appropriate).

[However] In the circumstances, and after consulting with the headteacher, I have decided that it is not necessary to confirm the decision, and I am therefore restoring to you the permission to come onto the school premises, with immediate effect.

Nevertheless I remain very concerned at the incident which occurred on (insert date), and I must warn you that if there is any repetition of your behaviour on that occasion, I shall not hesitate to withdraw permission for you to come onto the premises again.

Yours sincerely,

UNBAN LETTER 1

## **Annex G**

### **RECORDED DELIVERY**

Dear Sir/Madam,

I wrote to you on (give date) informing you that I had withdrawn permission for you to come onto the premises of (insert name) School until further notice. In that letter I also advised you that I would take steps to review this decision on (give date).

I have now completed the review. After consultation with the headteacher, I have decided that it is now appropriate to change that decision and I am therefore restoring to you the permission to come onto the school premises, with immediate effect.

I trust that you can now be relied upon to act in full co-operation with the School and that there will be no further difficulties of the kind which made it necessary for me to prevent you entering the premises. I should point out that if there is any repetition of your behaviour, I shall not hesitate to withdraw permission for you to come onto the premises again.

Yours sincerely,

Depending on who signed original banning letter.

UNBAN LETTER 2

## **Annex H**

### **Legal remedies for violence or abuse against members of the school community**

As well as invoking section 547 of the Education Act 1996, the following two vehicles may be used by an LEA on a school's behalf. There is further information on some of the remaining remedies in this Annex in *School Security Dealing with Troublemakers* (DfEE and Home Office 1997). This is available free from the Department's Publications Despatch Centre 0845 602 2260 or on [www.dfes.gov.uk/schoolsecurity/dwthome.shtml](http://www.dfes.gov.uk/schoolsecurity/dwthome.shtml)

#### **Section 222 Local Government Act 1972**

Section 222 empowers a local authority to prosecute or defend proceedings where it is considered expedient for promoting or protecting the interests of those living in its area. It would potentially allow the local authority to prosecute an abusive parent under one of the other options mentioned here or, alternatively, to bring civil proceedings against the parent.

#### **Anti-Social Behaviour Orders**

Anti-social behaviour orders are imposed under the Crime and Disorder Act 1998.

An anti-social behaviour order can be sought by the local authority or chief officer of police and can be made in respect of anyone aged 10 or over who has acted in an anti social manner (a manner which caused or is likely to cause harassment, alarm or distress) and an ASBO is necessary to protect others in the same area from repetition of similar behaviour.

The order can prohibit the defendant from doing anything described in the order provided those prohibitions are necessary to protect others from anti social behaviour. ASBOs last for a minimum of two years (but can be discharged sooner with the consent of both parties) and carry a penalty for breach of a fine up to £5,000, a prison sentence of up to six months, or both (if imposed by the Magistrates' Court), or an unlimited fine, or up to five years imprisonment, or both (if the conviction was in the Crown Court).

In the circumstances above we would expect LEAs or governing bodies to take the lead on taking relevant action under the above legislation as appropriate.

The LEA or governing body has responsibilities as an employer (The Health and Safety at Work Act 1974, sections 2 and 3) to ensure a safe place of work for its staff. School staff have every right to expect that where they wish action to be taken, the LEA or governing body will do this. LEAs or governing bodies should thus ensure that they are familiar with the relevant legislation and their powers under it.

Other remedies are available under civil and criminal law. These are as follows:

### ***Protection from Harassment Act 1997***

More informally described as anti-stalking legislation, although not only used for that purpose. This action can be taken either through criminal prosecution or a private action for damages in the Civil Courts. It can be done on behalf of an individual, or a group (e.g. a group of children or teaching staff). The sanctions include both criminal penalties (fines, imprisonment, or community sentences) and a restraining order, which is a flexible order which prohibits the offender from continuing their offending behaviour. For example, it could prevent a parent from coming within a certain distance of a school, or from making phone calls to the school or a teacher's home. The restraining order can last for as long as the Court thinks appropriate.

**Section 2** of the Act makes it an offence where someone pursues a course of conduct (on more than two occasions) that amounts to harassment of another, causing alarm or distress. The offence can only be tried in the Magistrates' Court with a maximum penalty of six months imprisonment, a fine of up to £5,000, or both.

**Section 4** creates a more serious offence where people have been put in fear of violence on at least two occasions. It can be tried in the Magistrates' Court or the Crown Court. The maximum penalty for the offence is six months imprisonment, a fine up to £5,000, or both, in the Magistrates' Court. In the Crown Court, it is five years imprisonment, an unlimited fine or both. Where there is a racial element to either the section 2 or section 4 offence, a higher level of sanction applies under section 32 of the Crime and Disorder Act 1998.

**Section 3** of the Act provides for a civil route in relation only to the section 2 and 4 offence. The level of proof is lower for the civil proceedings, as it will be to the civil standard of a balance of probabilities rather than the criminal standard of beyond reasonable doubt. If a restraining injunction is imposed on a defendant under the civil route and the defendant breaches the restraining injunction, proceedings for breach of the order become criminal with the offender liable to up to five years imprisonment.

### ***Injunctions***

These can be granted by a court to ban somebody from school premises. Generally they are viewed as less flexible and more expensive than alternatives such as a restraining order granted under the Protection from Harassment Act 1997, described above.

