

Governors' Information Bulletin

MAY 2007

No 58

SCHOOL DISCIPLINE AND PUPIL BEHAVIOUR POLICIES **Statutory Guidance for schools**

The full guidance can be found at

<http://www.teachernet.gov.uk/doc/11321/SCHOOL%20DISCIPLINE%20AND%20PUPIL%20BEHAVIOUR%20POLICIES%20GUIDANCE1.pdf> (A link is available on the vle for Chairs and Clerks)

The following section of the guidance covers the legal duties and responsibilities of governing bodies as regards establishing the principles underlying the school behaviour policy. The term "statutory guidance" is used because there is a legal duty for governing bodies to have regard to it. It describes the legal requirements and advises on appropriate practice.

What the law says

Section 88(2) of the Education and Inspections Act 2006_(EIA 2006) requires a governing body to:

- make, and from time to time review, a written statement of general principles to guide the head teacher in determining measures to promote good behaviour; and
- notify the head teacher and give him or her related guidance *if* the governing body wants the school's behaviour policy to include particular measures or address particular issues.

The full governing body, or a committee of it, must make final decisions about the statement of principles and any notifications and guidance. These responsibilities cannot be delegated to an individual. For PRUs, these functions of the governing body fall to the PRU management committee. In the case of a federation of schools, the federated governing body has this responsibility. The governing bodies of collaborating schools remain responsible for final decisions about the statement of principles and any notifications and guidance pertaining to that school, even where schools in a collaboration produce a common statement of principles, notifications and/or guidance.

In carrying out these functions the governing body must have regard to guidance provided by the Secretary of State for Education and Skills. This DfES guidance provides the relevant, statutory guidance. It also includes guidance on the governing body's duty to consult, to which governing bodies and local authorities must have regard by virtue of section 176 of the Education Act 2002.

The governing body is legally required to consult with the head teacher, staff, parents and pupils on the principles of the behaviour policy. The consultation may be arranged in such manner as appears appropriate to the governing body and include such representatives of the staff as the governing body deems appropriate. All pupils and parents must be



included, i.e. given the opportunity to comment on proposals at the formative stage, and their responses considered when decisions on the proposals are made. The requirements on the governing body to consult staff and pupils on the principles are new ones, introduced under the EIA 2006.

Part IV of the Disability Discrimination Act 1995 (DDA 1995) creates a duty on governing bodies to take reasonable steps to ensure that disabled pupils are not placed at a substantial disadvantage in comparison with pupils who are not disabled (a duty to make 'reasonable adjustments'). This would include making reasonable adjustments to the statement of principles, school behaviour policy and disciplinary practices.

Governing bodies of maintained schools also have a duty (the 'general equality duty') under Part 5A DDA 1995 (inserted by the Disability Discrimination Act 2005) to have regard to the need to: eliminate disability discrimination; eliminate harassment of disabled persons that is related to their disabilities; promote equality of opportunity between disabled persons and other persons; take account of disabled persons' disabilities; promote positive attitudes towards disabled persons; and encourage participation by disabled persons in public life.

In addition they must publish a Disability Equality Scheme showing how they intend to fulfil this general equality duty. The school must involve disabled people in the development of their Disability Equality Scheme. This should include collecting the views of disabled pupils about how school discipline and behaviour policies impact on them and their life in school and using those views to inform the development of their scheme, and their behaviour policies where school discipline and behaviour are identified as an area for action. Guidance on consulting with disabled pupils and on reasonable adjustments is available in *Promoting disability equality in schools*, part of the DfES resource *Implementing the Disability Discrimination Act in schools and early years settings* resource available at <http://publications.teachernet.gov.uk/default.aspx?PageFunction=productdetails&PageMode=publications&ProductId=DfES+0160+2006&>.

Schools also have specific duties, under various equalities legislation, to monitor and assess the impact of their policies on pupils by racial group and gender. The governing body must therefore ensure that neither the overall school behaviour policy nor any particular disciplinary measures impact disproportionately or unfairly on any pupil within the school. Further guidance on taking account of the needs of vulnerable children is at section 3.9 of the guidance document.

Governing bodies must also have regard to the health and welfare of staff, and the duty of care which they have for this. Behaviour policies and the principles which underpin them must take appropriate account of staff health and welfare issues.

What this means in practical terms

Governors should decide on an appropriate timescale for reviewing the principles and for the head teacher to update the resulting behaviour policy. Good practice would suggest this should be done on average every two years. The principles may not need updating every time they are reviewed. A consultation exercise should be undertaken every time the statement of principles is updated.

