

# Violence, threatening behaviour and abuse

advice and information for members in England and Wales

# ATL is here to help you

## Advice from ATL

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Should you experience violence, threatening behaviour or abuse, then as a member you should contact ATL for advice and support. You may wish to contact one of ATL's offices:

### London

7 Northumberland Street, London WC2N 5RD

Tel: 020 7930 6441

Fax: 020 7930 1359

Email: [info@atl.org.uk](mailto:info@atl.org.uk)

### Northern Ireland

The Gas Office, 10 Cromac Quay, Ormeau Road, Belfast BT7 2JD

Tel: 028 9032 7990

Fax: 028 9032 7992

Email: [erodgers@n-ireland.atl.org.uk](mailto:erodgers@n-ireland.atl.org.uk)

### Wales

1st Floor, Empire House, Mount Stuart Square, Cardiff CF10 5FN

Tel: 029 2046 5000

Fax: 029 2046 2000

Email: [cymru@atl.org.uk](mailto:cymru@atl.org.uk)

## ATL's Personal Injury Claims Line

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Tel: **0800 083 7285** or [www.atlinjuryclaims.org.uk](http://www.atlinjuryclaims.org.uk)

Our ATL Injury Claims Line helps all members and their families who have suffered an injury, either in or outside of work, and whether as a result of an assault or accident. This service, funded by ATL, is provided by Morrish & Co, who are specialist personal injury lawyers. If you suffer an injury and your claim has merit, ATL will fund the entire claim. This service is open to all ATL members and is available between 7am–7pm, seven days a week.

## Stress Helpline

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Tel: **08705 234 828**

Through ATL's Stress Helpline, you will have immediate access to confidential counselling 24 hours a day, 365 days a year. The fully trained counsellors are all qualified nurses from Capita Medical services, with the experience to help you identify and address the underlying causes of the stress from which you may be suffering. The service is open to all members (except student members, retired and associate members).

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## Foreword by Dr Mary Bousted

On a daily basis, education professionals work to ensure that their pupils and students have the best possible conditions in which to learn and develop. This can often take place in the most challenging and difficult of social and economic circumstances.

Our schools and colleges must be places where young people come to learn in environments that are safe and secure for all members of the educational community – including pupils, parents and, of course, the education professionals, our members.

The ability to manage young people, their parents, guardians and carers, and others who come onto school and college premises is a considerable skill. It is to the great credit of our members that so many threatening situations, or those with the potential to be so, are actually defused. We acknowledge the enormous contribution made by our members in their skilled management of these situations. We wish to go on working with parents, managers and governors to ensure that this success continues.

However, there are occasions on which members are assaulted or threatened with assault. ATL's message is clear: assaults or threats are unacceptable and we will provide our members with full support if they find themselves in such situations.

This publication is intended as guidance to all education professionals, whether you are new to the classroom or have years of experience. It provides advice on the health and safety context; how to prevent and minimise confrontation and what to do if you or a colleague is assaulted.

We hope that you never find yourself in a situation where you are threatened or actually assaulted but if you do, you should use this guidance and ATL's highly effective support and professional services.

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## Introduction

In 2002, as a result of lobbying by ATL and other teacher trade unions, the government produced *A legal toolkit for schools: tackling abuse, threats and violence towards members of the school community* to assist schools in dealing with violence, threatening behaviour or abuse from parents. The introduction to this document contained the following statement:

*“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.”*

ATL supports and endorses this statement. We believe that education staff should never be subjected to abuse or threats of abuse, whether verbal or physical.

All those working with children and young people would prefer to prevent any threat or assault. However, regrettably we recognise that there are going to be circumstances in which education staff are verbally or physically threatened and assaulted. We know that managers and staff in these circumstances will have to proceed with great care. They will often be under considerable pressure to make decisions and judgements in very difficult circumstances.


That more serious instances of violent and disruptive behaviour are on the rise is without doubt, with recorded assaults on staff rising. ATL will continue to support our members fully in all such cases and take whatever steps we consider necessary when our members' safety and well-being are threatened.

ATL's approach on violence, threatening behaviour and abuse by children, visitors (including parents) and intruders is first and foremost to press for protection against such behaviour. And parents must recognise that such behaviour is not acceptable and will result in action against them.

In all cases, appropriate support, including legal advice, must be provided by employers and legal sanctions should be pursued, in consultation with members.

In addition the following preventative principles are essential.

- User-friendly and accessible procedures must be in place. Staff should be familiar with the procedures and be able to refer to them immediately. These procedures must be reviewed regularly and updated as necessary.

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- Practical training must be provided to all staff. This doesn't mean that just one session of training is adequate. As training methods change or as a reminder for staff, refresher training should also be provided.

This publication gives advice and guidance on violence, threatening behaviour and abuse which may arise from working with pupils as part of the school community, and also covers the behaviour of visitors to the school site, such as parents. It doesn't cover accusations of assault or abusive behaviour perpetrated by teachers or other education staff, which is a separate issue.

Some ATL members will be working with children and young people but not in the traditional setting of a classroom. We recognise the increased vulnerability of members who, for example, visit pupils in their own homes. The principles set out above and the practical advice contained here are as applicable to other settings as they are to any school or college-based education activity.

With regard to terminology, we have used the word "parent" in this advice but recognise that "guardian" or "carer" might be applicable. In addition, the term "school" is intended to cover colleges and any other educational establishment and "pupil" to include "student" where appropriate. We have also used "local authorities" rather than "local education authorities".

Much of the practical advice contained in this publication is applicable throughout the UK. However, where there may be regional variances in policy or legislation, the publication focuses on the situation in England and Wales. Members wanting advice that is specific to Northern Ireland should contact ATL's member advisors on tel: 020 7930 6441.

## Your entitlement to a safe place of work

Your employer is under a statutory duty to provide a safe place of work for you, pupils (whether in school or off site) and visitors to the school (including volunteers involved in school activities), under the Health and Safety at Work, etc Act 1974 (HSW Act). There is also an implied term in your contract of employment that your employer will provide a healthy and safe working environment, and this includes protection from violence or the risk of violence.

The Health and Safety Executive (HSE) is the body responsible for health and safety regulation in Great Britain. The HSE may take enforcement action against an employer if there is a breach of the HSW Act or of health and safety regulations. For community schools, community special schools, voluntary-controlled schools, maintained schools and pupil referral units, the employer is the local authority (LA). For foundation schools, foundation special schools and voluntary-aided schools, the employer is usually the governing body. For independent schools, the employer is usually the governing body or proprietor and in further education colleges and sixth form colleges, the employer is the governing body.

As an employee, you also have obligations. Under the HSW Act and the Management of Health and Safety at Work Regulations 1999 you must:

- take reasonable care of your own health and safety and that of others, including your colleagues and the pupils in your care
- cooperate with your employers on health and safety matters
- carry out activities in accordance with training, instructions, policies and procedures
- tell your employer of any serious risks.

### Duty of care

The employers' obligations, as set out above, are normally described as the "duty of care" that your employer owes to you as an employee. This duty does not provide a comprehensive guarantee of your safety but means that your employer must take reasonable steps to ensure that you are protected and remain safe from reasonably foreseeable dangers. Its applicability will differ depending on the facts of each circumstance. For example, if you work at a school with pupils that have a history of behavioural difficulties, then you are likely to be more at risk of assault. Your employer, therefore, would be expected to act accordingly, taking reasonable steps to safeguard your health and safety. An illustration of this principle is provided in the following case.

### **Waugh vs Newham London Borough Council**

In the case of *Waugh vs Newham London Borough Council* (2002), the LA was found to be in breach of its duty of care when a pupil assaulted a teacher at the special school the pupil attended. The court decided that the LA owed a duty to the teacher to take reasonable care to minimise the known risk of injury to staff and other pupils presented by difficult pupils. The council was in breach of that duty of care and this led to the assault. It was also held that the council had a duty to the teacher to provide a safe place of work and, in addition, a safe system of work. If adequate prior information and instruction had been given about the pupil, further steps could have been taken to ensure that the assault was avoided. This failure to give information amounted to a breach of the duty of care and the council was therefore negligent.

For further guidance, the Department for Education and Skills (DfES) has published *Health and safety: responsibilities and powers* (DfES/0803/2001), available on [www.teachernet.gov.uk](http://www.teachernet.gov.uk).

### **Risk assessments**

As part of their legal duties, employers are required to do a “suitable and sufficient” risk assessment of the health and safety risks to staff, of which employees must be made aware. If you are not clear as to who undertakes risk assessments at your school, you should raise this with your line manager or head teacher.

A risk assessment should follow these steps:

- identify and assess the risks
- determine appropriate actions to manage those risks
- implement the actions
- monitor the results
- provide feedback to those affected by the risk assessment.

Risks to the personal safety of staff should be considered as part of the process. This should encompass the whole of the school site, including areas adjacent to the school, and is particularly important when it comes to staff that visit pupils at home. The need to carry out a risk assessment is even greater where staff are likely to be working with pupils that have behavioural problems. Their importance is clearly illustrated by the following case.

### **Millward vs Oxfordshire County Council**

In this case where a teacher was assaulted by a pupil, the school had a system of simple, single-page risk assessment forms. These forms contained notes on the potential risks that might be faced by staff and provided information regarding the behaviour patterns of pupils where there had been concerns. The court decided that these risk assessment forms were rather brief and equivocal about the histories of pupils. Although it was held that in this particular case the information provided was insufficient, no specific guidance was given as to the exact detail which should be included in risk assessments.

Furthermore, it is important that risk assessments are readily and easily accessible to staff. In this case, the risk assessment was pinned to cupboards in an office but this office was not regularly visited by the injured teacher and therefore it was regarded as an insufficient system for getting the necessary information about children to staff.


The above case concerned children in a care home at a secure residential unit run by the local authority. It is highly likely that the same principles would apply in any educational establishment or situation where there is knowledge that pupils are particularly violent or suffering from behaviour disorders.

An employer who fails to carry out an assessment of risk to staff is likely to be in breach of their duty of care. The HSE has produced helpful guidance on risk assessment, available at [www.hse.gov.uk](http://www.hse.gov.uk).

### **Annual health and safety audit**

Schools should carry out a regular (at least annual) health and safety audit which looks at the following:

- the procedures for allowing visitor access to the school site
- any procedures for visitors when on the school site (eg should they be accompanied by an adult?)
- the school's reception area
- visitor identification tags
- security lighting
- lockable entrances and exits
- school perimeter fencing
- quick and effective liaison with the police.



Security should be kept under constant review and all incidents where there is a breach of security should be recorded. For further guidance on security matters, see [www.dfes.gov.uk/schoolsecurity/index.shtml](http://www.dfes.gov.uk/schoolsecurity/index.shtml).

## Health and safety representatives

Where ATL is recognised — and we are recognised across the maintained sector — our safety representatives are entitled to:

- represent colleagues
- carry out inspections and investigations
- receive information on health and safety matters.

The employer should involve the ATL safety representative in health and safety matters on a day-to-day basis, and not just when there has been a serious incident.

Safety representatives are entitled to reasonable time off with pay in order to attend training and to carry out their functions. For more information about appointing or becoming an ATL safety representative, please see ATL's website ([www.atl.org.uk](http://www.atl.org.uk)) or contact your branch secretary.

