

# A St. Michael's CE (VA) Junior School Policy



## Managing Violent and Abusive Visitors to Schools Policy

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Guidance for dealing with aggressive or abusive parents and visitors to schools who cause nuisance or create a disturbance.

## Summary

Day to day access to a school is within the control of the head teacher. Normally parents/carers (and those with parental responsibility) are granted "limited licence" to visit the grounds and buildings of a school.

Most schools will establish procedures which set out: the acceptable purposes for such visits; the areas of the school that may be entered at particular times; the standard of behaviour expected etc.... .

Where there is a breach of such procedures the school needs to respond in a measured way, depending on the seriousness of any inappropriate conduct e.g.:

- initiate a meeting/dialogue with the individual;
- write to the visitor, describing their misconduct, explaining its impact on the school and stating its unacceptability;
- vary the person's "licence", say, through the addition of conditions;
- warn of the possibility of a "ban" (i.e. the withdrawal of their licence) if the misconduct is repeated;
- impose a ban with a review after a fixed period;
- impose a ban without review.

It is possible for a head teacher to initiate any of these actions on their own authority, but is less likely to lead to personal confrontation if the more serious sanctions are initiated by the governing body or local authority, as appropriate.

## Introduction

As a general rule, schools are orderly, safe places, where relationships between staff and visitors, especially parents/carers, demonstrate mutual respect and recognition of shared responsibility for pupils' welfare and educational progress. Parental involvement is an important factor in educational success and in dealing with emerging problems at an early stage.

However, on occasion, the behaviour of a few parents/ carers can cause severe disruption or worse, resulting in abusive or aggressive behaviour towards staff, pupils, or other members of the school community.

Local authorities are responsible for protecting the health and safety of their staff and pupils in community and voluntary controlled schools. In the case of foundation schools, voluntary aided schools, free schools Independent schools and academies, it is the governing body/board that is responsible. Where reference is made to the local authority (LA) in this document, it should also be read to cover the governing body/board where appropriate.

This document is mainly about dealing with violence, threatening behaviour or abuse by parents of a pupil in a school, including those cases where the parent has been asked not to come onto the premises. Some of the remedies listed are also applicable when dealing with other intruders on school premises.

Violence, threatening behaviour and abuse against school staff or other members of the school community must 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. Where such behaviour does occur, schools must know that their LA will play a proactive role in taking all possible action to deal with it, in response to the wishes of the school.

In certain circumstances, this will mean the LA taking the lead in initiating action on the school's behalf with the school's support, and in other circumstances we expect the LA to support the school in action that the school itself will initiate.

At all times the common purpose remains clear: to achieve zero tolerance of violence, threatening behaviour or abuse in schools, and to ensure all members of the school community, and all visitors to the school, can be confident that they are operating within a safe environment.

Schools should in the first instance ask their LA for advice on the appropriateness of the remedies available and LAs should, where they have the power to do so, take the lead in initiating action. In circumstances where power does not lie with the LA (eg. under the criminal law) we would expect LAs to support and advise schools and they should remove as much of the burden from them as possible.

## **School policy for dealing with incidents**

All schools should have policies covering incidents involving abusive, threatening or violent adult visitors. Such policies should be adopted following consultation with staff and parents.

A policy can provide a readily available set of procedures on:

- what to do when an incident arises (e.g. ask the person to leave, or invite them into a room away from other people);
- who to contact during an emergency (i.e. at the school, local authority and police);
- how to record incidents and who to report the incident to;
- what follow up action is possible (i.e. any legal action to be taken; if a parent, whether they should be refused entry to the premises);
- What support is available from the employer, (e.g. counselling, occupational health or legal support);
- Liaison with the police whenever necessary.

The existence of the policy can be publicised, by displaying suitable posters in areas of the school that may be entered by visitors.

Some schools may be involved in safer school partnerships under which an operational police officer will be based on school premises. The main aim is to provide a safer environment by minimising the risk of such incidents (whether they involve pupils, parents or others) and enabling incidents which do occur to be quickly and effectively dealt with. Where a partnership has been established, policy and procedures for dealing with violence, threatening and abusive behaviour by parents should be developed within the context of this.

