

ATL ADVICE



Discipline in schools

The coalition government has published guidance on the Education and Inspections Act 2006, which gives all staff in maintained schools in England and Wales legal rights to discipline pupils. This factsheet provides an overview of these powers in light of this guidance.

Detention

Schools are able to place pupils under the age of 18 in detention without parental consent outside normal school hours. There is no obligation to give parents notice of the detention. Decisions about whether the parents/carers ought to be informed of the detention are left to the school.

The Department for Education (DfE) guidance states: "In many cases it will be necessary to do so, [inform the parents] but this will depend on the circumstances. For instance, notice may not be necessary for a short after-school detention where the pupil can get home safely.

The permitted day for a detention includes:

- any school day where the pupil does not have permission to be absent
- weekends – except the weekend preceding or following a half-term break
- non-teaching days (ie INSET/training days).

ATL's view: ATL remains concerned at the workload implications for teachers if members of staff are asked to supervise detentions at weekends. Schools should also consider whether supervising detentions requires the professional skills and expertise of a teacher in accordance with the National Agreement on Raising Standards and Tackling Workload.

ATL is further concerned that if a detention takes place during a non-teaching day, then it could affect staff training days. Non-teaching days should be used for CPD purposes.

Power to discipline

All members of staff in lawful charge of pupils have the power to discipline pupils for inappropriate behaviour, or for not following instructions. This means support staff as well as teaching staff can discipline pupils.

Discipline policies

Every headteacher and governing body is required to draw up and publicise a discipline policy for their school and bring it to the attention of pupils, parents and staff at least once a year. The policy should cover the power to use reasonable force or make other physical contact, the power to discipline beyond the school gate and pastoral care for school staff accused of misconduct.

In addition, the guidance explains that the school's behaviour policy should set out the disciplinary action that will be taken against pupils who are found to have made malicious allegations against school staff.

ATL's view: ATL welcomes government moves to protect members of staff when they have had an allegation made against them. However, ATL believes that the imposition of a £5,000 fine on newspapers that publish the names of people involved in false allegation cases before guilt has been established may not deter newspapers from printing if they believe they have a good story.

Guidance on school discipline and pupil behaviour policies has been published by the Department for Education and can be downloaded from www.education.gov.uk/schools/pupilsupport/behaviour/behaviourpolicies.

Confiscation

Two sets of legal provisions enable school staff to confiscate items from pupils.

The first is the general power to discipline, which enables a member of staff to confiscate, retain or dispose of a pupil's property as a punishment. Should the item be lost or damaged, the law will protect members of staff from liability for such loss or damage, provided they have acted lawfully.

ATL's view: Schools should include confiscation of pupil's property as a disciplinary sanction in their behaviour policies and explain the process staff must go through to confiscate an item from a pupil, and what must be done with the confiscated item in accordance with the legal requirements.

The second is the power to search without consent for:

- knives and weapons
- alcohol
- illegal drugs
- stolen items
- tobacco and cigarette papers
- fireworks
- pornographic images
- any article that has been, or is likely to be, used to commit an offence, cause personal injury or damage to property
- any item banned by the school rules that has been identified in the rules as an item which may be searched for.

ATL's view: ATL believes school staff should only be involved with consensual searches – for example if a pupil turns out his or her pockets – although even consensual searches could prompt a complaint or allegation of assault. If a teacher searches a pupil, this could destroy a relationship of trust that has been built up over many years. There is also a concern that any form of searching introduces an element of 'policing' to the role, and that not all schools will make it clear to their staff that they have the right to refuse to search.

Use of reasonable force to restrain pupils

All members of school staff have the legal power to use reasonable force. Reasonable force can be used to prevent pupils from hurting themselves or others, from damaging property or from causing disorder. The use of force has two main purposes – to control pupils or to restrain them.

The decision on whether or not to physically intervene is down to the professional judgement of the staff member concerned and should always depend on the individual circumstances of the case. The following is not exhaustive but provides some examples of situations where reasonable force can be used. Schools can use reasonable force to:

- Remove disruptive children from the classroom where they have refused to follow an instruction to do so.
- Prevent a pupil behaving in a way that disrupts a school or a school trip or visit.
- Prevent a pupil leaving the classroom where allowing the pupil to leave would risk their safety or lead to behaviour that disrupts the behaviour of others.
- Prevent a pupil from attacking a member of staff or another pupil, or to stop a fight.

ATL's view: Heads should meet with staff to continually review the above list of situations where reasonable force can be used. A clear, detailed behaviour policy together with ongoing staff training should help reduce the likelihood of allegations against staff. Any member accused of using unreasonable force should contact ATL for guidance using the details below.

ATL's factsheet *Allegations of Abuse Against Staff* is available from www.atl.org.uk/factsheets.

Parenting orders

The guidance makes it clear that parents have a clear role in making sure their child is well behaved at school. Schools and local authorities will continue to have the power to apply for a court-imposed parenting order.

ATL's view: ATL still believes that this is a role best exercised by the local authority.



Need advice?

Your first point of contact is the ATL rep in your school/college. Your local ATL branch is also available to help, or you can contact ATL's member advisers on 020 7930 6441, email info@atl.org.uk. Don't forget there's lots more advice on ATL's website at www.atl.org.uk.

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