For more information about health and safety issues, see ATL's publication *The health and safety guide for schools and colleges*, available free to members from tel: 0845 4500 009 or through the ATL website.

## Preventing and minimising confrontation

Recognising what triggers aggressive and violent behaviour can be extremely difficult but increasingly this is seen as a necessary part of your skills as an education professional. Sharing information and expertise about pupils with all the education staff at the school is essential in being able to recognise warning signs and to avoid a violent incident.

### Warning signs

Physical confrontation is less likely to develop if patterns of behaviour are recognised and dealt with early. With a greater awareness of a potential aggressor's circumstances, you are more likely to identify the relevance of the following signs. Even without any background knowledge, the factors set out below may give an indication of possible danger. The person concerned may:

- have a previous history of violence, possibly under the influence of alcohol, drugs or solvents
- appear tense or agitated
- be unnaturally quiet and withdrawn or alternatively excitable and boisterous
- exhibit restless behaviour involving pushing, noisiness or jostling
- be deliberately provocative, eg by name calling and attention seeking
- exhibit an over-sensitive reaction to correction or instruction
- be threatening or verbally abusive
- give abrupt replies to questions, often with gesticulations
- exhibit increased voice pitch and volume
- have dilated pupils
- show signs of muscular tension in the face and limbs
- be responding to a feeling of heightened tension within the school or college — you should be aware of the effect of pupil and student morale on the behaviour of certain individuals.

The British Association for Counselling and Psychotherapy has website pages which give guidance on emotional and behavioural disorders at [www.bacp.co.uk/emotional](http://www.bacp.co.uk/emotional).

### What to do when faced with a confrontation


Faced with a possible confrontation, you must make a professional assessment of whether you are able to manage the situation and take appropriate action, or whether attempting to do so would be an unacceptable risk. In the latter case you should summon help either from a colleague or, in extreme cases, from the police.

Attempts should be made to discuss with the violent person his or her frustrations and problems. Signs of aggression may be counteracted by continuing to talk in normal tones, maintaining non-threatening eye contact and listening sympathetically. A difficult situation can be controlled or defused by speaking firmly and politely, keeping your temper under control, adopting a non-threatening posture and maintaining an appropriate physical distance. The following is a checklist of possible actions.

### **Confrontation checklist**

1. Try to remove an upset parent or member of the public from an audience — it is better not to touch someone when encouraging them to move.
2. Respect warnings and threats: acknowledge them and take them seriously.
3. If there are other vulnerable people around, especially children, they should be escorted away from the incident.
4. Try to remove yourself from immediate risk and if necessary seek assistance. Avoid involving persons other than staff in controlling an incident.
5. If this is not possible, try to place a barrier between yourself and your assailant.
6. If the situation escalates, make sure that the person can back down without losing face. Consider the positive aspects of the situation. Offer alternatives, if appropriate, or try agreeing to talk at a later date.
7. If the situation escalates further and you consider control is being lost, call on colleagues straightaway and consider withdrawal. Do not ignore the person concerned but let them know that you are going to leave.
8. If a person is actually damaging property, a judgement needs to be made as to the wisdom of physically intervening. Personal safety is always more important than property.

The aim should always be to retreat and summon help. However, occasionally — and as a last resort — you may have to use self-defence or physical restraint (see page 28 for information about self-defence). You should be aware that a physical response to a violent incident may lead to liability for assault. Familiarise yourself with the school/college's restraints policy if one exists (schools/colleges are strongly advised to have one — look up ATL's website at [www.atl.org.uk](http://www.atl.org.uk) for ATL's model policy). If the person threatening violence is not a pupil, physical force should normally be used only to defend yourself, or other pupils in your care.



If you are forced to defend yourself against imminent injury, restrict your actions to the minimum necessary to protect yourself and the pupils in your care. The circumstances under which teachers and support staff in maintained schools can use physical force in restraining pupils are set out in DfEE (now DfES) circular 10/98: *Section 550A of the Education Act 1996: The use of force to control or restrain pupils*. For more information about the circular, restraint and the use of reasonable force, see page 21.

## Training

ATL expects employers to take all reasonable steps to safeguard the health, well-being and security of their staff and this includes the provision of personal safety training.

This was supported in *A legal toolkit for schools*, published by the DfES in 2002, which made the clear recommendation that staff should be offered personal safety training. This can help in:


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

ATL supports the proposals on good practice made in the *2005 Report of the Practitioners' Group on school behaviour and discipline* chaired by Sir Alan Steer (see section 2 of the report on 'Liaison with parents and other agencies'), to the effect that all schools should:

- ensure that reception and other support staff and teachers are trained so that they are welcoming, and have the skills to deal with difficult parental conversations
- have clear and well-understood procedures in place for dealing with distressed and angry parents
- ensure staff receive professional external training, from local authorities or other agencies, in managing and dealing with people's anger.

In its submission to the Steer Group, ATL set out its view on training:

*“Professional teachers must have effective strategies for dealing with individuals and groups exhibiting troublesome attitudes and behaviour ... training which enhances professional understanding and competencies, not a DIY classroom management kit.*



*Funding for all existing staff to benefit from this kind of behaviour management training would be a decisive action and support the new professionalism agenda.”*

Training should include the following:

- how to read body language
- how to make a calm assessment of potentially threatening situations
- how to react in the event of a physical attack
- guidance on the use of reasonable force and powers to restrain under the Education Act 1996 (see page 21)
- how to deal with unexpected confrontations and conflicts.

## Policies and procedures

Your school should have policies and procedures in place to support staff in their management of situations that might involve violence, threatening behaviour or abuse. The following areas should be covered:

- discipline and behaviour
- abusive, threatening or violent adult visitors
- dealing with offensive weapons and knives
- use of reasonable force.

### Discipline and behaviour policies

The government has published guidance and a number of circulars on pupil behaviour, attendance and exclusion (available at [www.dfes.gov.uk](http://www.dfes.gov.uk)). These include:

- DfEE circular 10/99: *Social inclusion: Pupil support — the Secretary of State's guidance on pupil attendance, behaviour, exclusion and re-integration* (published in 1999 and revised in 2004)
- DfEE circular 11/99: *Social inclusion: Pupil support*
- DfES circular 0354/2004: *Improving behaviour and attendance: Guidance on exclusion from school and pupil referral units.*

Paragraph 3.9 of circular 10/99, states that:

*“Schools need effective and well-understood arrangements to support teachers and other staff dealing with pupils who cause difficulties. These should be set out in the school's behaviour policy.”*

ATL's position is that all discipline and behaviour policies should contain a statement that abuse, threatening behaviour or assaults are unacceptable and will result in appropriate punishment. The policy must also state clearly that in cases of actual or threatened violence, permanent exclusion will be considered an appropriate sanction.

The governors of maintained schools have a legal responsibility for the conduct of the school. It is their responsibility to produce and periodically review a written statement of general principles dealing with discipline and behaviour.

By law the governors must have regard to annex B of circular 10/99, which explains the law on school discipline. It states that the school's policy should make clear:

- the boundaries of what is acceptable
- the hierarchy of sanctions

- the arrangements for the clear and consistent application of sanctions (see page 15)
- a linked system of rewards for good behaviour.

The policy should promote:

- respect for others
- intolerance of bullying and harassment
- the importance of self-discipline
- the difference between “right” and “wrong”.


The governing body’s written statement of general principles should:

- take account of the needs of all pupils, including any with special educational needs
- be reviewed regularly
- cover:
  - the ethos of the school, its values and the boundaries of acceptable behaviour
  - the school’s moral code
  - positive and constructive rules of conduct
  - the rewards and punishments to be fairly and consistently applied.

The governing body has a duty to ensure that the school follows policies to promote good behaviour and discipline among pupils, and it is the headteacher’s responsibility to promote good behaviour and discipline in line with the governing body’s statement of general principles. The headteacher must decide on the standards of behaviour, the rules of behaviour and how they are to be enforced.

ATL’s view on discipline and behaviour policies was set out in *Behaviour and discipline: ATL’s evidence to the DfES Leadership Group on behaviour and discipline* (July 2005), the Association’s submission to the Steer Group. In that submission, we stated:

*“Appropriate learning experiences do not eliminate the need for school behaviour policies, especially for troubled children. There are no magic bullets, no easy short-term solutions. The requirement is for a policy with universal ownership amongst staff and the widest possible ownership amongst pupils and their families. The policy should be developed by the whole staff, advertised, universally and consistently applied by all staff, and constantly monitored. Buy-in should be sought from all parents, although parents signing their support on entry is insufficient. A focus on positive behaviour management systems, detailed, coherent and applied consistently and energetically will deliver results.”*



In the event of abuse, threatening behaviour or an assault (whether verbal or physical), the school's discipline and behaviour policy must be applied along with appropriate sanctions.

Consideration should also be given as to how and when the school's policy on discipline and any disciplinary measures are communicated to parents, which should ideally happen on an annual basis. The school should be seeking to ensure that parents are aware of the policy and of the potential consequences for pupils.

ATL has produced a model policy (see our website at [www.atl.org.uk](http://www.atl.org.uk)) which is recommended for adoption by governing bodies.

### **Potential disciplinary sanctions**

There is no clear, explicit statement of the legal right of a teacher to discipline pupils. The legal basis for teachers' authority is the common law principle of *in loco parentis*, derived from decided cases. This principle means that, when parents send a child to school or college, they delegate their authority to the teacher/lecturer, so far as is necessary for the child's welfare and so far as is reasonable to maintain discipline.

Despite previous recommendations to introduce legislation that clarified the basis of teachers' authority, such legislation has not yet been introduced. The 2005 *Report of the Practitioners' Group on school behaviour and discipline*, chaired by Sir Alan Steer, recommended that "... following consultation with the main professional associations, as a matter of urgency the government should introduce a single, new piece of legislation to make clear the overall right to discipline pupils. This should be framed in such a way as not to diminish existing, wide legal rights; provide a clear read across to the duties and responsibilities of parents and carers; and reaffirm teachers' right to restrain pupils using reasonable force" (recommendation 3.10.1).

In its White Paper *Higher standards, better schools for all: More choice for parents and pupils*, published in October 2005, the government confirmed its intention to "... introduce a clear and unambiguous legal right for teachers to discipline pupils, backed by an expectation that every school has a set of rules and sanctions" (paragraph 7.8).

At the end of 2005, the government provided more information about the proposed legal power to discipline which included:

- a new single statutory power removing the need for teachers to rely on the *in loco parentis* principle
- the new statutory power to have the intention of confirming, and strengthening, the overall basis of the school's authority to establish and enforce a school's discipline policy

- the statutory power to include the right of the school to apply the sanctions and penalties set out in the school's behaviour policy
- rights and powers for all staff with a responsibility over children in the school to apply the behaviour policy, irrespective of the staff member's seniority or status
- protection for school staff against challenge to their powers to impose and implement reasonable, effective and proportionate sanctions
- rights and powers to give lawful and reasonable instructions on what must or must not be done out of school
- the power to confiscate items, the possession or use of which would contravene the school's behaviour policy, and in certain circumstances to retain such items for a reasonable period or to hand them over to the police
- the school's right to set a behaviour policy, rules and sanctions relating to poor behaviour by pupils in certain circumstances outside school premises and outside the normal school day.