### ***Criminal Damage Act 1971***

Under this, if a parent or carer destroys or damages property belonging to the school, or to a teacher, he or she can be prosecuted for causing criminal damage. If the value of the damage is below £5,000, the case is tried in the Magistrates' Court, where the penalty is a fine up to £2,500 or up to three months imprisonment or both. If the damage is above £5,000, the case can be tried in the Magistrates' Court or the Crown Court. The penalty in the Magistrates' Court is a fine up to £5,000 or not more than six months imprisonment, or both. In the Crown Court, the penalty is an unlimited fine or ten years imprisonment, or both. Where the criminal damage is committed with an intent to endanger life, the maximum period of imprisonment is life. This includes cases of arson with the same degree of intent. There is a racially aggravated form, which carries higher maximum penalties (Crime and Disorder Act 1998, section 30).

### ***Common Assault***

Where a member of staff is assaulted by a parent or carer and minor injury is caused, the parent or carer may be charged with common assault in accordance with **section 39** of the **Criminal Justice Act 1988**. This can only be tried in the Magistrates' Court. Where there is a racial element to the offence, the parent or carer may be charged with the offence of racially aggravated assault contrary to section 29 of the Crime and Disorder Act 1998. This can be tried either in the Magistrates' Court or the Crown Court. The maximum penalty for common assault is a fine of up to £5,000, or six months imprisonment, or both. The maximum penalty for racially aggravated assault is six months imprisonment or a fine up to £5,000, or both, in the Magistrates' Court. In the Crown Court it is an unlimited fine, or two years imprisonment, or both.

### ***Assault Occasioning Actual Bodily Harm***

Under **section 47** of the **Offences Against the Persons Act 1861**, a parent or carer can be charged with assault occasioning actual bodily harm where more serious injury is caused to a member of staff (such as broken teeth, extensive bruising or cuts requiring medical treatment). Again, there is a racially aggravated form of the offence. The first form is triable either way. In the Magistrates' Court, the maximum penalty is six months imprisonment, or a fine up to £5,000, or both. In the Crown Court, the maximum penalty is five years imprisonment. For the racially aggravated offence, the maximum sentence is the same in the Magistrates' Court. In the Crown Court, the maximum sentence is seven years, an unlimited fine or both.

### ***Offences under the Public Order Act 1986***

There are four separate relevant offences under this Act. The behaviour that they criminalise has some overlap with the Protection from Harassment Act, but unlike that Act, one incident alone is sufficient to constitute a public order offence. Three of them (**sections 5, 4A and 4**) are heard within the Magistrates' Court.

**Section 5** is the lower level of public disorder where a parent or carer causes a disturbance in or outside the school and causes alarm, harassment or distress.

**Section 4A** creates an intentional form of this offence.

**Section 4** is more serious, where there is a fear or provocation of violence. The maximum sentence for section 5 is a fine up to £1,000. The maximum sentence for section 4 or 4A is a term of imprisonment not exceeding six months or a fine up to £5,000 or both. There is also a racially aggravated version of all three of the above offences, under **section 31** of the **Crime and Disorder Act 1998**, with higher maximum penalties.

**Section 3** of the Act, affray, may be tried either in the Magistrates' Court or the Crown Court. This offence is committed when a person uses or threatens unlawful violence such as would cause a reasonable person to fear for his safety; the threat cannot be made by the use of words alone. In the Magistrates' Court, the maximum penalty is six months, a fine up to £5,000, or both. In the Crown Court, the maximum sentence is three years, an unlimited fine or both.

In the circumstances outlined above, although the LEA may not have the relevant power to take action itself, it should – as the employer – work with the school to provide staff with full support in ensuring that action will be pursued against an alleged offender, under the above legislation as appropriate.

### ***Criminal Justice Act 1988***

**Section 139A** of the Act (as amended by the Offensive Weapons Act 1996) makes it an offence to carry an offensive weapon or knife on school premises. Under **section 139B** a police officer may enter a school and search for a weapon; where one is found they may seize and retain it. A person who has a weapon on school premises will be guilty of an offence, unless he can prove a statutory defence. The maximum penalty on conviction on indictment for carrying a knife is two years imprisonment or an unlimited fine or both. The maximum penalty on conviction on indictment for carrying an offensive weapon is four years imprisonment or an unlimited fine or both.

The weapons which are caught under section 139A and 139B include any article made or adapted for use for causing injury and any article which has a blade or is sharply pointed. A folding pocket knife with a blade under 3 inches long is, however, excepted although this does not prevent schools from imposing their own bans on pupils carrying them.

In general, where a school suspects a weapon to be on school premises the police should be called. Where the police have reasonable grounds for suspecting a weapon to be on a school's premises they can enter without permission from the school.

### ***Non statutory remedies***

Aside from the legal remedies, there are other strategies that can help in preventing conflicts with parents or stopping them escalating. These include mediation and conflict resolution. Schools might also be able to develop non-statutory Acceptable Behaviour Contracts for some parents similar to those that have been developed by the Metropolitan Police mainly in respect of pupils. These require the agreement of the person to an acceptable level of behaviour.

# Annex I

## Useful websites

[www.dfes.gov.uk/schoolsecurity](http://www.dfes.gov.uk/schoolsecurity) The Department's school security website.

[www.teachernet.gov.uk/responsibilities](http://www.teachernet.gov.uk/responsibilities) Includes the Departmental publication *Health & Safety: Responsibilities and Powers*.

[www.teachernet.gov.uk/streetcrime](http://www.teachernet.gov.uk/streetcrime) Includes the guidance *Police-School Protocols: Principles* and guidance on Safer School Partnerships.

<http://www.hse.gov.uk/pubns/raindex.htm> Includes Health and Safety Executive (HSE) guidance on risk assessments.

<http://213.212.77.20/pubns/indg163.pdf> This is the address for HSE books.

<http://www.hse.gov.uk/pubns/edis1.htm> Includes HSE guidance on Reporting School Accidents.

<http://213.212.77.20/riddor/index.htm> The HSE RIDDOR website.

