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advice,
guidance,
protection...

Unacceptable Pupil Behaviour

ADVICE, GUIDELINES AND PROTECTION



from the
**National
Union of
Teachers**

Our aim - one union for all teachers



ADVICE, GUIDELINES AND PROTECTION

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 the advice and protection of members where they consider their professionalism or personal safety is at risk.

RESPONSIBILITY FOR DISCIPLINE

Headteachers are responsible under law for devising their schools' discipline policies and for promoting good behaviour and discipline amongst pupils in line with the statements of general principles published by their governing bodies. In devising and applying discipline policies, headteachers must hold in regard 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, and to review regularly, written statements of general principles on pupil behaviour and discipline policies. In drawing them up, governing bodies must refer to:

- the ethos of the school, its values and the boundaries of acceptable pupil behaviour;
- the school's moral code;

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- positive and constructive rules of conduct; and
 - the rewards and punishments which are to be fairly and consistently applied.

According to legal requirements, governing bodies must consult their headteachers and parents of pupils before making or revising their statements.

The Responsibilities of the Local Education Authority


Where a local education authority believes that discipline has broken down in a school, it may intervene to prevent that breakdown or further breakdown of discipline in the school.

The LEA may exercise this power where it considers that the education of pupils in the school is likely to be prejudiced seriously by the behaviour of pupils or actions by parents. The LEA must inform the governing body in writing of its view and the nature of the intervention it intends.

ADVICE ON SCHOOL DISCIPLINE STATEMENTS AND POLICIES

The NUT believes that in order to be effective, discipline policies for each school should be practical and should include:

- a commitment to regular, professional development for all staff on behaviour strategies, including use of appropriate methods of physical restraint;
- 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 as to whom they should turn in a disciplinary crisis, including guidelines covering intervention in fights or disputes between pupils, restraint of pupils, and recording incidents of violent or poor behaviour;
- a commitment to give the necessary time within the school day to all staff to share information and experiences on the behavioural needs of individual pupils;
- a summary of school strategies for tackling 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 these questions.

- Do all teachers know to whom they should turn within the school when they need support?
- Where should pupils be sent if they are removed from the classroom?
- What 'cooling off' period is defined in the school's policies for pupils and where should they be sent 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?
- What are the arrangements for supporting staff working in remote classrooms?


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

The powers of teachers and other staff on the use of reasonable force to restrain pupils are contained within Section 550A of the Education Act 1996. Those powers are described in the following guidance: DfEE Circular 10/98 and Welsh Office Circular 37/98; The Use of Force to Control or Restrain Pupils; and DfES 'Guidance on the Use of Restrictive Physical Interventions for Staff Working with Children and Adults who Display Extreme Behaviour in Association with Learning Disability and for Autistic Spectrum Disorders' (July 2002). A summary of the relevant section of the Act is set out below.

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;

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- 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.

All teachers are authorised, where necessary, to use reasonable force to control or restrain pupils. This applies in any setting where teachers have charge of pupils concerned.

Section 550A of the 1996 Act and the accompanying guidance applies also to teachers who have responsibility for special educational needs, including those in special schools and pupil referral units.

ADVICE ON THE PHYSICAL RESTRAINT OF PUPILS


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 personal safety is at risk, or where they believe such intervention could lead to accusations of assault or child abuse. Where teachers judge that they should intervene by the use of 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 exclusions.

The NUT would expect copies of the relevant DfES and Welsh Office Circulars on physical restraint to be available to all 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 Circulars. 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's pupil population.



The NUT recommends, as does the DfES and the Welsh Assembly Government, that schools should have systems in place for recording all incidents of physical restraint. The recording of such incidents should take place as near as possible to the time of the incident. Teachers should make themselves aware of the procedures that apply in their schools.

Joint DfES and Department of Health guidance has been published entitled 'Guidance for Restrictive Physical Intervention - How to provide safe services for people with Learning Disabilities and Autistic Spectrum Disorders'. This guidance should be available in special schools and other special educational needs' settings. Members may also need specific advice from the NUT.

Teachers may be subject to false or misplaced accusations of assault or physical abuse. Situations involving physical restraint can be misconstrued and misinterpreted. All incidents of physical restraint of pupils should be reported and recorded, according to the school's procedures. Contemporaneous recording will assist in dealing with any subsequent complaints. The DfES 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 by contacting their NUT regional office or in Wales, the Cymru office.