It is intended that city academies, city technology colleges and independent special schools should also be covered by the legislation. Schools in the independent sector will not be covered by the proposed legislation. At the time of writing this guidance, the above proposals were the subject of early consultation and a Bill containing the substantive legislative provisions had yet to be published. For the latest information, see ATL's website: [www.atl.org.uk](http://www.atl.org.uk).

Against this background, a major frustration for ATL members is the failure of a school's management to apply sanctions when pupils have been threatening or abusive or, in the worst case, have committed an assault.

DfEE circular 10/99 lists a number of disciplinary sanctions that might be applied, including:

- removal from the group (in class)
- withdrawal of break or lunchtime privileges
- detention (see page 17)
- withholding participation in any school trips or sports events that are not an essential part of the curriculum
- withdrawal from a particular lesson or group
- completion of assigned work or extra written work
- carrying out a useful task in the school.



Sanctions must:

- be applied fairly and consistently to all pupils
- take account of all circumstances including the child's age
- take place within a context of positive reinforcement of good behaviour.

Punishments that are humiliating or degrading must not be used.

### **Detention**

All schools – except independent and non-maintained special schools – have the legal authority to detain pupils on disciplinary grounds without parental consent. Staff, pupils and parents need to be made aware that detention is a possible sanction.

Whether detention is the appropriate sanction will depend on if it is proportionate to the offence as well as the pupil's circumstances, eg age, any special educational needs, religious requirements and the pupil's travel arrangements. As part of procedure, the school must give at least 24 hours' written notice of a detention to the pupil's parents or guardians. The notice should explain that detention has been given, why it has been given and when, where and for how long the detention will last. Annex C of DfEE circular 10/99 gives detailed guidance on detention.

### **Exclusion**

DfES circular 0354/2004 *Improving behaviour and attendance: Guidance on exclusion from school and pupil referral units* provides detailed advice on when exclusion should be used and the steps to be taken prior to exclusion.

The procedures apply to all pupils in maintained schools, whether the pupil is above or below statutory school age. The procedures do not apply to independent schools, city technology colleges, free-standing nursery schools or sixth form colleges.

A pupil may appeal against a decision to exclude and the appeal will be considered by a panel set up by the LA. The pupil will have the right to make representations at the hearing before the panel. Where the headteacher has excluded a pupil in accordance with clearly stated provisions in the school's published discipline policy, the government's advice is that the appeal panel should not normally rule that the pupil be reinstated.

The same circular states that the Secretary of State "would normally regard it as inappropriate to reinstate a pupil who has been permanently excluded in circumstances involving ... serious actual or threatened violence against another pupil or member of staff or for persistent and malicious disruptive behaviour, including open defiance or refusal to conform with agreed school policies on ... discipline ..."

## Abusive, threatening or violent adults

The school should have a procedure in place which covers:

- what to do when an incident arises, eg ask the person to leave or invite them into a room away from others
- who to contact in an emergency, eg within the school, LA or police
- who to report the incident to and how
- any follow-up action that is necessary, eg any legal action that should be taken or consideration of whether the parent should be refused entry to the school premises (see page 26 for further information)
- the support available from the employer, such as counselling, occupational health or legal support
- liaison with the police whenever necessary.

The above is set out in the 2002 DfES publication *A legal toolkit for schools: Tackling abuse, threats and violence towards members of the school community*. The toolkit also recommends getting the police involved in drawing up a policy and determining when incidents should be formally reported (see page 28 for ATL's advice on reporting assaults to the police for the purposes of the Criminal Injuries Compensation Scheme). Your LA should have a police-school protocol and any policy developed in your school should be consistent with this.

The Steer group identified that there is significant variation between LAs and police services in the priority they give to the problem of violent and abusive parents (see paragraph 186 of the *Report of the Practitioners' Group on school behaviour and discipline*). The group made two recommendations, which ATL supports.

### **Recommendation 3.7.5**

Guidelines on dealing with violent or abusive parents should be re-issued by the DfES and the Home Office. School employers and local police must continue to treat as a serious matter the protection of pupils and school staff. Where the school can prove violence or abuse of school staff, we want serious consequences for perpetrators, including investigation and charging by the police, to enable public prosecution.

### **Recommendation 3.7.6**

There should be a cross-departmental review, involving the Association of Chief Police Officers, on how to ensure more immediate and consistent responses to schools dealing with violent or abusive parents. As part of its remit, the review should consider the appropriateness of current DfES and Home Office advice in this area.

## Dealing with offensive weapons and knives

The definition of an offensive weapon includes an article made for causing an injury (such as a gun), an article adapted for causing injury (such as a broken bottle) or an article carried for the purpose of causing injury (such as a rock or stone). Clearly many articles are capable of being an offensive weapon.

Section 139 of the Criminal Justice Act 1988 provides that it is an offence to have a blade or sharply pointed article in a public place without lawful authority, with the exception of a folding pocket knife. The latter is a knife with a cutting edge of no more than three inches and it must be readily foldable at all times.

A school may introduce its own ban on pupils carrying weapons and knives, regardless of the legal exception made for folding pocket knives. The school should have a procedure in place for dealing with the confiscation of articles such as weapons and knives, which clearly sets out arrangements under which designated members of staff (normally a senior manager) are entitled to confiscate.


As soon as you are aware either that a pupil is in possession of an offensive weapon, or that there has been an incident involving an offensive weapon, the following actions should be taken:

- immediately inform the designated senior manager — all staff should be aware of who this is and it should be covered in the procedure
- inform the headteacher urgently
- staff should not try to deal with the situation alone
- the senior manager must decide whether it is necessary to contact the police
- the school should consider whether to deal with the matter as a disciplinary issue.

If the senior staff member is certain the pupil or student has the article for entirely innocent reasons and there is no intention to use the item as a weapon, it will not be necessary to contact the police.

## Searching a pupil

An attempted search could exacerbate an already tense and difficult situation. It is important to recognise that searching a pupil is a step that should only be undertaken in exceptional circumstances, and only if you have obtained the pupil's consent. The granting of consent and any subsequent search should be witnessed by a colleague or adult witness. It is preferable for a child's parent to attend if a search is being undertaken.



Any attempt to carry out a search without the pupil's permission may result in an allegation of assault against you. And even though conducting a search with consent from the pupil is within a teacher's authority, it could still result in such an allegation.

If the child or young person refuses to cooperate, you should arrange for the police to be called; take no further action and wait for the police to arrive. However, in exceptional circumstances, you may be left with no choice but to take action immediately. If this is the case, you should speak to the pupil away from other children if at all possible. You should also try to ensure that a colleague or adult witness is present.

If the individual suspected of having an offensive weapon is not a pupil at the school, or if the incident takes place off school premises, ATL's advice is that you should not conduct a search. This should be left to the police.


It is proposed (in the 2005 Violent Crime Reduction Bill) that a headteacher, or a person authorised by a headteacher, should be given the right to search pupils without their consent if they have reasonable grounds for suspecting that the pupil is in possession of an offensive weapon. As indicated above, we would advise members to use such a power with the greatest caution. A considered decision must be made that will not exacerbate the situation. A search should not be conducted if it might involve unnecessary risk and, in such a case, the police must be called.

In the 2005 White Paper, *Higher standards, better schools for all: More choice for parents and pupils*, the government states its intention to review whether search rights without consent should be extended to encompass searches for drugs and stolen property (paragraph 7.23).

### **Confiscation of offensive weapons**

When an offensive weapon is confiscated by a member of staff, it is important to give the article to the police as soon as they arrive or arrange for the article to be removed from the premises by a parent. Pending the arrival of the police or a parent, the article should be stored in a secure place. The school should keep a record of when such articles have been confiscated and returned. Certain items, such as flick knives and knuckle-dusters, should always be handed over to the police.

In the event that a pupil has been found in possession of an offensive weapon, the application of the school's discipline and behaviour policy (see page 13) must be considered. Depending on the particular circumstances, the school may wish to invoke disciplinary sanctions, which might include detention or exclusion on a temporary or permanent basis.



For more information about the legal background relating to offensive weapons, please see page 38.

## The use of reasonable force

Since September 1998, all teachers in maintained schools have had clear, statutory authority to use reasonable force to control or restrain pupils. This authority is contained in the Education Act 1996.

Other education staff may also use reasonable force in certain circumstances, provided their headteacher has authorised them to have control or charge of pupils. We recommend that support staff members meet with their headteacher to clarify whether they have this authority. If so, the headteacher should confirm this authority in writing, and you should retain the document.

There is no legal definition of reasonable force. However, the DfES does provide guidance on what reasonable force means in circular 10/98: *Section 550A of the Education Act 1996: The use of force to control or restrain pupils*.

Some key points from the guidance are as follows.

- When it is reasonable to use force, and the degree of force that may reasonably be used, will always depend on the circumstances of each case.
- The use of physical force will only be lawful when warranted by the circumstances of the particular incident.
- The degree of force used must be in proportion to the circumstances of the incident and the seriousness of the behaviour or the consequences it is intended to prevent.
- Any force used must be the minimum possible to resolve the situation.
- The age, understanding and sex of the pupil will all be relevant to the degree of force which is acceptable and reasonable.
- The pupil's cultural background and attitude towards physical contact should also be borne in mind.

The National Assembly in Wales has issued equivalent guidance in circular 37/98, available from the Assembly on tel: 029 2089 8688.

## Policies on restraint

Circular 10/98 states: "It is important that all schools should have a policy about the use of force to control or restrain pupils." It goes on to advise that: "All members of staff who may have to intervene physically with pupils must clearly understand the strategies and options open to them. They must know what is acceptable and what is not." The extent to which a school policy has been communicated to staff is crucial, as the following case illustrates.

### **Bournemouth Borough Council vs Meredith**

In this 2002 case, a teacher physically removed a disruptive pupil from a classroom and was subsequently dismissed for gross misconduct. He brought a claim of unfair dismissal to an employment tribunal and was successful. The headteacher was opposed to the use of physical force but staff had not been made aware of this and the tribunal considered that this rendered the dismissal unfair. The LA launched an appeal to the Employment Appeal Tribunal (EAT) but the appeal failed. The EAT stressed that staff must be clear on the terms of the policy on dealing with restraint and the consequences of departing from that.

If your school has a policy prohibiting the use of physical force and this has been communicated to you, then you are likely to face a disciplinary process which might result in your dismissal if you act contrary to that policy. However, if your school does allow the use of reasonable force, it is also absolutely essential that you comply not only with the school's policy (which should be properly communicated to you) but also with the Education Act 1996 and circular 10/98. In assessing the reasonableness of your behaviour when applying force, a tribunal will look at this legislation and guidance.

### **Situations where reasonable force may be used**

The circular sets out the following categories of situations where the use of reasonable force may be appropriate to control or restrain a pupil.

1. Where an action is necessary in self-defence or because there is an imminent risk of injury.
2. Where there is a developing risk of injury or significant damage to property.
3. Where a pupil is behaving in a way that is compromising good order and discipline.

Examples of situations that fall into the first two categories above are:

- a pupil who attacks a member of staff or another pupil
- pupils who are fighting
- a pupil who is engaged in, or is on the verge of committing, deliberate damage or vandalism to property
- a pupil who is causing, or at risk of causing, injury or damage by accident, rough play or misuse of dangerous materials or objects
- a pupil who is running in a corridor or on a stairway in a way which means that he or she might cause an accident likely to result in injury to him or herself or others
- a pupil who absconds from a class or tries to leave school (this will only apply if the pupil could be at risk if not kept in a classroom or at school).