Reflecting school values and equal opportunities in the principles of the school behaviour policy

The values a school is committed to promoting – such as respect, fairness and social inclusion – should be the basis for the principles underlying its behaviour policy. Schools must comply with equalities legislation and the duty to promote the well-being of pupils (section 21 of the Education Act 2002, as amended by section 38 EIA 2006) and therefore

it is important that the school's statement of principles reflects a commitment to improving outcomes for all pupils and eliminating all forms of discrimination, harassment and bullying, as well as promoting equality of opportunity, the welfare of pupils and good relations across the whole school community. The statement of principles should also ensure that vulnerable pupils – such as those with special educational needs, physical or mental health needs, migrant and refugee pupils and looked-after children – receive behavioural support according to their need. Children in all these groups can experience particular difficulties with behaviour, for example related to medical conditions, lack of understanding or trauma (for further information see section 3.9_of the statutory guidance).

What a statement of principles might look like

The kind of expectation which might be reflected in the principles of a school behaviour policy are considered further in section 4_of the guidance, which offers some illustrative examples. It is, however, for individual schools to determine their own principles in the light of their individual characteristics / ethos; the needs of their own school community; and any agreement they have with other schools in a local partnership for improving behaviour and tackling persistent absence.

How the statement of principles can help the head teacher develop more specific disciplinary measures

The head teacher will use this statement of principles to determine the more detailed measures (rules, rewards, sanctions and behaviour management strategies) that make up the overall school behaviour policy . Principles that most assist the head teacher in doing this:

- are based on the school's values;
- can be explained to pupils of any age or ability;
- represent widespread agreement about standards amongst pupils, staff (including union representatives) and parents;
- encourage a healthy balance between rewards and sanctions to encourage positive behaviour;
- promote behaviour improvement as a means of improving learning and teaching; and
- are challenging but realistic and appropriate for development as the school builds on its successes.

Particular measures or matters that governors may want the head teacher to include in the policy

If the governing body wants the school's behaviour policy to include particular measures or deal with particular matters, they must notify the head teacher and as appropriate give him or her related guidance.

Governors should take full account of the head teacher's views as to the likely effectiveness of a measure before deciding whether to include it. In all cases the measure should be supportive of the principles agreed by the governing body. In this way the governing body will be seen as acting consistently and upholding the principles agreed with stakeholders. Governors should also ensure that any measure they want the head teacher to include in the behaviour policy maintains the necessary balance between sanctions and rewards in the policy.

The head teacher must have regard to notification and guidance of this kind from the governing body.

Consultation

The wider duties on consultation introduced under the EIA 2006 are aimed to ensure that all parts of the school community have an opportunity to help shape the behaviour policy.

This in turn should result in a greater sense of ownership of and commitment to the behaviour policy. The involvement of all pupils should also help ensure that they understand the overall standards of behaviour which are expected by the school and which they need to meet.

In order to secure an appropriately representative view from school staff, the governing body needs to include staff members who can represent the views of the unions which have members within the school. Partnership with the unions in developing the behaviour policy should also help ensure that any concerns around staff workload, conditions of service and health and safety are appropriately taken into account.

The consultation of pupils is an important new duty, which reflects children's rights under Article 12 of the United Nations Convention on the Rights of the Child (UNCRC). It will also help schools to meet the National Healthy Schools Standards criteria on allowing children a voice in matters that affect them. While all pupils must have the opportunity to comment on the statement of principles and so help shape the behaviour policy, this need not be laborious or burdensome for the governing body. In some cases class teachers or form tutors – particularly those in charge of very young pupils – could simply talk to their class about the behaviour principles and gather any views. Work in PSHE lessons or when a class is looking at the Social and Emotional Aspects of Learning (SEAL) resource might also provide opportunities for discussing the principles. Pupils could also be given the opportunity to feed their views through 'suggestion boxes', pupil representatives or their school council.

The form of the consultation with pupils must be such that disabled pupils have a full opportunity to express their views. The consultation of disabled pupils could be organised in various ways: in groups; individually; face-to-face; by email; or using trained peers. All the views collected – whether these are from disabled pupils or not – should be considered by the governing body in the light of the pupil's age and understanding.

Schools should consider the most effective way to gather the views of parents. They could be informed of the opportunity to take part in the consultation by means of an invitation letter or via an item in the school newsletter, for instance. In addition, the School Parent Association might form a working group; parent governors might take the lead; or feedback could be sought in a combination of meetings and informal discussions.

Governors should also consider taking account of the views of local partners working with the school. This may include voluntary agencies, other schools, children's services and community safety partners such as the police and youth offending teams. This will ensure that all partners are engaged with what the school is trying to achieve and can shape behaviour support work accordingly.

Governors should consider the results of the consultation exercise at a meeting of the full governing body and the feedback received from staff, pupils and parents should be appropriately recorded.

School Partnerships

By September 2007 The DfES expects all secondary schools to be in partnerships designed to improve behaviour and tackle persistent absence. Many primary schools, special schools and PRUs will also be involved. It is important that head teachers and governing bodies of partner schools understand and respect each other's behaviour policies.