## **Conducting a risk assessment**

Whether you draw up a policy or not, you should prepare an assessment of risk to staff and others from abusive or violent visitors. This does not need to be a complicated process, but simply involves raising a number of questions to which you want answers.

A risk assessment should:

- identify and assess the risks;
- determine appropriate actions;
- implement the actions;
- monitor the results; and
- provide feedback.

It is good practice to ask staff directly about the extent of problems that they are aware of as part of the process of assessing risk. It is also helpful to consult school health and safety representatives about possible risks.

This should identify what the risks are (eg. abuse, threatening behaviour, violence, and from whom), and who is likely to be at risk (eg. reception staff, teachers, school keeper). Identifying what the risks are and who is at risk are the crucial initial steps before considering how to manage these risks and how they can be minimised.

In some cases, potential violence can be reduced and even prevented if members of staff have the skills to spot conflict before it leads to aggression and to use techniques to reduce aggression before violence occurs.

It is recommended that members of staff are offered personal safety training, which can help in:

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

The Health and Safety Executive (HSE) has produced guidance on risk assessments which is on its website.

## **The Banning Process**

The head teacher will need to assemble the full facts before proceeding, making sure that all those involved in any incidents, or witnesses to those incidents, make a full written record as soon as possible.

Crucial elements:

- write to parent/carer/intruder to record in detail the incident and why it is unacceptable;
- explain that the LA/governing body will consider banning the parent, giving the parent a period in which they may respond in writing giving their version and why they should not be banned;
- tell the parent when a decision will be made.

## **The length of a ban**

The ban should be finite in length, as only the most serious misconduct would justify an indefinite ban.

The duration needs to be sufficient to convey a clear message about the seriousness of the associated misconduct, but not so long as to be disproportionate. The aim should always be to restore "normal" relations as soon as is reasonably practicable.

Even if a ban is permanent, it should be reviewed periodically, taking account of subsequently demonstrated patterns of behaviour.

## **What does a ban achieve?**

- it confirms to a parent that the school will not tolerate misbehaviour;
- shows the school takes health and safety of its staff, visitors and pupils seriously;
- it provides a key element in making it easier to use legal remedies to prevent repeated misconduct, including use of S547 of the 1996 Education Act to enable Police removal and possible prosecution of those on school premises without permission;
- it may form the basis for an application for an injunction to curtail repeated instances of misbehaviour.

## **Parental Rights**

Every attempt should be made to maintain normal communications with parents/carers, including giving them the opportunity to participate in elections for parent governors, say.

Even where a parent/carer has been banned from the school premises, they retain their right to an annual consultation in relation to the educational progress of their child/ren. However, the school may determine who will be present at the meeting (e.g. a senior member of staff might accompany the class teacher) and its location (e.g. it may well be arranged off site).

The interests of the child should continue to be paramount.

### **Model incident report form**

This is attached as an annex. It will assist with the recording of any incidents of abuse, threatening behaviour or violence against any members of the school community. A record of an incident will help in the collection of evidence where necessary, such as when proceedings are being brought against an alleged assailant. Available photographic evidence of any injuries or damage, or relevant CCTV footage, can also be helpful. Recording details of incidents will also help in reviewing the school's policy, and should ideally inform future risk assessments.

If there is an injury to staff from an assault, the employer may need to report the injury to the health and safety executive (HSE) under the requirements of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR), as amended in 2012.

### **Section 547, Education Act 1996**

The model letters included suggest how use might be made of section 547 of the Education Act 1996 in the letters that are sent to parents.

Section 547 makes it an offence for a trespasser on school premises to cause or permit a nuisance or disturbance, and allows for the removal and prosecution of any person believed to have committed the offence. The penalty for a person convicted of the offence is a fine of up to £500.

A parent/carer of a child attending a school normally has implied permission (limited licence) to be on the school's premises at certain times and for certain purposes but if their behaviour is unreasonable this permission may be withdrawn and they will become a trespasser.

A person who nevertheless persists in entering the school premises and displaying unreasonable behaviour may be removed and prosecuted under section 547.

