



The Wildings

Behaviour – teachers’ legal powers policy

School

The term “school” is used throughout. The nature of school as defined by The Wildings is made clear in the published Visions, Aims, Values and Standards Documentation and website information. This will also be reflected consistently and coherently in The Wildings constitution as a Community Interest Company (CIC) as detailed in “Office of the Regulator of Community Interest Companies: Information and guidance notes – Chapter 5: constitutional documents”.

Leadership and Governance

The terms “principal”, “governance” and “governance lead” are used throughout. The nature of leadership and governance for a Community Interest Company is detailed within the “Office of the Regulator of Community Interest Companies: Information and guidance notes – Chapter 9: corporate governance”.

Reporting

The term “reporting” is used throughout. It is made clear in the policies whether reporting is internal or external, compliance or quality assurance. Reporting obligations arising from being a CIC are detailed in “Office of the Regulator of Community Interest Companies: Information and guidance notes – Chapter 8: statutory obligations”.

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Contents:

Statement of intent

1. Legal framework
2. Teachers' Powers
3. Sanctioning Poor behaviour
4. Pupils Conduct Outside the school gates
5. Detentions
6. Detentions outside the school gates
7. Outside school hours
8. Confiscation of inappropriate items
9. What must be done with inappropriate items
10. Power to use reasonable force
11. Monitoring and review

1. Legal framework

- 1.1. This document has due regard to all relevant legislation and statutory guidance including, but not limited to, the following:

Behaviour in schools Advice for headteachers and school staff The law allows

2. Teacher powers

2.1. Key Points

- Teachers have statutory authority to sanction pupils whose behaviour is unacceptable, who break the school rules or who fail to follow a reasonable instruction (Section 90 and 91 of the Education and Inspections Act 2006).
- The power also applies to all paid staff (unless the headteacher says otherwise) with responsibility for pupils, such as teaching assistants.
- Teachers can sanction pupils at any time the pupil is in school or elsewhere under the charge of a teacher, including on school visits.
- Teachers can also sanction pupils in certain circumstances when a pupil's misbehaviour occurs outside of school.
- Teachers have a power to impose detention outside school hours.
- Teachers can confiscate pupils' property.

3. Punishing poor behaviour

The Law allows:

- Teachers can sanction pupils whose conduct falls below the standard which could reasonably be expected of them.
- This means that if a pupil misbehaves, breaks a school rule or fails to follow a reasonable instruction the teacher can impose a punishment on that pupil.
- To be lawful, the punishment (including detentions) must satisfy the following three conditions:
 - The decision to punish a pupil must be made by a paid member of school staff or a member of staff authorised by the headteacher;
 - The decision to punish the pupil and the punishment itself must be made on the school premises or while the pupil is under the charge of the member of staff; and
 - It must not breach any other legislation (for example in respect of disability, special educational needs, race and other equalities and human right) and it must be reasonable in all the circumstances.
- A sanction must be proportionate. In determining whether a sanction is reasonable, section 91 of the Education and Inspections Act 2006 says the penalty must be reasonable in all the circumstances and that account must be

taken of the pupil's age, any special educational needs or disability they may have, and any religious requirements affecting them. 1

- The headteacher may limit the power to apply particular sanctions to certain staff and/or extend the power to sanction to adult volunteers, for example to parents who have volunteered to help on a school trip.
 - Corporal punishment is illegal in all circumstances.
- Schools should consider whether the behaviour under review gives cause to suspect that a child is suffering, or is likely to suffer, significant harm. Where this may be the case, school staff should follow the schools' safeguarding policy. They should also consider whether continuing disruptive behaviour might be the result of unmet educational or other needs. At this point, the school should consider whether a multiagency assessment is necessary.

4. Pupils' conduct outside the school gates – teachers'

Powers

The law allows:

- Teachers have the power to sanction pupils for misbehaving outside of the school premises "to such an extent as is reasonable"⁷ – see paragraph 21.
- Maintained schools and Academies' behaviour policies should set out what the school will do in response to non-criminal bad behaviour and bullying which occurs off the school premises and which is witnessed by a staff member or reported to the school, including the punishments that will be imposed on pupils.
- Subject to the behaviour policy, teachers may sanction pupils for:
 - misbehaviour when the pupil is:
 - taking part in any school-organised or school-related activity or
 - travelling to or from school or
 - wearing school uniform or
 - in some other way identifiable as a pupil at the school.
 - or misbehaviour at any time, whether or not the conditions above apply, that:
 - could have repercussions for the orderly running of the school or
 - poses a threat to another pupil or member of the public or
 - could adversely affect the reputation of the school.

- In all cases of misbehaviour the teacher can only sanction the pupil on school premises or elsewhere when the pupil is under the lawful control of the staff member.

