

# **Complainants who behave in an unacceptable way & barring from the school premises**

**Adopted from WCC Model Policy issued October 2019**

## **Bilton Community Federation**



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### **Introduction**

Schools are private places even though they serve a public function. Parents of pupils who are on the school roll have an implied license to enter school premises. This means parents of enrolled pupils can have access to school premises at certain stated times, for example, a playground at the beginning and end of the school day. The school can set out the conditions and terms of this licence.

This implied license may extend to additional facilities secured by the schools for recreation, physical and social training.

Schools will act to ensure they remain a safe place for students, staff and other members of their community and therefore the school has the power to withdraw the license if a parent is using abusive or insulting language that presents a risk to staff or pupils. It is enough for staff to feel threatened by this behaviour.

## **1. Managing inappropriate behaviour**

- 1.1 If a parent is behaving inappropriately, a report will be made to the head teacher or the most senior member of staff available in their absence, who will decide on the most appropriate course of action.
- 1.2 Parents are advised to raise concerns regarding another parent's behaviour or conduct directly with their child's class teacher or the Headteacher and not to approach the parent themselves.
- 1.3 Instances of parents displaying inappropriate behaviour will be managed in a variety of ways, depending on the severity of the situation.
- 1.4 When a parent has behaved inappropriately, they will be warned about their behaviour, either in writing or in a minuted meeting.
- 1.5 Where this is not enough to resolve the issue, the Headteacher, in collaboration with other staff and relevant agencies, will consider what further action may be required. This action, depending on the situation, could include the following:
  - Barring the parent from the school premises
  - Contacting the police
  - Seeking legal redress through the courts
  - Restricting the parent's channels of communication to the school, e.g. no longer allowing the parent to send emails to a staff member directly
  - Reporting content the parent has posted online to the website's admin
  - Referring the case to children's social care, where the behaviour indicates that the parent poses a risk to children
- 1.6 Any child protection and safeguarding concerns will be addressed in accordance with the school's Child Protection and Safeguarding Policy.
- 1.7 The school reserves the right to escort anyone off the premises who is displaying aggressive or disruptive behaviour and to bar a parent from the school's premises without warning in exceptional circumstances.
- 1.8 Under section 547 of the Education Act 1996, it is an offence for any person to cause a nuisance or disturbance on school premises, and that the police may be contacted to provide advice on managing an incident or to assist in the removal of individuals from the premises, where necessary.
- 1.9 The police will be contacted where a parent is being violent or has committed assault, or where the event has caused harm to an individual.

- 1.10 If a parent has been barred from the premises or has exceeded their implied access to the premises and is causing a disturbance, the police will be contacted to remove the individual from the premises.
- 1.11 If concerns are raised in relation to a parent's appearance or dress, personal factors will be taken into consideration, on a case-by-case basis, when addressing the concern.
- 1.12 If a parent persistently displays unacceptable and inappropriate behaviour, this may result in them being barred from the school premises.

## **2. Barring from the school premises**

- 2.1 The school has the right to bar a parent from the premises to keep the school community safe.
- 2.2 If a parent is displaying inappropriate or concerning behaviour, they will be asked to leave the school premises and an Anti-Social Behaviour Record form will be completed.
- 2.3 Behaviour that could result in a parent being asked to leave the premises includes aggressive, abusive or insulting behaviour or language that is a risk to staff or pupils, or behaviour that is making staff or pupils feel threatened.
- 2.4 If a parent persistently or consistently behaves inappropriately on the school site, or there is a one-off incident of extremely inappropriate behaviour, the school reserves the right to bar this individual from the school site.
- 2.5 The school will bar the parent temporarily, until the parent has had the opportunity to present their comments and any relevant evidence
- 2.6 The head teacher / legal advisors will send a letter to the parent, informing them of the following information:
  - Why they have been temporarily barred or face a bar
  - The nature of the bar, i.e. if they are temporarily barred pending their representation or if they must present their side before the decision to bar can be made
  - That they have the right to formally express their views on the decision to bar in writing to the chair of governors within 10 school days
- 2.7 The head teacher's decision to bar the parent will be reviewed by a committee of governors.
- 2.8 The committee of governors will take account of any representations made by the parent and decide whether to confirm or lift the bar.
- 2.9 The parent will be notified in writing of the decision to uphold or lift the bar.

- 2.10 If the decision is confirmed, the parent will be notified in writing, explaining:
- How long the bar will be in place.
  - When the decision will be reviewed.
- 2.11 Decisions to bar will be reviewed at the end of the agreed timescale, in line with the process outlined above.
- 2.12 Following a review, the bar may be lifted or, if there are grounds for continued concern regarding the parent's conduct, it may be extended.
- 2.13 Once the appeal process has been completed, parents that remain barred may be able to apply to the Civil Courts. If a parent wishes to exercise this option, they should seek independent legal advice.

### **Calling for police assistance**

In an emergency, police assistance should be sought. In cases where a ban is in place but is ignored and the person comes onto the school site, the police should be notified immediately. (Staff will need to be aware of the ban and have agreed procedures in place should the person come onto the school site).