The LA may take the lead in authorising the removal of a person believed to be causing or permitting a nuisance or disturbance and may bring proceedings against them. Where the head teacher wishes this to happen we would expect the LA to do this. Both in relation to authorisation and prosecution, the LA must first obtain the consent of the school's governing body where a foundation, voluntary or foundation special school is involved.

In the case of an academy, an independent school, a foundation school, a voluntary aided school and a foundation special school, the governing body/board can independently authorise the removal of someone from the premises and may also authorise a person to bring proceedings against that individual. Additionally, in all situations the police are authorised to remove someone from school premises and to bring proceedings for an offence under this section.

It is not set down in law how a person should be authorised. Good practice suggests that this is done in writing. Schools should clarify who has been authorised to remove anyone causing a disturbance, and they should ensure they have received appropriate training.

Schools wishing action to be taken against someone they believe has committed an offence under s547 should contact their LA as appropriate. If the police have been involved the school should clarify whether the police intend to summons or charge and whether the Crown Prosecution Service has decided that there is sufficient evidence to prosecute. In most cases it will be in the public interest to prosecute if there is sufficient evidence to support a prosecution.

## **Model letters**

At Annex 3 are examples of letters (which can be modified for different legal purposes where necessary) to parents/carers or other visitors to school premises whose permission to be on the premises is to be, or has been, withdrawn by the LA or governing body on behalf of the school. The letters show that where such a parent re-enters school premises and causes a nuisance or disturbance, section 547 might be used.

A head teacher has the right to decide who can come onto school premises but the letters should be sent by the LA or – in the case of aided and foundation schools – by the governing body, on behalf of the head teacher.

Using powers under section 547 allows for action which the local authority or governing body can take on behalf of a school and which can be straightforward, quick and effective in removing violent, aggressive or abusive people from school premises. In practice, it is amongst the most widely used remedies.

Section 547 will not be the most appropriate remedy in every circumstance. Serious violence, repeated harassment or racially aggravated behaviour for example, may warrant stronger criminal sanctions. The LA should be in a position to advise the school of how to achieve this, and NAHT would expect LAs to take a proactive and highly supportive role in such circumstances.

## Annex 1

### ..... School

## **Policy on managing aggressive behaviour from parents and visitors to our school**

### **Statement of principles**

The governing body of ..... school encourages close links with parents and the community. It believes that pupils benefit when the relationship between home and school is a positive one.

The vast majority of parents, carers and others visiting our school are keen to work with us and are supportive of the school. However, on the rare occasions when a negative attitude towards the school is expressed, this can result in aggression, verbal and or physical abuse towards members of school staff or the wider school community.

The governing body expects and requires its members of staff to behave professionally in these difficult situations and attempt to defuse the situation where possible, seeking the involvement as appropriate of other colleagues. However, all members of staff have the right to work without fear of violence and abuse, and the right, in an extreme case, of appropriate self defence.

We expect parents and other visitors to behave in a reasonable way towards members of school staff. This policy outlines the steps that will be taken where behaviour is unacceptable.

Types of behaviour that are considered serious and unacceptable and will not be tolerated:

- shouting at members of the school staff, either in person or over the telephone;
- physically intimidating a member of staff, eg standing very close to her/him;
- the use of aggressive hand gestures;
- threatening behaviour;
- shaking or holding a fist towards another person;
- swearing;
- pushing;
- hitting, eg slapping, punching and kicking;
- spitting;
- breaching the school's security procedures.

This is not an exhaustive list but seeks to provide illustrations of such behaviour.

**Unacceptable behaviour may result in the local authority and the police being informed of the incident.**

### **Procedure to be followed**

If a parent/carer behaves in an unacceptable way towards a member of the school community, the head teacher or appropriate senior staff will seek to resolve the situation through discussion and mediation. If necessary, the school's complaints procedures should



be followed. Where all procedures have been exhausted, and aggression or intimidation continue, or where there is an extreme act of violence, a parent or carer may be banned by the head teacher from the school premises for a period of time, subject to review.