An example of a situation falling under the third category is:

- a pupil who persistently refuses to obey an order to leave a classroom
- a pupil who is behaving in a way that is seriously disrupting a lesson.

Reasonable force may also be used to prevent pupils from committing a criminal offence but will never be justified to prevent a pupil from committing what is a trivial misdemeanour.

### **Forms of physical intervention**

The circular refers to certain forms of reasonable physical intervention such as:

- physically interposing between pupils
- blocking a pupil's path
- holding
- pushing
- pulling
- leading a pupil by the hand or arm
- shepherding a pupil away by placing a hand in the centre of the back
- in extreme circumstances, using more restrictive holds.

In addition, the circular recognises that where there is an immediate risk of injury, a member of staff may need, in exceptional circumstances, to take necessary action using reasonable force, eg to stop a pupil running off a pavement onto a busy road or to prevent a pupil hitting someone or throwing something.


Staff are advised not to act in a way that might reasonably be expected to cause injury such as by:

- holding a pupil around the neck or collar, or in any other way that restricts breathing
- slapping, punching or kicking a pupil
- twisting or forcing limbs against a joint
- tripping up a pupil
- holding or pulling a pupil by the hair or ear
- holding a pupil face down on the ground.

### **Other factors to consider**

Other key points of advice from the circular are that:

- staff should always avoid touching or holding a pupil in a way that might be considered indecent

- 
- where the risk is not urgent, the teacher should consider when, or indeed whether at all, physical intervention is appropriate
  - teachers should try to deal with a situation by using other strategies before using force
  - all teachers need developed strategies and techniques for dealing with difficult pupils which they should use to defuse and calm a situation
  - in a non-urgent situation, force should only be used when other methods have failed
  - the key issue is to establish good order — any action which exacerbates the situation needs to be avoided
  - the possible consequences of intervening physically, including the risk of increasing the disruption or actually provoking an attack, need to be carefully evaluated
  - the pupil's age and level of understanding are also relevant
  - physical intervention with older pupils is likely to be increasingly inappropriate
  - physical intervention should never be used as a substitute for good behavioural management.

Education staff working with pupils in the special educational needs (SEN) context can face particular challenges in the area of physical restraint. Separate guidance documents have been produced by the DfES on physical intervention with SEN pupils (see *Further information*, page 46).

It is essential that members in all settings are fully and properly trained in the powers of staff to restrain pupils as set out in Section 550A of the Education Act 1996, and that training is regularly updated.

## If an assault has taken place: immediate action

ATL's model policy (available from [www.atl.org.uk](http://www.atl.org.uk)) provides detailed guidance on the appropriate action to take if you are assaulted. Please see page 37 for the definition of assault and related legal terms.

### Steps you should take if you have been assaulted

There are a number of steps that you should consider following a physical assault. If you are too distressed, a friend, workplace colleague, ATL colleague or other senior member of staff can go through these with you.

- You should be allowed access to a private area where you can sit with a friend. You may wish to leave the school and go home.
- You may have to attend your GP or a hospital, accompanied by a friend, representative or colleague.
- A medical assessment of any injury should be made as soon as practicable. A doctor's report, or even photographs of the injury, can be important evidence in any claim or legal proceedings.
- If necessary because the assault has occurred away from the premises, the school should be formally notified.
- A written record of the assault, any injury and the circumstances leading up to the assault should be made as soon as possible.
- Where the injury is not obviously superficial, you should notify the local office of the Department of Work and Pensions of the potential industrial injury. This could be important if the effects of the attack continue and a claim for disablement benefit becomes appropriate. Since the lasting consequences of an injury may only become evident at a later date, it is best to report all injuries, no matter how minor they may seem.
- Report the incident to the police. You may be reluctant to do this but it is an important step to take, particularly if you seek compensation under the Criminal Injuries Compensation Authority (CICA) scheme (see page 33).
- Report the incident to the headteacher and ensure that he or she has passed the information on to the LA. You should ask the headteacher to confirm in writing that they have done this.
- Ensure that if your symptoms continue, you attend a follow-up appointment with your GP.

## What the school should do in the case of an assault by a pupil

When an ATL member has been assaulted or threatened by a pupil, we expect your employer to take the initiative — and to take action. Your views are important and should be taken into consideration by your employer when planning how to manage the consequences of an incident.

The assault should be reported to the police with a view to prosecution. ATL expects your school to support you if this step is taken. Any action that might hinder the police's involvement will be challenged by ATL. It is vital schools recognise that supporting their staff in pursuing a prosecution where appropriate sends the message to pupils and adults who visit the school site that assaults on staff are unacceptable.

Be mindful of the legal position on the age of criminal responsibility (see page 36). However, legal restrictions surrounding the age of the pupil do not automatically mean that the police should not be involved.

When the assailant is a child or young person, the school must take the following steps.

- Suspension from school must be immediate, pending a prompt assessment of the appropriate disciplinary process and penalties.
- Ensure that the assault is reported to the police. This is a requirement if a claim is to be made to the CICA and must be done at the first available opportunity.
- The pupil must be dealt with promptly, fairly and, above all, firmly under the school's disciplinary system.

The school should ensure that the assaulted teacher is not asked to teach or supervise the pupil if he or she returns to school. Sometimes an incident is so serious that staff may collectively consider refusing to teach the pupil concerned. Refusal to teach, supervise or have other professional contact with the pupil is a form of industrial action. It is a last resort and ATL should always be consulted for advice, assistance and approval before the decision to refuse is taken. Action taken along with other unions is often the most effective. ATL's publication, *Industrial action*, is available free to members from tel: 0845 4500 009.

## What the school should do in case of an assault by a visitor or intruder

The 2002 DfES *Legal toolkit* was accompanied by a poster campaign stressing that prosecutions would automatically follow an assault on a teacher. However, LAs have historically been reluctant to prosecute parents who behave aggressively.

ATL feels strongly that LAs should be far more active in prosecuting adults who have assaulted staff. This sends a clear message to the whole school community that such behaviour will result in legal action leading to a conviction and a criminal record.

The following is a checklist of steps that should be taken by the school as a minimum.

#### **Checklist for schools following an assault by an adult**

1. The school should have a policy on abusive, threatening or violent adult visitors (see page 18).
2. If there is an assault, this procedure must be applied.
3. Take practicable steps to remove the individual from the premises as quickly as possible (involving the police as necessary).
4. The police should be informed immediately.
5. If the assailant is known, the incident must be followed by a warning letter stating that his or her behaviour is not acceptable and that he or she is not permitted to come onto the school premises in future without an appointment (see page 18). If he or she does so, and causes a nuisance or disturbance, he or she will be regarded as a trespasser and will be liable to prosecution.
6. Where appropriate (eg where the assailant is clearly a trespasser or has already been warned), take action to prosecute directly or via the police.


If you are assaulted by a visitor or intruder, seek advice from ATL and we will take you through the various options available to you, as outlined here.

However, ATL expects your employer to take follow-up action on your behalf, eg legal proceedings against your assailant and the provision of counselling or occupational health support. These issues should be covered by your school's policy.

Where such episodes are a recurrent problem, the school should consider putting a formal notice on the entrance or entrances to the school informing intruders that they may face prosecution.

### **Citizen's arrest**

The power of private citizens to make arrests is limited and it is an area fraught with difficulty. When making an arrest, you are detaining someone against their will, normally whilst waiting for the police to arrive. An arrestable offence must have been committed or you could be liable for false imprisonment. Generally, only relatively serious offences (like



actual bodily harm [see page 37 for a definition] or an offence involving a weapon) will be covered by the power of citizen's arrest.

If an arrest is made, the person cannot be detained indefinitely. They must be handed over to the police promptly or released. Where there is any doubt as to whether an offence has been committed, the police should be involved, not least because they have greater powers to make arrests.

## Self-defence

You might be placed in the position of having no choice but to defend yourself or to take action to defend others, possibly pupils. In such a situation, you are entitled to use “such force as is reasonable in the circumstances in the prevention of crime ...” (section 3 of the Criminal Justice Act 1967). Just like any other citizen, you are therefore entitled to use or threaten to use force to protect yourself or others against an unjustifiable attack, provided the force used (or threatened) is reasonable and proportionate. You may also take pre-emptive action if you think harm is about to be inflicted on yourself or others.

In either situation, if you use force which is excessive and therefore not reasonable, this may well amount to assault or battery (see page 37 for the legal definition of “assault” and “battery”), with criminal liability. You could also be sued in the civil courts for damages.

## Recording and reporting

All incidents involving abuse, threatening behaviour, violence or the threat of violence to anyone at your school should be recorded. A model incident report form is included in the DfES publication *A legal toolkit for schools: Tackling abuse, threats and violence towards members of the school community*.

This record is important evidence if proceedings are brought against an assailant. It might form part of a history or series of incidents to be relied on when action is taken against an individual. These records can also be of crucial use when reviewing policies and procedures or risk assessments are being made.

If you are injured as a result of an assault, your employer may need to report this to the HSE, under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (see [www.riddor.gov.uk](http://www.riddor.gov.uk) for more information).

In addition, you should report the assault to the police, as advised above, and to the CICA in order to protect your position should you wish to make a claim (see page 34).

## After an assault: your entitlements

There are a number of issues that may come up following an assault, on which ATL can advise and which are summarised below. Prosecution and legal penalties are covered in section 7.

### If your employer fails to take appropriate action following an assault

As an employee, you have the right to:

- complain about circumstances connected with your work which you reasonably believe to be harmful or potentially harmful to your health and safety (if your school has a health and safety representative [see page 8] you must raise the issue with them if reasonably practicable)
- leave, propose to leave or — while the danger persists — refuse to return to your place of work in circumstances of danger which you reasonably believe to be serious and imminent, and which you cannot reasonably be expected to avert
- take appropriate steps to protect yourself or others from danger which you reasonably believe to be serious and imminent.

Your employer should not subject you to any detriment (eg a written warning) for taking such action. If you are dismissed for exercising these rights, your dismissal may be automatically unfair (see below).

If you have concerns relating to health and safety or are in any doubt about your position — and your employer's reaction to any of the above — you should contact ATL for advice, either locally through your branch secretary/regional official or directly via ATL's London office.

### Constructive dismissal

There is an implied term in your contract of employment that places an obligation on your employer to provide you with a healthy and safe working environment. Breaches of this obligation might include a failure to:

- take adequate or indeed any protective security measures
- take adequate steps to remedy a danger
- investigate a health and safety complaint
- investigate such a complaint promptly and sensibly
- treat an employee properly following a violent incident.

When employers break their fundamental obligations under the contract of employment, an employee can resign either immediately or by giving notice. The employee should state clearly and in writing that their employer's conduct has been so unreasonable that they are entitled to leave. The employer has not given notice to the employee so they are not formally dismissed. However, the employee can argue that the actions of the employer are such that it became impossible to remain in post. In other words they have been effectively (ie "constructively") dismissed.

If the employee delays the resignation, they are seen to have accepted the employer's conduct and to have waived the breach of contract. A claim to the employment tribunal must be lodged within three months of the date of dismissal.

