

- New DFE Guidance on Bullying

The Department for Education has updated its advice on how to prevent and tackle bullying. This guidance is applicable to all maintained schools and academies. All headteachers, staff and governors need to be aware of their responsibilities. Schools/academies must update their policies accordingly. (www.gov.uk)



The statutory background is that under s89 of the Schools and Inspections Act (SIA) maintained schools must have measures to encourage good behaviour and prevent all forms of bullying. These measures should be set out in its behavioural policy. Similarly, there are 2014 Education (Independent School) Regulations which require academies to draw up and implement an effective anti-bullying strategy.

Other relevant considerations are discrimination rights under the Equality Act 2010, Public Sector Equality Duties and SEN under the Children and Families Act 2014. It should also be remembered that in certain cases, there may be child protection or criminal law implications.

You will also be aware that under the SIA a school's powers to discipline may extend to matters outside of school.

The guidance defines bullying as behaviour by an individual or group, repeated over time, that intentionally hurts another individual or group either physically or emotionally and emphasises that it can take many forms and that it often involves an imbalance of power.

It flags up that low level disturbance or offensive language is not acceptable and schools need to stop negative behaviours from escalating and horseplay/banter should not be left unchallenged.

Cyber-bullying is of particular significance these days. The Education Act 2011 allows staff, where the headteacher has given formal permission, to seize electronic devices including mobiles to examine data/files or to delete them where there is a good reason to do so. It states that there is no need for parental consent to do this.

Most usefully, there is now also an additional guidance provided on Cyber-bullying.

- OFSTED

Schools need to demonstrate the impact of their anti-bullying policies. Ofsted will not routinely mark down a school for recorded incidents of bullying. Inspectors are interested in how effectively schools prevent or deal with incidents.



- Approach and Consultation

The guidance emphasises that schools need to consult with parents and pupils. SEN issues, LGB&T issues, police, children's services, and differences of religion/background need to be discussed. Schools need to foster a culture where pupils feel able to report bullying.

Any disciplinary sanctions need to be fair, reasonable and consistently applied. Schools need to factor into their approach any disability/SEN issues or other circumstances that may be relevant to the perpetrator.

Schools must take into account developments in technology and should use organisations with specific expertise to assist them with this. Schools must keep their behavioural policy up to date.

Schools must also offer support to staff who have been bullied.

Whilst every effort has been made to ensure that the content of this newsletter is up-to-date and accurate, no warranty is given to that effect and nplaw does not assume responsibility for its accuracy and correctness. The newsletter summarises latest legal developments but is no substitute for specific legal advice after consideration of all material facts and circumstances.

- Pastoral Support

This should be made available to the victims of bullying and make appropriate support for their needs. It should be remembered that some pupils are particularly vulnerable either because of the level of bullying or due to SEN.

However, the guidance emphasises that as far as possible with victims of bullying, schools should try to ensure that these pupils remain at school as it can make it harder for them to reintegrate if they do not or it may send out the wrong messages to bullies.

That said, if a bullied child's situation is so bad, it may be necessary in conjunction with the LA to look at alternative provision. There is 2013 statutory guidance on this.

- Striking Teachers—Rate of Pay

A recent decision of the Supreme Court has confirmed that if anyone goes on strike for a day, the amount of deduction is 1/365 of their salary. It had been previously thought that the deduction had to be based on 1/260 (number of working days).

- Lessons in Relationships



Justine Greening, the Education Secretary, has announced that children from the age of 4 will be taught about safe and healthy relationships and that age-appropriate lessons will deal with issues such as a health relationship, the dangers of sexting, on-line pornography and sexual harassment. Schools will need to give careful thought as to who will be best placed to deliver these lessons and factor in that their pupils may be more technically savvy than the teachers

- BIG Data Protection changes



All schools need to get ready to comply with the changes to data protection law that take effect on May 25 2018. Below are some key points - let us know if you need any training on this as it is complicated and there are potentially fines of thousands of pounds for non-compliance.

- Schools need to ensure that they have a designated data protection officer responsible for all data issues.
- There is a greater emphasis on having specific consent to use data and that without it, everyday communications may not be compliant.
- All staff need to have appropriate training on data protection and policies need to provide guidance on this.
- There is a greater need for security which will mean more measures such as encryption needing to be used and more detailed record-keeping will also be required.
- There is a new obligation to report data breaches to the Information Commissioner (IC) where breach is high risk.
- There are also a number of new rights including the right to be forgotten which would require the school to delete data records if it meets certain criteria.
- There is a need to provide information to individuals about how their data is handled in notices outlining their rights and how to complain to the IC.
- Schools need to check their insurance policies to see if they are covered for data breach claims.

Contact details If you have any queries relating to this newsletter or wish to seek education advice or discuss training needs, please contact:
andrew.brett@norfolk.gov.uk, 01603 223101

Please follow us on Twitter: @NplawNorfolk



nplaw is LEXCEL accredited and authorised and regulated by the Solicitors Regulation Authority with registration number 65083.