In imposing a ban the following steps will be taken:

1. The parent/carer will be informed, in writing, that she/he is banned from the premises, subject to review, and what will happen if the ban is breached, eg that police involvement or an injunction application may follow
2. Where an assault has led to a ban, a statement indicating that the matter has been reported to the local authority and the police will be included
3. The chair of governors/LA will be informed of the ban
4. Where appropriate, arrangements for pupils being delivered to, and collected from the school gate will be clarified.

## **Conclusion**

The local authority itself may take action where behaviour is unacceptable or there are serious breaches of our home-school code of conduct or health and safety legislation. In implementing this policy, the school will, as appropriate, seek advice from the Local Authority's education, health and safety and legal departments, to ensure fairness and consistency.

This Policy will be reviewed annually.

Signed .....

Chair of Governing Body

Date .....

## **Annex 2**

### **Incident report form**

Relevant incidents include trespass, nuisance or disturbance on school premises, verbal abuse, sexual or racial abuse, threats, aggression, physical violence and intentional damage to property.

Where possible, the form should be completed before any discussion between witnesses is possible, as this might lead to allegations of collusion.

This form should be completed as fully as possible please, using a continuation sheet, if necessary. For any incident involving or witnessed by a pupil or parent/carer/visitor, a member of staff should complete the form on their behalf.

The completed form should be passed to the head teacher, for appropriate action and recording.

**Date of incident**

**Time of incident**

**Name of person reporting incident**

**Date incident reported**

**Member of staff recording incident**

**Date incident recorded**

**Name(s) of person(s) causing incident**

(where name(s) is/are unknown, provide other details of which may allow their identification)

**Status(es)** (parents/carers/visitors/trespassers)

**Full description of incident** (e.g. names of persons involved; location; nature of any injuries; attendance of emergency services)

Names of any witnesses

Statuses

**Initial action/outcome** (e.g. Informal conciliation; police intervention; warning or banning letter issued)

**Summary of subsequent actions taken by the school, including risk assessments**

**Linked incidents** (if any)

**(Warning letter, from the head teacher: to parent/carer with child/ren at the school)**

Recorded delivery

Dear .....

I have received a report about your conduct at the school on **(enter date and time)**.

**(Add factual summary of the incident and of its effect on staff, pupils, other parents.)**

I must inform you that the local authority/ governing body **(delete as appropriate)** will not tolerate conduct of this nature on its premises and will act to protect its staff and pupils.

Therefore if, in the future, I receive any reports of conduct of this nature I will be forced to consider removing your licence to enter the school grounds and buildings. If you do not comply with that instruction I will be able to arrange for you to be removed from the premises and prosecuted under Section 547 of the Education Act 1996. If convicted under this section, you are liable to a fine of up to £500.

Nevertheless, I wish to give you an opportunity to give me in writing any comments or observations of your own in relation to the report which I have received about your conduct. These comments may include any expressions of regret on your part and any assurances you are prepared to give about your future good conduct. To enable me to take a decision on this matter at an early point, you are asked to send me any written comments you wish to

make by **(state date ten working days from the date of letter)**.

Yours sincerely,

Head Teacher

**(Banning Letter, from the LA or governing body: to parent/carer with child/ren at the school)**

Recorded delivery

Dear .....

I have received a report from the head teacher at **(insert name)** School about your conduct on **(enter date and time)**.

**(Add factual summary of the incident and of its effect on staff, pupils, other parents.)**

I must inform you that the local authority/ governing body **(delete as appropriate)** will not tolerate conduct of this nature on its premises and will act to protect its staff and pupils. On the advice of the head teacher I am therefore instructing that until ..... **(add date)** you are not to reappear on the premises of the school. If you do not comply with this instruction I may arrange for you to be removed from the premises and prosecuted under Section 547 of the Education Act 1996. If convicted under this section, you are liable to a fine of up to £500.

**In the case of a primary school include:**

For the duration of this decision you may bring your son(s)/daughter(s) **(complete as appropriate)** to school and collect them/him/her **(delete as appropriate)** at the end of the school day, but you must not go beyond the school gate.

**In the case of infant children, also insert**

Arrangements have been made for your **(delete as appropriate)** son(s)/daughter(s) **(insert child/rens names)** to be collected, and returned to you, at the school gate by a member of the school's staff.