In order to claim constructive dismissal you have to resign and leave your employment. This is an extremely serious step to take and you must seek ATL's advice before walking away from your job. In many cases it is very important for the employee to follow the requirements of the statutory grievance procedure before making a decision to resign from the job. Again, you should take advice from ATL on the required steps.

If you are to succeed with a claim for constructive dismissal then you will have to show that your employer's conduct was so intolerable that it amounts to a repudiation of contract. In a 1980 decision the Employment Appeals Tribunal (where decisions of the employment tribunal are challenged), stated: "In each case, in our view, you have to look at the conduct of the party whose behaviour is challenged and determine whether it is such that its effect, judged reasonably and sensibly, is to disable the other party from properly carrying out his or her obligations. If it is so found that that is the result, then it may be that a tribunal could find a repudiation of contract."

Circumstances in which inappropriate action by an employer following a violent incident led to a claim of constructive dismissal is illustrated below.

### **Nottinghamshire County Council vs Perez**

In the 1999 case of Nottinghamshire County Council vs Perez, a school welfare officer who had recently suffered a violent mugging was moved to an office in a remote and unlit area of the school. Understandably, she became anxious about her safety. She was referred to the occupational health department, which supported her, saying that the room was unsuitable. She became increasingly unwell and eventually she resigned. She claimed constructive dismissal and was successful. The employer had not acted properly after the violent mugging. It had failed in its duty to provide her with a working environment that was suitable.

## Sick pay

Your entitlement to sick pay should be set out in your contract of employment or statement of terms and conditions. Teachers in maintained schools (including foundation schools) who are absent from work as a result of an assault suffered at school in the course of their employment are entitled to the benefits of the Conditions of Service for School Teachers in England and Wales (known as the Burgundy Book). Paragraph 9.1 of the Burgundy Book states:

*“In the case of absence due to accident, injury or assault attested by an approved medical practitioner to have arisen out of and in the course of the teacher’s employment, including ... participation in any extra curricular or voluntary activity connected with the school, full pay shall in all cases be allowed, ... subject to the production of self certificates and/or doctors’ statements from the day of the accident, injury or assault up to the date of recovery, but not exceeding six calendar months.”*

Support staff benefit from similar provisions in the National Joint Council for Local Government Services’ National Agreement on Pay and Conditions of Service (known as the Green Book). Part 2, Section 10.2 of the Green Book states that absence in respect of “... normal sickness is entirely separate from absence through ... assault arising out of or in the course of employment with a local authority. Periods of absence in respect of one shall not be set off against the other...” You should contact your employer for details of the scheme that applies to you.

Teacher members in independent schools may have sick pay entitlements that equate to the provisions set out in the Burgundy Book, since some independent schools do provide similar if not identical benefits. However, you should check your contract or statement of employment particulars for your entitlement. If you have lost your documents, think about asking your employer for a copy.

## State benefits

If you are disabled as a result of an industrial accident you may be entitled to claim industrial injuries disablement benefit (IIDB). This is a non-contributory, non-means tested and non-taxable benefit.

A claim for IIDB should be made to the Department for Work and Pensions (DWP). To qualify, you must satisfy the DWP that you suffered a personal injury in an industrial accident (eg in the course of your employment), which has resulted in your disablement. An accident is defined as an “unlooked for occurrence” or “mishap”. The accident need only



be unexpected from your point of view. Deliberate acts by third parties, such as assaults, can be considered as accidents.

Your disablement must have lasted for two months from the date of the accident for you to be able to claim. Your local DWP office can provide you with a claim form (find your local office either on [www.jobcentreplus.gov.uk](http://www.jobcentreplus.gov.uk) or in the phone book under Job Centre Plus, benefits agency or social security office). You may be asked about your background and be required to submit any official documents that you have in support of your claim.

You will require a medical examination to assess the degree of the disability resulting from the injury. If you are assessed as being 14% (or more) disabled, you will be paid a disablement pension (you are not eligible if disability is below 14%). The amount paid depends upon the degree of the disability and is only payable once 90 days have elapsed since the date of the assault. If your disablement is between 14% and 19% you will get a pension at the 20% rate. If your disablement is assessed as being 20% or over it will be rounded up or down to the nearest 10%.

A decision can be reviewed if your condition changes. If your condition improves the DWP must be informed. If your condition gets worse and you want the decision to be reviewed, a Form BI168 (obtainable from your local Job Centre Plus or social security office) must be completed. You must also inform the DWP if your circumstances change, for example if you marry or re-marry, change your name or address, or if you leave the country.

## Insurance

### Employers' insurance

Teachers in maintained schools (including foundation schools) have the benefit of their employers' insurance under section 8 and appendix V of the Burgundy Book. Substantial compensation is payable, but only in the event of death or permanent total or partial disablement arising from an assault.

Support staff in maintained schools have similar benefits in part 3, section 7 of the Green Book, provided that their contract incorporates the Green Book. Payments are made in the event of death or permanent disablement arising from a violent or criminal assault suffered in the course, or as a consequence, of their employment.

Staff in independent schools may have equivalent benefits incorporated in their contracts or statements.

## ATL insurance

ATL members receive insurance cover and protection that includes the following.

**Personal accident cover:** all members are automatically insured for £5,000 against death, permanent total disablement, and loss of limbs, eyesight or digits.

**Loss or damage to property:** personal belongings (including personal effects and jewellery) are insured for standard and individual affiliate members while inside school buildings up to a maximum of £100. This includes pupils' property that is being held by teachers. Claims for less than £10 are excluded. Spectacles are covered inside school buildings and on school premises, eg a car park, playground or playing fields. There is a limit of £50 on cash.

**Assault:** ATL provides an automatic benefit to standard and individual affiliate members absent from work for more than seven consecutive days because of an assault. The payment is £50 per week for up to four weeks' incapacity. (This cover is only available if the incident occurs whilst on school premises.)

**Dental treatment:** NHS dental treatment is covered up to a limit of £150 as a result of an assault or accident occurring during teaching activities. (This cover is only available if the incident occurs whilst on school premises.)

The above amounts may change and any claims are subject to terms and conditions.

To find out more about making an insurance claim please telephone: 020 7930 6441, email [info@atl.org.uk](mailto:info@atl.org.uk) or write to Insurance, Association of Teachers and Lecturers, 7 Northumberland Street, London WC2N 5RD.

## Compensation

The Criminal Injuries Compensation Scheme (CICS), set up in 2001, is administered by the Criminal Injuries Compensation Authority (CICA). The CICA makes financial awards to compensate individuals, including for physical and mental injuries caused by violent crime (for more on compensation orders which are made by a magistrate or judge, see page 42).

There are three possible types of CICA award:

- a tariff award, based on the type of injury you have suffered
- compensation for loss of earnings
- special expenses compensation.

The most frequently awarded form of compensation is the tariff award, which carries a maximum possible payment of £250,000 and a minimum of £1,000. There are two parts to the tariff: part 1 lists levels of compensation from level 1 (£1,000) to level 25 (£250,000).

Part 2 lists examples of injuries and the level of compensation. As an example, the minimum award of £1,000 may be made in cases of multiple minor injuries such as cuts, severe bruising and a black eye. It is also payable to an individual certified as suffering from disabling mental anxiety lasting for more than six weeks.

Compensation for loss of earnings, if awarded, will not be paid for the first 28 weeks of loss. Some special expenses are also payable, for example the cost of care provided at a residential establishment or at home and any changes to your home required as a result of your injury. The maximum total payment for all three types of compensation added together is £500,000.

In December 2005, the government issued a consultation paper, *Rebuilding lives: Supporting victims of crime*. The paper makes a series of proposals on the financial support made available to victims of crime through the CICS and how, in its view, the scheme might be improved including:

- the proposal to review, with a view to removing, awards for “less serious” crimes
- the proposal to remove the right of victims in the workplace to claim from the CICS.

ATL is strongly opposed to these proposals for change.

### **Making an application to the CICA**


Your application will be considered only if it is received on the prescribed CICA form within two years of the incident causing injury. This time limit will be extended only in very limited circumstances.

Your application will be considered if you:

- have been physically or mentally injured (or both) as a direct result of a violent crime, or some other incident covered by the scheme
- were in Great Britain when you were injured
- have been injured seriously enough to qualify for at least the minimum award (currently £1,000) under the scheme.

Your application will not be considered if:

- you suffered your injury before 1 August 1964
- you have already made a claim for compensation for the same injury under the 2001 (or an earlier) scheme
- the injury took place before 1 October 1979 and you were living with a person who injured you as a member of the same family.



There are circumstances in which an award may be withheld or reduced, for example:

- if you fail to cooperate with the police in bringing the offender to justice (see below)
- if you fail to cooperate with the CICA in relation to your application
- if your action caused or significantly contributed to the incident when the injury took place.

The CICA scheme has a general rule that any incident around which a claim is being made should be reported to the police. Failure to report the matter and cooperate with the police may result in your application being rejected.

However, the CICA states that an exception may be made to this rule where the incident occurs in a school. Nevertheless, the injured person must ensure that an official report is made to someone in authority.

An example given by the CICA scheme is that of a minor incident in school where the police may not need to be involved and it might be in the best interests of the child for the school to take disciplinary action only. In such circumstances, the CICA might accept a report to the school authority. However, it is clear from the guidelines given that if the incident involves a repeat offender or a pupil who has a criminal record the police must be contacted.

In summary — and to avoid any complications if you subsequently make a CICA claim — ATL's advice is that if you are assaulted, you should inform the police. Should you be assaulted and are considering making a CICA claim, you should contact Morrish and Co, ATL's appointed solicitors, on tel: 0800 083 7285 or online at [www.atlinjuryclaims.org.uk](http://www.atlinjuryclaims.org.uk).

## Criminal prosecution and other legal provisions

### Criminal prosecution

As already indicated, ATL expects prosecutions to be considered and, if appropriate, pursued when a member is assaulted. However, you should be aware that, if your assailant pleads not guilty, then you will almost certainly have to give evidence (and be cross-examined) at a hearing. Although this can be stressful, ATL will assist you throughout the process.

Where the Crown Prosecution Service declines to proceed with a prosecution against an assailant, you may wish to consider a private prosecution. You should contact ATL for advice on the merits of a private prosecution and this advice will normally be provided by a solicitor local to you, as instructed by ATL's London office.

However, a private criminal prosecution must be contemplated with caution. It has to be pursued in your own name — it cannot be done on your behalf. ATL recognises that being a witness in the prosecution of a pupil or parent can be unsettling. If you have concerns about your role, ATL can advise you.

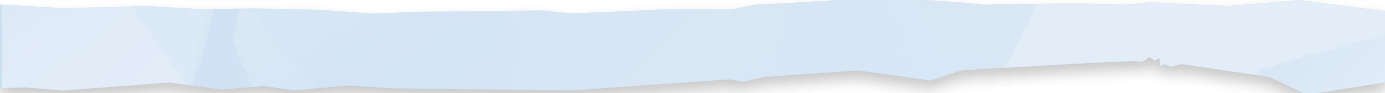
### Civil law: damages and injunctions

It is also possible to commence civil proceedings when assaulted. This might involve claiming damages from the individual who carried out the assault and could result in the court granting an injunction preventing the perpetrator from threatening or attacking you again. You may also have a claim against your employer for breach of the duty of care they owe to you (see page 5).