The Education Act 1996 does not authorise reasonable force which would amount to corporal punishment. In addition, all public authorities, including LEAs and schools, must comply with the Human Rights Act 1998, which forbids inhuman or degrading treatment or punishment. It is unlawful, therefore, 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 NUT believes that all teachers should have access to procedures and training within schools which support them professionally. NUT members who are unsure of or consider themselves to be inadequately supported by discipline procedures or feel physically or professionally threatened by the behaviour of pupils, should contact their NUT regional office or, in Wales, the NUT Cymru office 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 15 days in a term, education legislation makes it clear that headteachers must seek, with local education authorities, the most effective arrangements for continuing the education of the pupils concerned.

Government guidance, issued in January 2003, entitled 'Improving Behaviour and Attendance: Guidance on Exclusions from Schools and Pupil Referral Units', recommends procedures which headteachers and governing bodies should follow when considering whether to exclude a pupil, either for a fixed-term or permanently.

Relevant factors that must be taken into account include:

- checking "whether the incident may have been provoked by, for example, bullying or by racial or sexual harassment";
- allowing "the pupil to give his or her version of events";
- ensuring "that an appropriate investigation has been carried out".

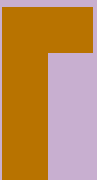
The Government's guidance further includes the following paragraphs.

"A decision to exclude a child permanently is a serious one. It will usually be the final step in a process for dealing with disciplinary offences following a wide range of other strategies which have been tried without success. It is an acknowledgement by the school that it has exhausted all available strategies for dealing with the pupil and should normally be used as a last resort".

"There will, however, be circumstances where, in the headteacher's judgement, it is appropriate permanently to exclude a child for a first or 'one off' offence. These might include:

- a) serious actual or threatened violence against another pupil or a member of staff;
- b) sexual abuse or assault;
- c) supplying an illegal drug;
- d) carrying an offensive weapon."

"Schools should also consider whether or not to inform the police where such a criminal offence has taken place. They should also consider whether or not to inform other agencies, e.g., Youth Offending Team, Social Workers, etc."



“In cases where a headteacher has permanently excluded a pupil for:

- a) one of the above offences; or
- b) persistent and defiant misbehaviour including bullying (which would include racist or homophobic bullying) or repeated possession and/or use of an illegal drug on school premises;

the Secretary of State would not normally expect the governors’ Discipline Committee or an Independent Appeal Panel to reinstate the pupil.”

The guidance is available on:

www.dfes.gov.uk/behaviourandattendance/guidance/exclusions/introduction.cfm


ADVICE ON PUPIL EXCLUSIONS

When a pupil disrupts a class, the teacher can face enormous stress and demoralisation and other pupils in the class may resent and suffer from the disruption to their education. Both teachers and pupils have a right to effective support of the right quality and at the right time.

When the strategies within the agreed school discipline policy have been applied without success, exclusion must be the next option. Where pupils assault teachers or commit serious breaches of the discipline policy, such as bullying, including racist or homophobic bullying, assaulting other pupils, carrying an offensive weapon, sexual or racial abuse, and supplying illegal drugs, then exclusion should be the response.

The guidance set out by the Government clarifies the circumstances for permanent exclusion. The reference to, “serious, actual or threatened violence against another pupil or member of staff” and to “persistent and defiant misbehaviour including bullying”, alongside the other criteria set out by the Government, enables headteachers to act confidently in the application of exclusion procedures necessary to protect pupils and staff. Further information on behaviour and attendance can be obtained from www.dfes.gov.uk/behaviourandattendance/about/overview.cfm.

In particular, the NUT would expect the headteacher of a school or a teacher in charge of a Pupil Referral Unit to apply permanent exclusion where the unacceptable behaviour involves violence, sexual or racial abuse, health and safety risks, or persistent, malicious disruptive behaviour. 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 exclusion has been ruled out by governing bodies or appeals panels. Following appropriate procedures and in accordance with the Union Rule, the NUT will apply industrial action, up to and including strike action, where:

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

In such circumstances, members should contact their NUT regional office, or, in Wales, the NUT Cymru Office.

THE PASTORAL SUPPORT PROGRAMME

DfES Circular 10.99, ‘Social Inclusion: Pupil Support’, and the National Assembly of 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.

Prior to establishing a Pastoral Support Programme for a pupil, the headteacher, or the headteacher’s designee, should discuss the case with relevant officers of the local education authority and with the pupil’s parents. The local education authority should agree the nature and the extent of the monitoring of the pupil’s 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 Pastoral Support Programmes should rest with headteachers. Pastoral Support Programmes should not be considered as a substitute for exclusion. If the exclusion of pupils is warranted immediately because of the severity of their behaviour, then the programme should not be considered a barrier to exclusion.

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 Cymru Office.