The withdrawal of permission for you to enter the school premises takes effect straightaway. However, I still need to decide whether it is appropriate to confirm this decision. Before I do so, I wish to give you an opportunity to give me in writing any comments or observations of your own in relation to the report which I have received from the head teacher. These comments may include any expressions of regret on your part and any assurances you are prepared to give about your future good conduct. To enable me to take a decision on this matter at an early point, you are asked to send me any written comments you wish to make by **(state date ten working days from the date of letter)**.

If on receipt of your comments I consider that my decision should be confirmed, or extended, you will be supplied with details of how to pursue a review of the circumstances of your case.

In any event, the decision to withdraw your licence to enter the school premises will be reviewed by ..... **(complete as appropriate)**. That review will take account of any representations that you may have made and of your subsequent conduct.

Yours sincerely,

LA Officer / Chair of governing body

**(Banning Letter, from the LA or governing body: to member of the public)**

Recorded delivery

Dear .....

I have received a report from the head teacher at **(insert name)** school about your conduct on **(enter date and time)**.

**(Add factual summary of the incident and of its effect on staff, pupils, other parents.)**

I must inform you that the authority/ governing body (delete as appropriate) will not tolerate conduct of this nature on its premises and will act to protect its staff and pupils. On the advice of the head teacher I am therefore instructing that you are not to reappear on the premises of the school. If you do not comply with this instruction I may arrange for you to be removed from the premises and prosecuted under Section 547 of the Education Act 1996. If convicted, you are liable to a fine of up to £500.

Yours sincerely,

LA Officer / Chair of governing body

**(Letter updating a banning letter, from the LA or governing body, confirming ban: to parent/carer with child/ren at the school)**

Recorded delivery

Dear .....

On **(give date)** I wrote to you informing you that on the advice of the head teacher, I had withdrawn permission for you to come onto the premises of **(insert name)** School until ..... **(insert date)**. To enable the local authority/governing body **(delete as appropriate)** to determine whether to confirm this decision, or to impose it for a longer period, I gave you the opportunity to give your written comments on the incident concerned by **(give date)**.

I have not received a written response from you / I have now received a letter from you dated ..... **(insert the date)**, the contents of which I have noted. **(delete either sentence as appropriate)**

In the circumstances, and after further consideration of the head teacher's report, I have determined that the decision to withdraw permission for you to come onto school premises should be confirmed/extended. **(delete as appropriate)** I am therefore instructing that until ..... **(insert date)** you are not to come onto the premises of the school without the prior knowledge and approval of the head teacher. If you do not comply with this instruction I may arrange for you to be removed from the premises and prosecuted under Section 547 of the Education Act 1996. If convicted, you are liable to a fine of up to £500.

Notwithstanding this decision the head teacher and staff at **(insert name)** school remain committed to the education of your child/children **(delete as appropriate)**, who must continue to attend school as normal insert in the case of a primary school: under the arrangements set out in my previous letter.

The authority/ governing body **(delete as appropriate)** will take steps to review the continuance of this decision by **(give date)**. When deciding whether it is necessary to extend the withdrawal of permission to come onto the school's premises, the authority/ governing body **(delete as appropriate)** will take into account the extent of your compliance with the decision, any appropriate expressions of regret and assurances of future good conduct received from yourself and any evidence of your co-operation with the school in other respects.

**(Include where the incident has arisen within the context of a parental complaint against the school:)**

Finally I would advise you that I have asked the head teacher to ensure that your complaint **(give brief details)** is considered under the appropriate school procedure. You will be contacted about this by the school in due course.

If you wish to pursue the matter further, you have a right to a review of the circumstances of this case by the school's governing body.

Yours sincerely,

LA Officer / Chair of governing body

**(Letter updating a banning letter, from the LA or governing body, withdrawing ban: to parent/carer with child/ren at the school)**

Recorded delivery

Dear .....