If you require further information or advice about the possibility of pursuing a claim under civil law for the injury that you have suffered, then you should contact Morrish and Co, ATL's specialist personal injury solicitors, tel: 0800 083 7285 or see: [www.atlinjuryclaims.org.uk](http://www.atlinjuryclaims.org.uk).

### The age of criminal responsibility

Before considering the various legal penalties and sanctions, it is important to clarify the situation in terms of the offender's age. Children under 10 years of age are below the age of criminal responsibility. This means that children under 10 cannot be arrested for or convicted of a criminal offence and, indeed, must be released as soon as it becomes apparent that they are under the age of 10.



Legislation was introduced in 1998 to confirm that children aged 10 and above are on an equal footing with adults so far as responsibility for criminal acts are concerned. Where a child over the age of 10 or a young person or parent has assaulted a member of staff, that individual may be charged with a criminal offence and can be subject to a fine or imprisonment or both (further details of penalties are given below).

## Legal offences and penalties

The following provides a summary of the possible offences and penalties an individual may be subject to when prosecuted for assault and related activities.

### Common assault, ABH and GBH


If a member of staff is assaulted and minor injury is caused, then the assailant can be charged with common assault and battery. An assault is legally defined as an intentional reckless action causing a person to fear or expect personal violence or immediate unlawful force. An assault can therefore be deemed to take place where there has not been any physical contact, but there is a fear or expectation of violence. Battery is where someone has intentionally or recklessly inflicted unlawful force or personal violence on another.

An offence of assault is tried in the magistrates' court, with a maximum fine of up to £5,000 and/or six months' imprisonment.

If there is a racial element to the assault, the individual may be charged with racially aggravated assault under Section 29 of the Crime and Disorder Act 1998. In the magistrates' court the penalty is the same as for common assault – a fine of up to £5,000, six months' imprisonment or both. In the Crown Court the penalty is two years' imprisonment, an unlimited fine or both.

If an individual causes serious injury to a member of staff, they may be charged with assault occasioning actual bodily harm (ABH). This is an assault where significant injury has been caused to another, eg extensive bruising, cuts requiring medical treatment, broken teeth or psychiatric harm. The maximum sentence in the magistrates' court is six months' imprisonment, a fine of up to £5,000 or both. In the Crown Court the maximum sanction is five years' imprisonment, an unlimited fine or both. As above, if the offence is racially aggravated, the sanction is the same in the magistrates' court but goes up to seven years' imprisonment, an unlimited fine or both in the Crown Court.

Assaults which have more serious physical and mental consequences may be judged to be assaults occasioning grievous bodily harm (GBH), eg broken limbs or injuries resulting in lengthy treatment or incapacity. The penalties for GBH are severe, with the possibility of life imprisonment if the offence is committed with intent. For GBH without intent, the maximum sentence is five years' imprisonment.



As part of its announcement on the Respect Action Plan in January 2006 the government has stated its intention to:

- work with the Sentencing Guidelines Council to ensure that courts have guidance to deal robustly with assaults on those serving the public
- work with the Crown Prosecution Service to ensure that the CPS highlights the guidance
- complement these measures with a campaign to counter physical violence, threats, intimidation and verbal abuse by the public towards public sector workers.

### **Carrying an offensive weapon**

The Criminal Justice Act 1988 was amended in 1996 by the Offensive Weapons Act, introduced following the murder of Philip Lawrence, the headteacher of a London school. It is an offence under these Acts to carry an offensive weapon or knife on school premises. This includes all schools providing primary and secondary education but does not include sixth form colleges or colleges of further education (see *Dealing with offensive weapons and knives* on page 19 for more procedural information about offensive weapons). However, it is also an offence to carry an offensive weapon or knife in a public place without good reason or lawful authority. The definition of “public place” does include a sixth form college and college of further education.

If one of your pupils has or is suspected of having an offensive weapon or knife on the school premises, he or she may be found guilty of an offence under the Act unless he or she has a statutory defence that proves he or she has good reason or authority (eg being an officer cadet). In addition, there are some special exceptions which allow the carrying of knives:

- for use at work (eg where knives are needed in school kitchens)
- for educational purposes (eg tools needed for technology as part of the curriculum)
- for religious reasons (eg a Sikh’s kirpan)
- as part of a national costume (eg Scottish highland dress).

The maximum penalty for a person convicted of carrying a knife on school premises is two years’ imprisonment and/or an unlimited fine. The maximum penalty for the more serious offence of possessing an offensive weapon is four years’ imprisonment, an unlimited fine or both (see page 19 for a definition of offensive weapon).

Under the Act, the police can enter and search the premises and any person for an offensive weapon without permission from the school, provided they have reasonable grounds to suspect that there may be an offensive weapon on the premises. The police may seize and retain any prohibited item if found during the course of such a search.

### Prosecuting abusive parents

Under the Local Government Act 1972, the LA can prosecute (or defend proceedings where necessary) in order to promote or protect the interests of the inhabitants in its area. Potentially, this means the LA can commence criminal or civil proceedings against an abusive parent.

### Public order offences

Under the Public Order Act 1986, criminal proceedings can be initiated against an individual for four separate offences:

- creating a disturbance in or outside the school which causes harassment, alarm or distress (maximum penalty is a fine of £1,000)
- causing fear of or provocation of violence (maximum penalty is six months' imprisonment or a fine of up to £5,000)
- intending to and actually causing harassment, alarm or distress to another (maximum penalty is six months' imprisonment or a fine not exceeding £5,000)
- causing an affray — where unlawful violence is either used or threatened; the threat must include a physical element.

Examples of the type of conduct which would be considered an affray include:


- a fight between two or more people in a place where members of the general public are present, with a level of violence that would put them in substantial fear for their safety (even though the fighting is not directed towards them)
- indiscriminate throwing of objects directed towards a group of people in circumstances where serious injury is or is likely to be caused
- the wielding of a weapon of a type or in a manner likely to cause people substantial fear for their safety; or a person armed with a weapon who, when approached by police officers, brandishes the weapon and threatens to use it against them.

If proceedings for affray are brought in the magistrates' court, the maximum sanction is six months' imprisonment and/or a fine of up to £5,000. In the Crown Court, the maximum sanction is three years' imprisonment or an unlimited fine or both.

### Criminal damage

Under the Criminal Damage Act 1971, a parent, carer, child or young person who destroys or damages property belonging to the school or a teacher can be prosecuted for criminal damage in either the magistrates' court or Crown Court, depending on the level of damage.

If the value of the damage is below £5,000, the case is tried in the magistrates' court. On conviction, the penalty is a fine of up to £2,500 or not more than three months' imprisonment



or both. If the value of the damage is above £5,000, the penalty is a fine of up to £5,000 or up to six months' imprisonment (or both) in the magistrates' court. In the Crown Court, the penalty is an unlimited fine or 10 years' imprisonment or both.

If the crime is racially motivated, this can carry greater penalties.

If criminal damage is committed and there is an intention to endanger life in so doing, the maximum sentence under this Act is life imprisonment.

### **Trespassing**

Under section 547 of the Education Act 1996, it is an offence for a trespasser on school premises (and this includes outdoor areas) to cause or permit a nuisance or a disturbance to those who lawfully use the premises (whether or not the premises are occupied at the time). Any person believed to have committed an offence can be removed and, on conviction, a fine of up to £500 may be imposed.

A parent of a child at the school has implied permission to be on school premises at certain times (eg the start and end of the school day) and for certain purposes (eg to collect his or her child or to meet a teacher). However, should a parent behave in an unreasonable or inappropriate manner whilst on school property, the school can inform him or her in writing that he or she may face a ban on entering the school premises. The parent must be given an opportunity to respond (either orally or in writing) and then the final decision can be made by the LA, in consultation with the headteacher.


Should the parent enter the school premises when such a restriction is in place and cause a nuisance or disturbance, he or she may be removed and prosecuted under section 547.

The above provisions also apply to any intruder who is not a parent.

The DfES publication, *A legal toolkit for schools: Tackling abuse, threats and violence towards members of the school community*, contains a series of model letters which can be used to send to parents/other visitors where permission to be on the school site is to be, or has been, withdrawn.

ATL supports the DfES advice that the LA should take the lead in authorising the removal of a person believed to be causing or permitting a nuisance or disturbance, and that the LA should itself take proceedings against such a person. There must, of necessity, be a high degree of cooperation and coordination between the school and the LA.

In particular, the LA must obtain the consent of the school's governing body where a foundation, voluntary or foundation special school is involved. These schools may, independently of the LA, authorise the removal of someone from the premises and may also authorise proceedings against that person. It is essential that any person who is authorised



to remove intruders has such authority confirmed in writing and is given appropriate training. The police are also authorised to remove someone from school premises and to bring proceedings under this section.

Similar provisions exist which cover other education institutions (eg further education colleges) in section 222 of the Local Government (Miscellaneous Provisions) Act 1982.

ATL supports prosecution in all cases where any person ignores the ban from school or college premises and there is sufficient evidence to support a prosecution.

### **Anti-stalking legislation**

The Protection from Harassment Act 1997 is more popularly known as the anti-stalking legislation. It allows for both a criminal prosecution and a civil action for damages. Action can be taken on behalf of an individual or a group (and this can include a group of teaching staff).

Such an action may result in criminal penalties, eg a fine or imprisonment and a restraining order. A restraining order is an order made by the court to protect the victim of the offence, or others mentioned in the order, from further conduct which either amounts to harassment or causes fear of violence. It may cover a specified period or be unlimited in length.

Proceedings under the Act can be brought when:

- an individual pursues a course of action which amounts to harassment of another and which they know — or ought to know — amounts to harassment; he or she must act in this manner on more than one occasion (maximum penalty in the magistrates' court where it is tried is six months' imprisonment, a fine of up to £5,000 or both)
- an individual has more than once placed others in fear of violence (maximum penalty in the magistrates' court is six months' imprisonment and/or a fine of up to £5,000; in the Crown Court the maximum penalty is five years' imprisonment, an unlimited fine or both).

Where there is a racial aspect to the above offences, a higher sanction can apply.

Where an offence is committed under the Act, civil proceedings can be brought. In civil proceedings, the injured party must demonstrate that the offence was committed on the "balance of probabilities" rather than "beyond reasonable doubt", which is the test in a criminal prosecution. Sanctions include the imposition of a restraining injunction by the court. If the individual breaches the injunction, then proceedings for breach will be pursued in the criminal courts and the offender may be imprisoned for up to five years.

## Other legal sanctions

### Compensation orders

Should an assailant be prosecuted and found guilty, the courts have the discretion when sentencing to order a defendant to pay compensation to a victim (see also page 33 for information on the Criminal Injuries Compensation Scheme). Such compensation orders are discretionary and are made by the magistrate or judge. However, the making of such an order is determined by the defendant's ability to pay.

Magistrates can make a compensation order in a youth court and can order a youth to pay up to a total of £5,000 in compensation for any personal injury, loss or damage resulting from the offence.

In the case of a minor, ie a person under the age of 10, the court has the discretion to order the parents to pay. In the case of an offender between the ages of 10 and 16, the order for payment must be made against the parent or guardian. In the case of a youth between the ages of 16 and 18, it is usually payable by the parent or guardian unless the parent or guardian cannot be found, or it would be unreasonable to make such an order having regard to the circumstances of the case.

