

# **BEHAVIOUR AND DISCIPLINE IN SCHOOLS**

## **GUIDANCE FOR GOVERNING BODIES**

### **ABOUT THIS GUIDANCE**

1. This is statutory guidance from the Department for Education. It explains why maintained schools must have a behaviour policy, what it must cover and the role of the governing body and head teachers in shaping their school's behaviour policy.
2. We use the term 'must' when the person in question is legally required to do something and 'should' when advice is being offered.
3. This guidance replaces chapter 2 of 'School discipline and pupil behaviour policies – guidance for schools'.

### **EXPIRY/REVIEW DATE**

This guidance will be reviewed when the consultation has closed.

### **WHAT LEGISLATION DOES THIS GUIDANCE RELATE TO?**

Education and Inspections Act 2006

### **WHO IS THIS GUIDANCE FOR?**

This is statutory guidance for governing bodies of maintained schools.

### **Key Points**

- Every school must have a behaviour policy (which must include the school rules).

## **THE ROLE OF GOVERNORS**

1. Under Section 88(1) of the Education and Inspections Act 2006 (EIA), governing bodies must ensure that policies designed to promote good behaviour and discipline on the part of its pupils are pursued at the school.
2. Section 88(2) of the EIA requires the governing body to:
  - a. make, and from time to time review, a written statement of general principles to guide the head teacher in determining measures to promote good behaviour and discipline amongst pupils; and
  - b. notify the head teacher and give him or her related guidance if the governing body wants the school's behaviour policy to include particular measures or address particular issues.
3. When carrying out the functions under Section 88(2), the governing body must have regard to guidance issued by the Secretary of State. Paragraphs 12-14 below provide this statutory guidance.
4. Before making their statement of principles, the governing body must consult (in whatever manner they think appropriate) the head teacher, school staff, parents and pupils.
5. The Governors' Guide to the law provides information on governors' other legal duties. See the Associated Resources section below for a link to the Guide.

### **What must the governing body do?**

6. The governing body must provide clear advice and guidance to the head teacher on which he/she can base the school behaviour policy.
7. This is particularly important in respect of teachers' powers to search, to use reasonable force and to discipline pupils for misbehaviour outside school. Although these powers may look straightforward in legal terms, they are not always fully understood by staff, pupils and parents, and staff can feel particularly vulnerable to challenge if they use them.
8. Clear advice and guidance from the governing body, which feeds directly into the behaviour policy, will help members of staff better understand the extent of their powers and how to use them. It will also help ensure that staff can be confident of the governing body's support if they follow that guidance.
9. While it is for each governing body to decide their own principles, we would always expect the governing body to notify the head teacher that the following should be covered in the school behaviour policy:

- a. Screening and searching pupils;
- b. The power to use reasonable force;
- c. The power to discipline beyond the school gate; and
- d. Pastoral care for school staff accused of misconduct.

10. In providing guidance to the head teacher, the governing body must not seek to hinder teachers' powers by including 'no searching' or 'no contact' policies, nor to restrict their power to discipline pupils for misbehaviour outside of school. Governing bodies will also wish to consider their duty under section 175 of the Education Act 2002 requiring them to make arrangements to ensure that their functions are carried out with a view to safeguarding and promoting the welfare of children.

### **Screening and searching and the power to use reasonable force**

11. Separate guidance is available on searching and on the use of force and governing bodies should draw on this to inform their guidance to the head teacher.

### **The power to discipline beyond the school gate**

12. Disciplining beyond the school gate covers the school's response to all non-criminal bad behaviour and bullying which occurs anywhere off the school premises and which is witnessed by a member of staff or reported to the school. The governing body must be satisfied that the measures proposed by the head teacher are lawful.

13. The governing body will need to ask the head teacher to consider what the school's response should be to:

Any bad behaviour when the child is:

- taking part in any school-organised or school-related activity or
- travelling to or from school or
- wearing school uniform or
- in some other way identifiable as a pupil at the school.

Or, misbehaviour at any time, whether or not the conditions above apply, that:

- could have repercussions for the orderly running of the school or
- poses a threat to another pupil or member of the public or

- could adversely affect the reputation of the school.

14. In all of these circumstances the head teacher should also consider whether it is appropriate to notify the police or anti-social behaviour coordinator in their local authority of the actions taken against a pupil. If the behaviour is criminal or poses a serious threat to a member of the public, the police should always be informed. In addition, school staff should consider whether the misbehaviour may be linked to the child suffering, or being likely to suffer, significant harm. In this case the school staff should follow its safeguarding policy.

### **Pastoral care for school staff**

15. Employers should not automatically suspend a member of staff who has been accused of misconduct, pending an investigation. The governing body should instruct the head teacher to draw on the advice in the 'Dealing with Allegations of Abuse against Teachers and Other Staff' guidance when setting out the pastoral support school staff can expect to receive if they are accused of misusing their powers.