On ..... **(insert date)** I wrote to you informing you that, on the advice of the head teacher, I had temporarily withdrawn permission for you to come onto the premises of (insert name) School. To enable me to determine whether to confirm this decision for a longer period, I gave you the opportunity to let me have your written comments on this incident by ..... **(insert date)**

I have not received a written response from you / I have now received a letter from you dated ..... **(insert date)**, the contents of which I have noted. **(delete either sentence as appropriate)**

In the circumstances, and after consulting with the head teacher, I have decided that it is not necessary to confirm the decision, and I am therefore restoring to you the permission to come onto the school premises, with immediate effect.

Nevertheless I remain very concerned at the incident which occurred on ..... **(insert date)**, and I must warn you that if there is any repetition of your behaviour on that occasion, I shall not hesitate to withdraw permission for you to come onto the premises.

Yours sincerely,

LA Officer / Chair of governing body



**(Letter, from the LA or governing body, following formal review of a banning letter, extending ban: to parent/carer with child/ren at the school)**

Recorded delivery

Dear .....

I wrote to you on ..... **(insert date)** withdrawing permission for you to come onto the premises of **(insert name)** School until ..... **(insert date)**. In that letter I also advised you that I would take steps to review this decision by ..... **(insert date)**.

I have now completed the review. However, after consultation with the head teacher, I have determined that it is not yet appropriate for me to withdraw my decision. **(Give a brief summary of reasons)**

I therefore advise that the instruction that you are not to come onto the premises of **(insert name)** school without the prior knowledge and approval of the head teacher remains in place until ..... **(insert date)**.

I shall undertake a further review of this decision on ..... **(insert date)**.

**(Insert if the letter is from the governing body)** If you are dissatisfied with this decision, you have a right to request a review of the decision by the governing body.

Yours sincerely,

LA Officer / Chair of governing body

**Letter, from the LA or governing body, following formal review of a banning letter, ending ban: to parent/carer with child/ren at the school)**

Recorded delivery

Dear .....

I wrote to you on ..... **(insert date)** informing you that I had withdrawn permission for you to come onto the premises of **(insert name)** School until ..... **(insert date)**. In that letter I also advised you that I would take steps to review this decision by ..... **(insert date)**.

I have now completed the review. After consultation with the head teacher, I have decided that it is now appropriate to change that decision and I am therefore restoring to you the permission to come onto the school premises, with immediate effect.

I trust that you can now be relied upon to act in full co-operation with the school and that there will be no further difficulties of the kind which made it necessary for me to prevent you entering the premises.

I should point out that if there is any repetition of your behaviour, I shall not hesitate to withdraw permission for you to come onto the premises once more.

Yours sincerely,

LA Officer / Chair of governing body

## **Legal remedies, for violence or abuse against members of a school community**

As well as invoking section 547 of the Education Act 1996, the following two vehicles may be used by an LA on a school's behalf.

### **Section 222 Local Government Act 1972**

Section 222 empowers a local authority to prosecute or defend proceedings where it is considered expedient for promoting or protecting the interests of those living in its area. It would potentially allow the local authority to prosecute an abusive parent under one of the other options mentioned here or, alternatively, to bring civil proceedings against the parent.

### **Anti-social behaviour orders (ASBOs) (under review)**

Anti-social behaviour orders are imposed under the Crime and Disorder Act 1998.

An anti-social behaviour order can be sought by the local authority or chief officer of police and can be made in respect of anyone aged 10 or over who has acted in an anti social manner (a manner which caused or is likely to cause harassment, alarm or distress) and an ASBO is necessary to protect others in the same area from repetition of similar behaviour.

The order can prohibit the defendant from doing anything described in the order provided those prohibitions are necessary to protect others from anti social behaviour. ASBOs last for a minimum of two years (but can be discharged sooner with the consent of both parties) and carry a penalty for breach of a fine up to £5,000, a prison sentence of up to six months, or both (if imposed by the magistrates' court), or an unlimited fine, or up to five years imprisonment, or both (if the conviction was in the crown court).

In the circumstances above we would expect LAs or governing bodies to take the lead on taking relevant action under the above legislation as appropriate.

The LA or governing body has responsibilities as an employer (The Health and Safety at Work Act 1974, sections 2 and 3) to ensure a safe place of work for its staff. School staff have every right to expect that where they wish action to be taken, the LA or governing body will do this. LAs or governing bodies should thus ensure that they are familiar with the relevant legislation and their powers under it.