In situations where there is no immediate threat to staff, pupils, other members of the school community or the school's property, Head Teachers may still wish to make their local Community Police Officer (e.g. safer neighbourhood team) aware of the situation.

The police could consider warning the offender of formal action, which may include legal proceedings.

### **Legal proceedings**

Where individuals persist in coming onto the school site even when permission to do so has been withdrawn, it is possible for legal proceedings to be pursued. The options include:

#### **Prosecution under section 547 of the Education Act 1996**

This requires substantial evidence to be gathered and presented by the police and/or local authority. Clearly it is not a quick process, and whilst in most cases the threat may prove to be a sufficient deterrent, prosecution can only be seen as the last resort as a punitive measure.

#### **Appropriate / Acceptable behaviour contracts**

These are voluntary agreements made between people involved in anti-social behaviour, and the school concerned. They are flexible in terms of content and format and can be an effective means of encouraging young adults, children and parents to take responsibility for unacceptable behaviour. The person named does not always agree with the contract, but it can be used as evidence at a later stage for an application for an anti-social behaviour order. Conditions can be put on the contract, e.g. not to enter school grounds.

## **Community Protection Notice (CPN)**

A CPN is a quick response tool, used to tackle a range of behaviours, ranging from low level nuisance to serious acts of anti-social behaviour. Breaching the order is a Criminal Offence which can lead to a fine or other legal remedial action, such as seizure or forfeiture orders.

## **Civil Injunction**

These are sought in the same manner as *'the old'* ANTI-SOCIAL BEHAVIOUR INJUNCTIONS or ANTI-SOCIAL BEHAVIOUR ORDERS however, the legal burden of proof is much lower than previously expected by the Courts. A Civil Injunction can be sought against anyone from the age of 10 upwards. The Order can include both prohibitive and positive measures as a means to control Anti-Social Behaviour. Breaching a Civil Injunction is not a criminal offence but can lead to stronger legal measures being considered.

## **Criminal Behaviour Orders (CBO's)**

A Criminal Behaviour Order must be sought at Court via the Crown Prosecution Service. As such, it is a power mainly used by the Police. Additionally, the CBO can contain conditions and prohibitions that do not relate to the offence which resulted in Court action (i.e. the perpetrator might have been arrested for robbery in the Town Centre, but his/her CBO can relate not loud music in his home).

CBO application must be lodged before sentencing at Court. As with a Civil Injunction, the Criminal Behaviour Order can include both prohibitive and positive measures as a way of controlling Anti-Social Behaviour.

Breach of the order is a criminal offence.

## **Restraining orders (Protection from Harassment Act 1997)**

Section 2 of the Protection from Harassment Act 1997 provides for criminal or civil Prosecution for cases where someone causes alarm or distress to another person on more than two occasions. Section four provides for criminal or civil prosecution where people have been put in fear of violence on at least two occasions. In each case the sanctions include both criminal penalties (fines, imprisonment or community sentences) and a restraining order. These orders are generally quicker and easier to obtain but are part of a criminal conviction.

## **Prosecution for criminal damage/assault**

Prosecutions for causing deliberate damage or injury may occasionally be the most appropriate course of action. If the police are called, the option to make criminal allegations is readily available, and they may arrest suspected offenders there and then.

Official allegations should only be made if there is no intention of later withdrawing the complaint. Criminal proceedings can be initiated at a later date. All possible steps should be taken to prevent the loss of evidence. Witnesses should be asked to make a record of exactly what they saw and heard at the earliest opportunity.

## **Seeking further advice**

Legal advice is available for schools via Warwickshire Legal Services, and individual cases should always be discussed with Legal Services to decide the most appropriate response.

Whilst the emphasis will usually be on ensuring safety and security of persons and property the injunction route is likely to be the most effective deterrent legal action, it does not however necessarily guarantee against the behaviour of the more persistent offender.

### **Record keeping**

There should be clear and detailed records\* of all events which must be kept up to date. Any witness statements (where appropriate) and contemporaneous notes of any subsequent meetings held to discuss the events should also be retained. Notes should be signed and dated. There is often a tendency to use generic language e.g. "he was threatening and abusive." Reporting must be precise e.g. "he pointed his finger at my face from a distance of two feet and shouted that he was "going to f...ing kill me." Words used and body actions / demeanour / voice volume and pitch should all be included

If there is recorded information, such as CCTV, this should be retained, and witnesses should be asked to make a record of exactly what they saw and heard at the earliest opportunity.

It is also advisable to ensure that in every case, even where a formal letter is not required parents receive a written confirmation of the events and the Head Teacher's response.

If the police are asked to deal with an incident as a criminal investigation, there are a number of actions that may hinder this process. Witness details should not be made known to suspected offenders or their families. Groups of witnesses or suspects should not be left together, or allowed to discuss what happened, before the police interview them.

If in doubt always seek the advice of the police officer first.