A compensation order can be made in addition to a fine but, where the parent/guardian or youth has insufficient means, priority is given to making a compensation order. In determining whether to make a compensation order, the court will consider whether the victim has suffered a loss that merits compensation.

### Reparation orders


A reparation order can be made against any 10 to 17 year old who has been convicted of an offence. It has a two-fold purpose:

- to take into account the feelings and wishes of victims of crime
- to confront the offender with the consequences of their criminal behaviour, with the aim of preventing him or her committing further offences.

Reparation covered by this type of order may last for a maximum of 24 hours and must be carried out in a period of three months from the date that the order is made by the court. Examples of reparation include meeting the victim to apologise in person.

### Parenting contracts

Schools and LAs can enter into parenting contracts when a child or young person has been excluded on a fixed-term or permanent basis. Although the use of the word "contract" implies that such agreements have a legal status, they are not contractually binding documents.



A parenting contract is a document which:

- contains a statement by the parent or guardian that for a specified period he or she agrees to comply with certain specified requirements, eg an obligation to attend counselling or guidance sessions
- contains a statement by an LA or governing body that it agrees to provide support to the parent for the purpose of complying with those specified requirements.

ATL believes that parenting contracts may prove useful in attempting to prevent repeat misbehaviour. Whilst the school itself can take steps to address pupils' difficult behaviour, ultimately family influence is vital. Focusing parents' attention on management of the pupils' behaviour may serve to encourage greater parental responsibility. ATL considers that the parenting contract must be coupled with guidance and support from third parties, eg an appropriate representative from social services or a counsellor. This balanced approach is important. Should the parenting contract be perceived as in any way punitive, this is almost certain to have a negative impact on both family and pupil.

The 2005 White Paper, *Higher standards, better schools for all: More choice for parents and pupils* (paragraph 7.11), indicates that the government will legislate to allow the use of parenting contracts earlier in order to tackle poor behaviour before exclusions occur. This was referred to again by the Prime Minister in his announcement in January 2006 of the government's Respect Action Plan.

### **Parenting orders**

A parenting order is an order made by the civil courts against the parent or carer. It compels the parent(s) to address their child's poor behaviour and to prevent the child from committing any further criminal offence. Parenting orders are used to gain compliance from parents and will often contain specific requirements to help curb the anti-social behaviour of the children in their care and to help them become better parents. Firstly, the order will require that the parent or carer attends counselling or guidance seminars. Secondly, a discretionary element is included which requires the parent or carer to exercise control over their child's behaviour.

The LA is responsible for parenting order applications and also bears the costs of making the application and of the parenting programme. An LA may seek a parenting order if a pupil is excluded for serious misbehaviour. The exclusion may be permanent or the pupil may have received more than one fixed-term exclusion within a 12-month period.

Serious misbehaviour will include continual disruptive behaviour in the classroom, threatening behaviour, verbal abuse, assault (including sexual assault), damage to school property, theft, supplying an illegal drug or carrying an offensive weapon or replica.

The factors that the LA must bear in mind when applying for a parenting order are:

- whether parenting is a significant factor in the pupil's misbehaviour
- if a parenting programme could remedy the misbehaviour
- what other requirements might be useful to address the pupil's behaviour.

Although it is the LA, not the school or headteacher, that decides whether an application for a parenting order is appropriate, the headteacher can ask the LA to apply for a parenting order in the case of a fixed-term exclusion and when the pupil is still registered at the school. A request is only made if the order is likely to have a positive impact on the pupil's behaviour or prevent further exclusions, whether permanent or temporary.

An order must be supervised by a "responsible officer" who can be an LA officer, the headteacher or a person nominated by the headteacher.

If the order is breached, then proceedings in the criminal court must be considered. The parent can be fined up to £1,000 if found guilty of a breach.


Youth offending teams have a duty to coordinate the provision of the youth justice service for all those in the LA's area and to carry out any other functions assigned to them by the LA. They may also apply to the courts for parenting orders where a child or young person is behaving in an anti-social and/or criminal way in the community and the parents, carer or other person with parental responsibility is failing to take steps to prevent this. The youth offending team will normally take the lead in applying for the order but this depends on local practice and procedures.

The 2005 White Paper, *Higher standards, better schools for all: More choice for parents and pupils* (paragraph 7.11), contains government proposals for the extension of parenting orders and, in the Prime Minister's January 2006 announcement of the Respect Action Plan, further reference was made to these proposals. The proposed extension would include:

- a new trigger of "serious misbehaviour" to be added to the existing trigger of exclusion from school, so that a parenting order can be made before a child is excluded
- confirmation of the government's intention to provide for schools to seek parenting orders.

### **Anti-social behaviour order**

LAs have the power to seek an anti-social behaviour order (popularly known as an ASBO), which can be imposed on anyone aged 10 or over who has conducted themselves in an anti-social manner, eg behaviour that has caused or is likely to cause harassment, alarm or distress. An ASBO can be for a fixed period of no less than two years or indefinite in length.



In certain circumstances, an LA can seek an ASBO against a person without that person being present, but this will only be temporary pending a full hearing.

The breach of an ASBO could result in a fine of £250 for a child below the age of 14 and up to £1,000 for someone aged between 14 and 18. For adults, if convicted in the magistrates' court, the maximum penalty is six months' imprisonment and/or a fine of up to £5,000. In the Crown Court, the maximum penalty is five years' imprisonment and/or an unlimited fine.

Individual support orders (ISOs) can be issued alongside an ASBO on a 10 to 17 year old. They can direct that person to undertake activities which will address the causes of their anti-social behaviour, such as failure to manage anger or alcohol/drug abuse. An ISO can last up to six months and can require the individual to attend two sessions per week.

## Further information

### Government guidance

The Department for Education and Skills (DfES) has issued a number of circulars and guidance notes relating to assaults and the surrounding issues, as follows. These are available from: [www.dfes.gov.uk/publications](http://www.dfes.gov.uk/publications).

DfEE/Home Office guidance (1997): *School security: Dealing with troublemakers*

DfEE circular 10/98: *Section 550A of the Education Act 1996: The use of force to control or restrain pupils*

DfES circular 10/99: *The Secretary of State's guidance on pupil attendance, behaviour, exclusion and re-integration* (revised in 2004)

DfEE circular 11/99: *Social inclusion: Pupil support*

DfES circular 0803/2001: *Health and safety: Responsibilities and powers*

DfES guidance DfES/0504/2002: *A legal toolkit for schools: Tackling abuse, threats and violence towards members of the school community*


DfES guidance LEA/0242/2002: *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/or autistic spectrum disorders*

DfES guidance LEA/0264/2003: *Guidance on the use of restrictive physical interventions for pupils with severe behavioural difficulties*

DfES guidance DfES/0432/2003: *Ensuring regular school attendance*

DfES circular 0354/2004: *Improving behaviour and attendance: Guidance on exclusion from school and pupil referral units*

The National Assembly in Wales has issued circular 37/98: *The use of reasonable force to control or restrain pupils* available from the Assembly on tel: 029 2089 8688.



There are also a number of government initiatives and schemes that aim to assist with managing behaviour and attendance. These include:

Behaviour and Attendance Programme

(see [www.dfes.gov.uk/behaviourandattendance/index.cfm](http://www.dfes.gov.uk/behaviourandattendance/index.cfm))

Safer School Partnerships (see [www.saferschoolpartnerships.org](http://www.saferschoolpartnerships.org))

School Police Protocols (see [www.teachernet.gov.uk](http://www.teachernet.gov.uk)).

## Other references

DfES 2005: *Higher standards, better schools for all: More choice for parents and pupils*

DfES 2005: *Report of the Practitioners' Group on school behaviour and discipline* (the Steer report)

In January 2006, the Prime Minister launched the government's Respect Action Plan, a cross-departmental initiative on anti-social behaviour. For further information, see [www.respect.gov.uk](http://www.respect.gov.uk).

## Useful contacts

### **British Association for Counselling and Psychotherapy**

Tel: 0870 443 5252

Email: [bacp@bacp.co.uk](mailto:bacp@bacp.co.uk)

Website: [www.bacp.co.uk](http://www.bacp.co.uk)

### **Criminal Injuries Compensation Authority**

Tel: 0800 358 3601 (freephone)

Website: [www.cica.gov.uk](http://www.cica.gov.uk)

### **Department for Education and Skills**

Tel: 0870 000 2288

Email: [info@dfes.gsi.gov.uk](mailto:info@dfes.gsi.gov.uk)

Website: [www.dfes.gov.uk](http://www.dfes.gov.uk)

### **Department of Work and Pensions**

Tel: 0800 88 22 00 (freephone for benefits enquiries)

Website: [www.dwp.gov.uk](http://www.dwp.gov.uk)

### **Morrish & Co** (ATL's specialist personal injury solicitors)

Tel: 0113 245 0733

Email: [info@morrishlaw.co.uk](mailto:info@morrishlaw.co.uk)

Website: [www.morrishlaw.co.uk](http://www.morrishlaw.co.uk)

### **Teacher Support Line**

Tel: 08000 562 561 (freephone England)

Tel: 08000 855 088 (freephone Wales)

Tel: 0800 389 5362 (freephone Northern Ireland)

Email: [enquiries@teachersupport.info](mailto:enquiries@teachersupport.info)

Website: [www.teachersupport.info](http://www.teachersupport.info)

### **Victim Support**

Tel: 020 7735 9166 (national office)

Victim support line: 0845 30 30 900

Email: [contact@victimsupport.org.uk](mailto:contact@victimsupport.org.uk)

Website: [www.victimsupport.org.uk](http://www.victimsupport.org.uk)

### **Youth Justice Board**

Tel: 020 7271 3033

Email: [enquiries@yjb.gsi.gov.uk](mailto:enquiries@yjb.gsi.gov.uk)

Website: [www.youth-justice-board.gov.uk](http://www.youth-justice-board.gov.uk)

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# **POLICY ON VIOLENCE, THREATENING BEHAVIOUR AND ABUSE**

## **Background**

This model policy and guidance is considered by the Association of Teachers and Lecturers (ATL) to constitute good practice in managing violent, threatening or abusive situations.

It is designed to be adopted by employers, with amendments if necessary. It may be used for the updating of existing policies.

In compiling this model policy, ATL is aware that the Health and Safety at Work, etc Act 1974 places duties on every employer to:

- provide and maintain systems of work that are safe
- provide all necessary information, instruction, training and supervision to enable individuals to be safe
- provide and maintain a safe place of work with safe access and egress.

In addition, employers are required to assess the risks to staff (and others) in the workplace. This includes the risk from foreseeable acts of violence, threatening behaviour or abuse at work. Employers should identify the necessary preventative and protective measures. Employers must also make arrangements to implement control measures that follow from the risk assessment, so far as it is reasonably practical.

Every school should have a separate policy covering the use of force to control or restrain pupils.

Failure to comply with the above leaves the employer vulnerable to legal challenge.

The following preventative principles are essential for all workplaces:

- User-friendly and accessible procedures must be in place. Staff should be familiar with the procedures and be able to refer to them immediately. These procedures must be reviewed regularly and updated as necessary.
- Practical training must be provided to all staff. As training methods change or as a reminder for staff, refresher training should also be provided.