### **Protection from Harassment Act 1997 (under review)**

This Act is more informally described as anti-stalking legislation, although not only used for that purpose. This action can be taken either through criminal prosecution or a private action for damages in the civil courts. It can be done on behalf of an individual, or a group (e.g. a group of children or teaching staff). The sanctions include both criminal penalties (fines, imprisonment, or community sentences) and a restraining order, which is a flexible order which prohibits the offender from continuing their offending behaviour. For example, it could prevent a parent from coming within a certain distance of a school, or from making phone calls to the school or a teacher's home. The restraining order can last for as long as the court thinks appropriate.

Section 2 of the Act makes it an offence where someone pursues a course of conduct (on more than two occasions) that amounts to harassment of another, causing alarm or distress. The offence can only be tried in the magistrates' court with a maximum penalty of six months imprisonment, a fine of up to £5,000, or both.

Section 4 creates a more serious offence where people have been put in fear of violence on at least two occasions. It can be tried in the magistrates' court or the crown court. The maximum penalty for the offence is six months imprisonment, a fine up to £5,000, or both, in the magistrates' court. In the crown court, it is five years imprisonment, an unlimited fine or both. Where there is a racial element to either the section 2 or section 4 offence, a higher level of sanction applies under section 32 of the Crime and Disorder Act 1998.

Section 3 of the Act provides for a civil route in relation only to the section 2 and 4 offence. The level of proof is lower for the civil proceedings, as it will be to the civil standard of a balance of probabilities rather than the criminal standard of beyond reasonable doubt. If a restraining injunction is imposed on a defendant under the civil route and the defendant breaches the restraining injunction, proceedings for breach of the order become criminal with the offender liable to up to five years imprisonment.

### **Injunctions**

These can be granted by a court to ban somebody from school premises. Generally they are viewed as less flexible and more expensive than alternatives such as a restraining order granted under the Protection from Harassment Act 1997, described above.

### **Criminal Damage Act 1971**

Under this, if a parent or carer destroys or damages property belonging to the school, or to a teacher, he or she can be prosecuted for causing criminal damage. If the value of the damage is below £5,000, the case is tried in the magistrates' court, where the penalty is a fine up to £2,500 or up to three months imprisonment or both. If the damage is above £5,000, the case can be tried in the magistrates' court or the crown court. The penalty in the magistrates' court is a fine up to £5,000 or not more than six months imprisonment, or both. In the crown court, the penalty is an unlimited fine or ten years imprisonment, or both. Where the criminal damage is committed with an intent to endanger life, the maximum period of imprisonment is life. This includes cases of arson with the same degree of intent. There is a racially aggravated form, which carries higher maximum penalties (Crime and Disorder Act 1998, section 30).

### **Common Assault**

Where a member of staff is assaulted by a parent or carer and minor injury is caused, the parent or carer may be charged with common assault in accordance with section 39 of the Criminal Justice Act 1988 .

This can only be tried in the magistrates' court. Where there is a racial element to the offence, the parent or carer may be charged with the offence of racially aggravated assault contrary to section 29 of the Crime and Disorder Act 1998. This can be tried either in the magistrates' court or the crown court. The maximum penalty for common assault is a fine of up to £5,000, or six months imprisonment, or both. The maximum penalty for racially aggravated assault is six months imprisonment or a fine up to £5,000, or both, in the magistrates' court. In the crown court it is an unlimited fine, or two years imprisonment, or both.

### **Assault Occasioning Actual Bodily Harm**

Under section 47 of the Offences Against the Persons Act 1861, a parent or carer can be charged with assault occasioning actual bodily harm where more serious injury is caused to a member of staff (such as broken teeth, extensive bruising or cuts requiring medical treatment). Again, there is a racially aggravated form of the offence. The first form is triable either way. In the magistrates' court, the maximum penalty is six months imprisonment, or a fine up to £5,000, or both. In the crown court, the maximum penalty is five years imprisonment. For the racially aggravated offence, the maximum sentence is the same in the magistrates' court. In the crown court, the maximum sentence is seven years, an unlimited fine or both.