5. Detentions

The law allows:

- Teachers have a power to issue detention to pupils (aged under 18).
- Schools must make clear to pupils and parents that they use detention (including detention outside of school hours) as a sanction. Section 90 of the Education and Inspections Act 2006
- The times outside normal school hours when detention can be given (the permitted day of detention') include:
 - any school day where the pupil does not have permission to be absent;
 - weekends - except the weekend preceding or following the half term break; and non-teaching days – usually referred to as 'training days', 'INSET days' or 'noncontact days'.
- The headteacher can decide which members of staff can put pupils in detention. For example, they can limit the power to heads of year or heads of department only or they can decide that all members of staff, including support staff, can impose detentions.
- Matters schools should consider when imposing detentions
 - Parental consent is not required for detentions.
 - As with any disciplinary penalty a member of staff must act reasonably given all
 - the circumstances, as described in paragraph 15 above, when imposing a detention.
 - With lunchtime detentions, staff should allow reasonable time for the pupil to eat, drink and use the toilet.

6. Detentions outside school hours

- School staff should not issue a detention where they know that doing so would compromise a child's safety. When ensuring that a detention outside school hours is reasonable, staff issuing the detention should consider the following points:
 - Whether the detention is likely to put the pupil at risk.
 - Whether the pupil has known caring responsibilities which mean that the detention is unreasonable.
 - Whether the parents ought to be informed of the detention. In many cases it will be necessary to do so, but this will depend on the circumstances. For

instance, notice may not be necessary for a short after school detention where the pupil can get home safely; and

- Whether suitable travel arrangements can be made by the parent for the pupil. It does not matter if making these arrangements is inconvenient for the parent.

7. Confiscation of inappropriate items

The law allows:

1) The general power to sanction (as described in the bullets under the heading “Sanction in Schools – Teachers’ Powers” on pages 3 and 4) enables a member of staff to confiscate, retain or dispose of a pupil’s property as a punishment, so long as it is reasonable in the circumstances. The law protects them from liability for damage to, or loss of, any confiscated items provided they have acted lawfully. The legislation does not describe what must be done with the confiscated item and the school behaviour policy may set this out; and

2) Power to search without consent for “prohibited items”

- including:
 - knives and weapons
 - alcohol
 - illegal drugs
 - stolen items
 - tobacco and cigarette papers
 - fireworks
 - pornographic images
 - any article that has been or is likely to be used to commit an offence , cause personal injury (to others or themselves) or damage to property; and
 - any item banned by the school rules which has been identified in the rules as an item which may be searched for, including:
 - E-cigarettes and vapes
 - Lighters
 - Aerosols
 - Legal highs/psychoactive substances
 - Energy drinks

All members of staff can use their power to search without consent for any of the items listed above.

8. What must be done with prohibited items found as a result of a search.

- Weapons and knives and extreme or child pornography must always be handed over to the police, otherwise it is for the teacher to decide if and when to return a confiscated item.

9. Power to use reasonable force

- Members of staff have the power to use reasonable force to prevent pupils committing an offence, injuring themselves or others, or damaging property, and to maintain good order and sanction in the classroom. All staff are trained using Team Teach techniques to ensure that any physical intervention is reasonable, appropriate and safe.
- Head teachers and authorised school staff may also use such force as is reasonable given the circumstances when conducting a search without consent for knives or weapons, alcohol, illegal drugs, stolen items, tobacco and cigarette papers, fireworks, pornographic images or articles that have been or could be used to commit an offence or cause harm.
- Schools can also identify additional items in their school rules which may be searched for without consent. Force cannot be used to search for these items.
- After an instance of physical intervention, the pupil will be immediately taken to the Principal, and the pupil's home will be contacted. Where appropriate, the headteacher has the right to temporarily remove the pupil from the school via a suspension, in line with the DfE's guidance on 'Suspension and Permanent Exclusion'. Where suspension is carried out, the pupil's home will be asked to collect the pupil and take them home for the rest of the day – pupils will not be sent home without the school contacting their parent.
- Any violent or threatening behaviour will not be tolerated by the school and may result in a fixed-term exclusion in the first instance. It is at the discretion of the Principal as to what behaviour constitutes for an exclusion, in line with the Suspension and Exclusion Policy.
- When using reasonable force in response to risks presented by incidents involving pupils with SEND or medical conditions, staff will recognise and consider the vulnerability of these groups.

10. Monitoring and review

- This policy will be reviewed by the principal and mental health lead on an annual basis, who will make any necessary changes and communicate these to all members of staff.
- This policy will be made available for Ofsted inspections and review by the chief inspector, upon request.
- The next scheduled review date for this policy is October 2023.