ADVICE ON WORK-RELATED VIOLENCE

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

Depending upon 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, if the matter goes to Court the teacher will be required to appear as a witness. If assaults occur in public places, they may result in the Police taking action and charging the relevant offenders with breach of the peace, even if they do not result in serious bodily harm.

Teachers who are absent from work as a result of assault by a pupil 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 or facilitate advice on entitlement to social security benefits, such as sickness and invalidity benefits.

NUT regional offices or, in Wales, the NUT Cymru office, 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 their 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.

CONTINUING PROFESSIONAL DEVELOPMENT

The Union's CPD Programme offers a range of high quality continuing professional development opportunities for teachers. The CPD Programme provides a range of events which focus, in particular, on pupil behaviour,



including courses on aspects of classroom management, effective behaviour support, managing the links between teaching learning and behaviour and making effective interventions. These events are fully subsidised so that they are, generally, free to members. If further details of the current programme are required, contact the Union's Education and Equal Opportunities Department through nutcpd@nut.org.uk

BEHAVIOUR IMPROVEMENT PROGRAMME (BIP)

The Behaviour Improvement Programme began in 2002 as part of the Government's agenda for tackling street crime. The original 34 pilot areas were allocated additional resources in order to put in place a range of measures to improve behaviour and attendance.

The DfES objectives for the Programme are: improving standards of behaviour overall; reducing truancy; securing lower levels of exclusions; ensuring there is a named key worker for every child at risk of truancy, exclusion or criminal behaviour; and ensuring the availability of full-time, supervised education for all pupils from day one of either permanent or temporary exclusion, from January 2003.

The Behaviour Improvement Programme (BIP) involves clusters of primary and secondary schools selected by authorities, LEAs and schools working together to pilot national strategies with a local focus such as multi-agency working and building on existing good practice.

Based upon practitioners' experience of what works, the aim of the project is to train senior staff as Lead Behaviour Professionals. The DfES intention for the programme is that it is both comprehensive and practical, so that the Lead Behaviour Professionals can support colleagues more effectively in the classroom and around school.

Further information on the Behaviour Improvement Programme can be obtained by contacting www.hvec.org.uk/intranet/inclusion/bip/biptoolkit.pdf or by e-mailing bi.project@dfes.gsi.gov.uk

MAKING CONTACT

The areas served by the NUT regional offices are shown on this map.

On this page you will also find the addresses and telephone numbers of the regional and in Wales the NUT Cymru office to contact for advice, guidance and assistance.

Region 1

NUT regional office, Auckland House, High Chare, Chester-le-Street, Co Durham DH3 3PX
Tel: (0191) 389 0999. Fax: (0191) 389 2074

Northern

Cumbria, Darlington, Durham, Gateshead, Hartlepool, Middlesbrough, Newcastle-upon-Tyne, N Tyneside, N Yorkshire, Northumberland, Redcar and Cleveland, S Tyneside, Stockton-on-Tees, Sunderland, City of York.

Region 2

NUT regional office, 25 Chorley New Road, Bolton, Lancashire BL1 4QR
Tel: (01204) 521434. Fax: (01204) 362650

North West

Blackburn with Darwen, Blackpool, Bolton, Bury, Cheshire, Halton, Isle of Man, Knowsley, Lancashire, Liverpool, Manchester, Oldham, Rochdale, St Helens, Salford, Sefton, Stockport, Tameside, Trafford, Warrington, Wigan, Wirral.

Region 3

NUT regional office, 7/9 Chequer Road, Doncaster DN1 2AA
Tel: (01302) 342448. Fax: (01302) 341021

Yorkshire/Midland

Barnsley, Bradford, Calderdale, Derbyshire, City of Derby, Doncaster, East Riding of Yorkshire, Kingston-upon-Hull, Kirklees, Leeds, Lincolnshire, North East Lincs, North Lincs, City of Nottingham, Nottinghamshire, Rotherham, Sheffield, Wakefield.

Region 4

NUT regional office, Jarvis House, 96 Stone Road, Stafford ST16 2RS
Tel: (01785) 244129. Fax: (01785) 223138

Midlands

Birmingham, Coventry, Dudley, Herefordshire, Leicestershire, Leicester City, Rutland, Sandwell, Shropshire, Solihull, Staffordshire, Stoke-on-Trent, Telford and Wrekin, Walsall, Warwickshire, Wolverhampton, Worcestershire.