### **Offences under the Public Order Act 1986**

There are four separate relevant offences under this Act. The behaviour that they criminalise has some overlap with the Protection from Harassment Act, but unlike that Act, one incident alone is sufficient to constitute a public order offence. Three of them (sections 5, 4A and 4) are heard within the magistrates' court.

Section 5 is the lower level of public disorder where a parent or carer causes a disturbance in or outside the school and causes alarm, harassment or distress.

Section 4A creates an intentional form of this offence.

Section 4 is more serious, where there is a fear or provocation of violence. The maximum sentence for section 5 is a fine up to £1,000. The maximum sentence for section 4 or 4A is a term of imprisonment not exceeding six months or a fine up to £5,000 or both. There is also a racially aggravated version of all three of the above offences, under section 31 of the Crime and Disorder Act 1998, with higher maximum penalties.

Section 3 of the Act, affray, may be tried either in the magistrates' court or the crown court. This offence is committed when a person uses or threatens unlawful violence such as would cause a reasonable person to fear for his safety; the threat cannot be made by the use of words alone. In the magistrates' court, the maximum penalty is six months, a fine up to £5,000, or both. In the crown court, the maximum sentence is three years, an unlimited fine or both.

In the circumstances outlined above, although the LA may not have the relevant power to take action itself, it should – as the employer – work with the school to provide staff with full support in ensuring that action will be pursued against an alleged offender, under the above legislation as appropriate.

### **Criminal Justice Act 1988**

Section 139A of the Act (as amended by the Offensive Weapons Act 1996) makes it an offence to carry an offensive weapon or knife on school premises. Under section 139B a police officer may enter a school and search for a weapon; where one is found they may seize and retain it. A person who has a weapon on school premises will be guilty of an offence, unless he can prove a statutory defence. The maximum penalty on conviction on indictment for carrying a knife is two years imprisonment or an unlimited fine or both. The maximum penalty on conviction on indictment for carrying an offensive weapon is four years imprisonment or an unlimited fine or both.

The weapons which are caught under section 139A and 139B include any article made or adapted for use for causing injury and any article which has a blade or is sharply pointed. A folding pocket knife with a blade under 3 inches long is, however, excepted although this does not prevent schools from imposing their own bans on pupils carrying them.

In general, where a school suspects a weapon to be on school premises the police should be called. Where the police have reasonable grounds for suspecting a weapon to be on a school's premises they can enter without permission from the school.

### **Non statutory remedies**

Aside from the legal remedies, there are other strategies that can help in preventing conflicts with parents or stopping them escalating. These include mediation and conflict resolution.

Schools might also be able to develop non-statutory acceptable behaviour contracts for some parents similar to those that have been developed by the Metropolitan Police mainly in respect of pupils. These require the agreement of the person to an acceptable level of behaviour.

## **Useful websites**

### **The Department for Education's school security website.**

<https://www.education.gov.uk/publications/standard/publicationDetail/Page1/RR419#downloadableparts>

### **The Department for Education's publication Health & Safety: advice on legal duties and powers for local authorities, head teachers, staff and governing bodies.**

<http://www.education.gov.uk/schools/adminandfinance/healthandsafety/f00191759/departmen-tal-health-and-safety-advice-on-legal-duties-and-powers-for-local-authorities-headteachers-staff-and-governing-bodies>

### **Guidance on Police-School Protocols: Principles and guidance on Safer School Partnerships.**

<http://www.justice.gov.uk/downloads/youth-justice/prevention/SaferSchoolPartnershipsGuidancefinal0509.pdf>

### **Health and Safety Executive (HSE) guidance on risk assessments.**

<http://www.hse.gov.uk/pubns/raindex.htm>

### **Health and Safety Executive (HSE) guidance on reporting school accidents.**

<http://www.hse.gov.uk/pubns/edis1.htm>

### **The HSE RIDDOR website.**

<http://www.hse.gov.uk/riddor/index.htm>

### **NAHT guidance "Social Networking Websites"**

<http://www.naht.org.uk/welcome/advice/advice-home/parents-and-pupils-advice/guidance-on-social-networking/?locale=en>