## **THE MODEL POLICY**

### **Introduction**

The employer:

- acknowledges and accepts its legal obligation:
  - to provide and maintain safe systems of work
  - to provide all necessary information, instruction, training and supervision to enable individuals to be safe
  - to provide and maintain a safe place of work for employers, pupils and visitors to the school
- declares its intention to take all reasonable and practicable measures to this end and to support fully those employees who are the victims of violence, threatening behaviour and abuse
- acknowledges that every employee has the right to be treated with dignity and respect — assaults on staff are not acceptable

- will take measures to deter violence, threatening behaviour or abuse and take action against those responsible.

It is recognised that staff also have obligations as follows:

- to take reasonable care of their own health and safety and that of others, including their colleagues and the pupils in their care
- to cooperate with the employer on health and safety matters
- to carry out activities in accordance with training, instructions, policies and procedures
- to tell the employer of any serious risks.

## **Definitions**

In this policy:

- i. “assault” encompasses any intentional and violent physical conduct and includes verbal abuse as well as threats of and attempted assault
- ii. “employer” includes any local education authority, school, college or other educational establishment or the governors of any school or college or other educational establishment
- iii. “manager” includes the headteacher or principal or their designated deputies
- iv. “parent” includes a guardian or carer
- v. “school” covers colleges and any other educational establishment
- vi. “pupil” includes “student”
- vii. “local authority” has been used rather than “local education authority”.

This policy sets out the action that will be taken towards reducing the frequency of assaults, monitoring their occurrence, training staff, supporting victims of violence and dealing with incidents when they occur.

Support that will be offered by the employer, and which is referred to in this policy, includes the following.

1. Maintaining a safe working environment and safe practices.
2. Identifying levels of risk of violence faced by members of staff.
3. Assessing who is exposed to the risk of violence.
4. Reviewing risk assessments at regular intervals or when there is any change to the risk of violence.
5. Providing adequate training for all staff.
6. Ensuring, in the event of an assault, a structured and supportive response from management.

7. Implementing a standard reporting and monitoring system.
8. Considering exclusion or the application of appropriate disciplinary procedures and sanctions in the case of pupil assailants.
9. Reference, if appropriate, to the police.
10. The use of statutory powers.
11. Relief from duty, if appropriate, following assault.
12. Providing medical advice, legal advice and counselling.
13. Cooperating with the trade unions of assaulted members.

Where a member of staff suffers an assault away from her/his workplace, and if the assault arises in the course of or via the performance of her/his professional duties, support under these procedures will be provided.

## Prevention

The employer will:

- record all assaults on staff and will make statistics based on this information available to staff and trade unions
- undertake regular, suitable and sufficient **risk assessments**
- use *Five steps to risk assessment*, the HSE guidance, when carrying out risk assessments
- follow these steps in the risk assessment process:
  - include the whole of the site, including areas adjacent to the site
  - include staff who visit pupils at home as part of the risk assessment process
  - **identify and assess the risks:** activities and workplaces should be looked at and considered for what could reasonably be expected to cause harm; consideration should be given to everybody at the workplace and everyone using the site
  - **determine appropriate actions to manage those risks:** existing precautions should be examined to establish whether they are adequate and whether more should be done
  - **implement the actions:** this may include measures such as:
    - ✓ training programmes
    - ✓ alterations to school entrances
    - ✓ implementing procedures for visitors to the school site
    - ✓ communications systems
    - ✓ emergency procedures
    - ✓ the provision of alarms or back-up for staff
  - **monitor the results**
  - **inform all staff who might be affected of the outcome of the risk assessment**
  - keep a record of the findings and consider how they might be used to prevent harm

- consider risks to the personal safety of staff as part of the risk assessment process
- use its statutory powers to seek to prevent any person entering the school premises without lawful authority who causes or permits nuisance or disturbance to those people lawfully using the premises. Where the name of the intruder is known, warning letters will be sent by the employer making it clear that, if the intruder trespasses again and causes a nuisance or disturbance, they risk prosecution and the matter will be reported to the police. In more serious cases the employer will consider taking out a prosecution and/or injunction against the offenders.

### **Liaison with the police**

The employer will establish and maintain close liaison with the local police. It will draw up a procedure enabling the police to be called and to respond promptly when incidents occur. The employer will work with the local police to confirm the circumstances in which they will pursue a prosecution against an assailant.

The employer will seek to agree with the police that they will obtain evidence and initiate a prosecution when a member of staff at the school is assaulted, even if the assault is minor.

### **Dealing with weapons**

As soon as a member of staff is aware either that a pupil is in possession of a weapon or that there has been an incident involving a weapon:

- the staff member should immediately inform the relevant senior member of staff
- staff should not try to deal with the situation alone
- the manager must decide whether it is necessary to contact the police
- the school should consider whether to deal with the matter as a disciplinary issue.

Searching a pupil is a step that should only be undertaken in exceptional circumstances and only with the pupil's consent. The granting of the consent should be witnessed by a colleague or adult witness and the search should be conducted in the presence of a colleague or adult witness. It is preferable for a child's parent to attend if a search is being undertaken.

If the pupil refuses to cooperate, the police should be called. No further action should be taken until the police arrive.

In some exceptional circumstances, action may have to be taken immediately. If this is the case, the pupil should be isolated from other pupils if possible. A colleague or adult witness should be present.

When a weapon or knife is confiscated by a member of staff it is important to:

- ensure that the weapon is secure and given to the police immediately on their arrival, or
- arrange for the weapon to be removed by a parent.

Pending the arrival of the police or a parent, the item should be stored in a secure place. The school should keep a record where weapons have been confiscated and returned.

In the event that a pupil has been found in possession of a weapon, the application of the school's discipline and behaviour policy must be considered. Depending on the particular circumstances, the school may wish to invoke disciplinary sanctions which might include detention or exclusion, whether on a temporary or permanent basis.

## **Assaults by adults**

In the case of an assault by a visitor or intruder, the manager will:

*immediately*

- inform the police, requesting their immediate attendance
- ensure that all staff and pupils are safe and secure
- take appropriate steps to isolate the assailant

*and subsequently*

- liaise with the police
- if the assailant is known, send her/him a letter stating that her/his behaviour is unacceptable and that s/he is not permitted to come onto the school premises in future without an appointment. If s/he does so, and causes a nuisance or disturbance, s/he will be regarded as a trespasser and will be liable to prosecution for causing a nuisance or disturbance as a trespasser on educational premises
- take action to prosecute her/him either directly or via the police.

Where such episodes are a recurrent problem, the school should consider putting a formal notice on the entrance or entrances to the school informing intruders that they may face prosecution.

## **Assaults by pupils**

In the event of an assault on a member of staff by a pupil, the assailant should normally be removed from school immediately. In cases where it is impractical to remove her/him from the premises (eg where attempts to contact parents have been unsuccessful), the pupil concerned should be isolated from other pupils. Exclusion from the beginning of the next day should be considered.

The removal of the pupil, as a fixed-term exclusion, will allow for an investigation of the circumstances of the assault. Permanent exclusion procedures may then follow.

If/when the pupil returns to school, the manager will consult the assaulted member of staff about appropriate arrangements. S/He will not be required or expected to teach, supervise or support the pupil concerned.

## **Action when an assault occurs**

If a member of staff is assaulted, the following action should be taken.

- S/he should be allowed access to a private area for as long as necessary where s/he can sit with a friend, representative or colleague.
- S/he should be allowed to leave the school and go home if s/he wishes and the employer will make appropriate arrangements which may include arranging transport for her/him.
- S/he may have to attend a hospital, accompanied by a friend, representative or colleague.
- Similarly, s/he may have to attend her/his GP's surgery and may wish to be accompanied.

- S/he may also wish to seek an appointment with the employer's occupational health advisor. Professional counselling services will also be made available free of charge. The staff member will be made aware of the availability of these facilities.
- In addition, staff who have been assaulted will be provided with other appropriate support, including legal advice.
- A medical assessment of any injury should be made as soon as practicable, for example at hospital or by her/his GP. The employer will pay any reasonable charges (eg from a doctor, dentist or optician) which may be incurred in obtaining the assessment.
- In cases of visible injuries, it is helpful to obtain photographs. The employer will pay all reasonable costs of obtaining them.
- If the assault has occurred away from the premises, the school should be formally notified.
- A written record covering the circumstances leading up to the assault, the assault itself and any injury should be made as soon as possible.
- As soon as practicable after the assault, the member of staff should prepare a written statement on the incident and should be given the opportunity to consult her/his trade union before submitting it.
- Written statements should be obtained as soon as practicable from all witnesses. Wherever possible, they should be prepared on the day of the incident or as soon as possible thereafter.
- The member of staff who has been assaulted should be provided with a copy.
- The incident must be reported to the police. The manager, acting on behalf of and with the consent of the member of staff, will normally inform the police of any assault on school premises. If the member of staff concerned does not wish the police to be informed, those views will be taken into consideration. In all cases, the member of staff has the right to report the incident personally to the police.
- The incident must be reported to the headteacher.
- The headteacher must pass on information about the assault to the local authority. The headteacher must confirm this in writing to the member of staff.
- The member of staff should be advised to contact their trade union representative. In any discussions about the incident, the staff member may be accompanied by a representative of her/his trade union who will be accorded facilities time to support and advise the member of staff.
- The manager will undertake an investigation and prepare a formal written report as soon as practicable. This report will be agreed with the employee concerned. The report will be given to the police by the manager or her/his representative and to those with overall responsibility for health and safety.

### **Further support for the victim of assault**

The school will permit the assaulted member of staff to take reasonable paid time off to consult her/his trade union, the police or legal advisors and to attend court if a prosecution is initiated, or for the purposes of any other form of litigation.

Where the member of staff is injured and is obliged to take sick leave, the employer will advise her/him of her/his sick pay rights, including the additional entitlements to sick pay for those suffering injury at work (in accordance with section 4, paragraph 9 of the Burgundy Book for teachers in maintained schools).

The employer, on request, will provide legal advice to assist and prepare the assaulted member of staff for any appearance in court if the matter leads to a criminal prosecution.

If the assaulted member of staff decides to bring a private prosecution, the employer will, on request, offer legal advice and assistance without cost to the employee.

Employees who have been assaulted are encouraged, but should not be obliged, to cooperate with the police to ensure that criminal proceedings are brought. Managers should encourage witnesses (including employees and pupils) to come forward with evidence whenever possible.

If the assailant is prosecuted, the employee and other employees who are witnesses may be required to give evidence in court. Paid leave of absence will be granted for this purpose and appropriate cover will be provided.

In cases where the assaulted member of staff suffers injury, the employer will provide her/him with advice on the prospects of obtaining compensation through the Criminal Injuries Compensation Authority (CICA) and will offer assistance in making and pursuing an application where appropriate.

Where the injuries arising from the assault cause temporary or permanent disablement, the employer will advise the member of staff of any insurance scheme (in accordance with section 8, paragraph 1 and appendix V of the Burgundy Book for teachers in maintained schools).

The employer will compensate the employee for any damage to her/his personal property or clothing as a result of the assault. The employer will also reimburse any prescription charges incurred by the employee as a direct result of the assault.