Region 5

NUT regional office, Cecil Lodge, Falmouth Avenue, Newmarket, Suffolk CB8 0TA
Tel: (01638) 664538. Fax: (01638) 666480

Eastern

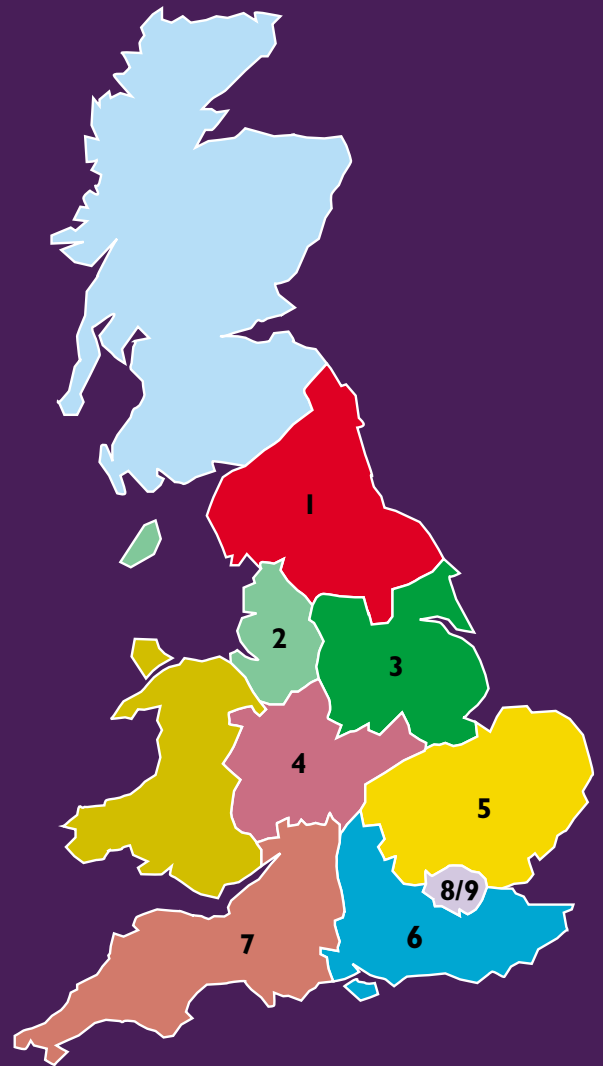
Bedfordshire, Buckinghamshire, Cambridgeshire, Essex, Hertfordshire, Luton, Milton Keynes, Norfolk, Northamptonshire, Peterborough, SCS (Germany), Southend-on-Sea, Suffolk, Thurrock.

Region 6

NUT regional office, 14-16 Sussex Road, Haywards Heath, West Sussex RH16 4EA
Tel: (01444) 452073. Fax: (01444) 415095

South East

Bracknell Forest, Brighton and Hove, East Sussex, Hampshire, Isle of Wight, Kent, Medway, Oxfordshire, Portsmouth, Reading, Slough, Southampton, Surrey, West Berkshire, West Sussex, Windsor and Maidenhead, Wokingham.



Region 7

NUT regional office, 1-5 Lower Avenue, Heavitree, Exeter, Devon EX1 2PR
Tel: (01392) 258028. Fax: (01392) 412801

South West

Bath and North East Somerset, Bournemouth, Bristol, Cornwall, Devon, Dorset, Gloucestershire, Guernsey, Isles of Scilly, Jersey, North Somerset, Plymouth, Poole, Somerset, South Gloucestershire, Swindon, Torbay, Wiltshire.

Region 8

NUT regional office, Ravenscourt House, 322A King Street, Hammersmith, London W6 0RR
Tel: (020) 8846 0600. Fax: (020) 8563 8877

London (West)

Barnet, Brent, Camden, Ealing, Enfield, Hammersmith/Fulham, Harrow, Hillingdon, Hounslow, Kensington/Chelsea, Kingston-upon-Thames, Lambeth, Merton, Richmond-upon-Thames, Sutton, Wandsworth, Westminster.

Region 9

NUT regional office, 267 Cranbrook Road, Ilford IGI 4TD
Tel: (020) 8554 5525. Fax: (020) 8554 1991

London (East)

Barking and Dagenham, Bexley, Bromley, City of London, Croydon, Greenwich, Hackney, Haringey, Havering, Islington, Lewisham, Newham, Redbridge, Southwark, Tower Hamlets, Waltham Forest.

WALES – NUT Cymru

NUT Cymru Office, 122 Bute Street, Cardiff, CF1 6AE
Tel: (029) 2049 1818 Fax: (029) 2049 2491

Blaenau Gwent, Bridgend, Caerphilly, Cardiff, Carmarthenshire, Ceredigion, Conwy, Denbigshire, Flintshire, Gwynedd, Merthyr Tydfil, Monmouthshire, Neath and Port Talbot, Newport, Pembrokeshire, Powys, Rhondda, Cynon Taff, Swansea, Torfaen, Vale of Glamorgan, Wrexham, Ynys Mon