

# Violence and managing student behaviour

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The DfE has [guidance on managing student behaviour in schools](#), including the use of reasonable force, preventing bullying and promoting children and young people's wellbeing.

It is clearly of paramount importance that students exhibiting violent behaviour are treated fairly and equally under the school or college behaviour policy. Justice must not just be done, but be seen to be done in order to prevent further alienation and disaffection which fuels anti-social and violent behaviour.

The Health and Safety Executive (HSE) has published two helpful guidance documents on violence at work, one designed for [employers](#) and one for [workers](#). These offer a risk-based approach which includes assessing the risks, putting the right controls in place and reporting and learning from incidents.

## Individual pupil behaviour risk assessments

Violent or intimidating pupil behaviour can be addressed through appropriate health and safety measures in which the risk to staff and pupils of injury and psychological distress can be managed and controlled. Individual pupil risk assessments can be useful in such situations. Read our comprehensive guidance on [individual pupil behaviour risk assessment](#).

If problems arise, whether at school/college or employer level, in satisfactorily implementing suitable risk management strategies for tackling violent or intimidating pupil behaviour, in the first instance, members should contact the [NEU AdviceLine](#), [NEU Cymru](#) or [NEU Northern Ireland](#).

Staff involved in the drawing up of individual pupil risk assessments should be mindful of the Education (Pupil Information) (England) Regulations 2005 which place a duty on schools to disclose, with a few exceptions, the contents of pupil records to parents and pupils where they make such a request.

## **Refusal to teach**

Except in emergency situations, teachers are likely to be in breach of contract if they refuse to teach students. Industrial action to refuse to teach cannot be taken until relevant procedures, including an industrial action ballot, have been followed and union rules satisfied.

The NEU will protect members where exclusions have been overturned by governing bodies or appeals panels and pupils reinstated. Following appropriate procedures in compliance with legislation and in accordance with the rules of the union, the NEU will consider balloting for industrial action, up to and including strike action, where:

- The retention of such pupils would disrupt education or threaten the welfare of pupils or staff.
- The head teacher, governing body or appeal panel refuses to exclude a pupil.

In such circumstances, members should contact the NEU AdviceLine.

## **Screening and searching students for prohibited items**

In England and Wales, the law allows the following:

- Schools can require pupils to undergo screening by a walk-through or hand-held metal detector (arch or wand) even if they do not suspect them of having a weapon, and without the consent of the pupils.
- Schools' statutory power to make rules on pupil behaviour, and their duty as an employer to manage the safety of staff, pupils and visitors, enables them to impose a requirement that pupils undergo screening.
- Any member of staff can screen pupils.

If a pupil refuses to be screened, the school may refuse to have the pupil on the premises. Health and safety legislation requires a school to be managed in a way which does not expose pupils or staff to health and safety risks, and this would include making reasonable rules as a condition of admittance.

If a pupil fails to comply, and the school does not let the pupil in, the school has not excluded the pupil and the pupil's absence should be treated as unauthorised. The pupil must comply with the rules and attend.

This type of screening, without physical contact, is not subject to the same conditions as the powers to search without consent.

### **Searching with consent**

School staff can search pupils with their consent for any item.

For example, if a member of staff suspects a pupil has a banned item in their possession, they can instruct the pupil to 'turn out' their pockets or bag. If the pupil refuses, the

member of staff can apply an appropriate punishment as set out in the school's behaviour policy. Alternatively, staff members who agree to do so, and, where authorised by a head teacher, can consider conducting a search without consent, provided the following legal requirements are met.

### **Searching without consent**

Head teachers and staff authorised by them have a statutory power to search pupils or their possessions, without consent, where they have reasonable grounds for suspecting that the pupil may have a prohibited item.

Prohibited items are:

- knives or weapons, alcohol, illegal drugs and stolen items
- tobacco and cigarette papers, fireworks and pornographic images
- any article that the member of staff reasonably suspects has been, or is likely to be, used to commit an offence, or to cause personal injury to, or damage to property of, any person (including the pupil)
- any item banned by the school rules which has been identified in the rules as an item which may be searched for (for instance, laser pens).

### **NEU position on screening and searching students**

Such actions are likely over time to undermine the bonds of trust and respect which exist between pupils and school staff and undermine the efforts of school leaders to forge an open, supportive and inclusive school community. Where searching is unavoidable, e.g. where the consequences of failing to act might place a person or persons at risk of serious harm, NEU health and safety representatives are urged to ensure that members are aware of a number of issues.

Firstly, searching involves physical contact, which is a highly sensitive issue, potentially exposing staff to the risk of serious injury – particularly if weapons are used against them or pupils lash out in other ways. NEU advice, therefore, is that staff should think very carefully before agreeing to exercise this power, and certainly resist any pressure to do so.

In relation to searching pupils without consent, while the law allows for this power to be delegated from the head teacher to another staff member, the NEU advises members that they should not agree to undertake this role, due to the potential risks involved.

**In no circumstances can staff be required to search pupils.** The NEU will fully support any members that are asked or pressured to undertake such searches but refuse to do so.

### **NEU advice for members regarding screening and searching of pupils**

Where a member has agreed to search a pupil but is subsequently unsure whether or not it is safe to search them, eg the pupil may violently resist, the NEU advises that the staff member should err on the side of caution and call the police.

Members should use their professional judgement and avoid using any force in relation to a search. If the member has doubts, or if it becomes clear that force will be needed, the member of staff should end the attempt to search.

No member of staff should conduct a search without first having received suitable and sufficient training.

Insurance issues should be carefully considered. School employers should make sure that they are covered, not just for claims by staff who are injured as a result of undertaking searches, but also for claims made against a member of staff who injures a pupil while conducting a search.

Staff should always be mindful of the pupil's human rights, personal dignity, health and data protection rights when searching them. School staff, parents and pupils must be assured that an employer's policies around the use of search powers are both sensible and reasonable.

The power to search without consent should be seen as a 'last resort' and only used if other options have been exhausted. This means that staff should first question a pupil, then, if appropriate, request that the pupil surrenders the item. If this strategy is unsuccessful, the pupil should first be given the opportunity to consent to a search before finally undergoing a search without consent, if it is considered safe to do so.

Declining to search a pupil does not mean that a member of staff is refusing to follow a reasonable instruction from the head teacher. Agreeing to search one particular pupil does not mean that a member of staff has to agree to search any others. Staff who have accepted the power to search pupils may decide to exercise that power on a case by case basis. This decision will be based on the member of staff's professional judgement of the circumstances.