



"The glory of God is  
a human being fully alive!"



# **ST JOSEPH'S CATHOLIC HIGH SCHOOL**

## **DEALING WITH ASSAULT POLICY 2020-2021**

**Date of Review: November 2019**

**Date of Next Review: November 2021**

## Introduction

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 will 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 Governing Body will play a proactive role in taking all possible action to deal with it, in response to the wishes of the school.

The Governing Body:

- acknowledges and accepts its legal obligation:
  - to provide and maintain safe systems of work
  - to provide all necessary information, instruction, training and supervision to enable individuals to be safe
  - to provide and maintain a safe place of work for employers, pupils and visitors to the school
- declares its intention to take all reasonable and practicable measures to this end and to support fully those employees who are the victims of violence, threatening behaviour and abuse
- acknowledges that every employee has the right to be treated with dignity and respect — assaults on staff are not acceptable
- will take measures to deter violence, threatening behaviour or abuse and take action against those responsible.
- It is recognised that staff also have obligations as follows:
  - to take reasonable care of their own health and safety and that of others, including their colleagues and the pupils in their care
  - to cooperate with the Governing Body on health and safety matters
  - to carry out activities in accordance with training, instructions, policies and procedures
  - to tell the Governing Body of any serious risks.

## Definitions

In this policy:

- a) “assault” encompasses any intentional and violent physical conduct and includes verbal abuse as well as threats of and attempted physical assault
- b) “employer” refers to the Governing Body of St Joseph’s Catholic High School
- c) “parent” includes a guardian or carer
- d) “pupil” includes “student”
- e) “local authority” has been used rather than “local education authority”.

This policy sets out the action that will be taken to reduce the frequency of assaults, monitor their occurrence, train staff, support victims of violence and deal with incidents when they occur.

Support that will be offered by the employer, and which is referred to in this policy, includes the following.

- 1) Maintaining a safe working environment and safe practices.
- 2) Identifying levels of risk of violence faced by members of staff.
- 3) Assessing who is exposed to the risk of violence.
- 4) Reviewing risk assessments at regular intervals or when there is any change to the risk of violence.
- 5) Providing adequate training for all staff.
- 6) Ensuring, in the event of an assault, a structured and supportive response from management.
- 7) Implementing a standard reporting and monitoring system.
- 8) Considering exclusion or the application of appropriate disciplinary procedures and sanctions in the case of pupil assailants.
- 9) Reference, if appropriate, to the police.
- 10) The use of statutory powers.
- 11) Relief from duty, if appropriate, following assault.
- 12) Providing medical advice, legal advice and counselling.
- 13) Cooperating with the trade unions of assaulted members.

Where a member of staff suffers an assault away from her/his workplace, and if the assault arises in the course of or via the performance of her/his professional duties, support under these procedures will be provided.

## **Prevention**

The employer will:

- record all assaults on staff and will make statistics based on this information available to staff and trade unions
- undertake regular, suitable and sufficient risk assessments
- use 'Five Steps To Risk Assessment', the HSE guidance, when carrying out risk assessments
- follow these steps in the risk assessment process:
  - a) include the whole of the site, including areas adjacent to the site
  - b) include staff who visit pupils at home as part of the risk assessment process
  - c) identify and assess the risks: activities and workplaces should be looked at and considered for what could reasonably be expected to cause harm
  - d) consideration should be given to everybody at the workplace and everyone using the site
  - e) determine appropriate actions to manage those risks: existing precautions should be examined to establish whether they are adequate and whether more should be done.
  - f) implement the actions. This may include measures such as:
    - training programmes
    - alterations to school entrances
    - implementing procedures for visitors to the school site

- communications systems
- emergency procedures
- the provision of alarms or back-up for staff
- monitoring the results
- informing all staff who might be affected of the outcome of the risk assessment
- keeping a record of the findings and consider how they might be used to prevent harm
- considering risks to the personal safety of staff as part of the risk assessment process
- using the employer's statutory powers to seek to prevent any person entering the school premises without lawful authority who causes or permits nuisance or disturbance to those people lawfully using the premises. Where the name of the intruder is known, warning letters will be sent by the employer making it clear that, if the intruder trespasses again and causes a nuisance or disturbance, they risk prosecution and the matter will be reported to the police. In more serious cases the employer will consider taking out a prosecution and/or injunction against the offenders.

### **Liaison with the police**

The employer will establish and maintain close liaison with the local police. It will draw up a procedure enabling the police to be called and to respond promptly when incidents occur. The employer will work with the local police to confirm the circumstances in which they will pursue a prosecution against an assailant.

The employer will seek to agree with the police that they will obtain evidence and initiate a prosecution when a member of staff at the school is assaulted, even if the assault is minor.

### **Dealing with offensive weapons and knives**

As soon as a member of staff is aware either that a pupil is in possession of an offensive weapon or that there has been an incident involving a weapon the following actions should be taken:

- immediately inform the designated senior manager – all staff should be aware who this is
- immediately inform the head teacher
- staff should not try to deal with the situation alone
- the Headteacher must decide whether it is necessary to contact the police
- the school should consider whether to deal with the matter as a disciplinary issue.

Searching a pupil is a step that should only be undertaken in exceptional circumstances and only with the pupil's consent. The granting of the consent should be witnessed by a colleague or adult witness and the search should be conducted in the presence of a colleague or adult witness. It is preferable for a child's parent to attend if a search is being undertaken.

If the pupil refuses to cooperate, the police should be called. No further action should be taken until the police arrive.

In some exceptional circumstances, action may have to be taken immediately. If this is the case, the pupil should be isolated from other pupils if possible. A colleague or adult witness should be present.

When a weapon or knife is confiscated by a member of staff it is important to:

- a) ensure that the weapon is secure and given to the police immediately on their arrival, or
- b) arrange for the weapon to be removed from the premises by a parent.

Pending the arrival of the police or a parent, the item should be stored in a secure place. The school should keep a record when weapons have been confiscated and returned.

In the event that a pupil has been found in possession of a weapon, the application of the school's discipline and behaviour policy must be considered. Depending on the particular circumstances, the school may wish to invoke disciplinary sanctions which might include detention or exclusion, whether on a temporary or permanent basis.

### **Assaults by adults**

In the case of an assault by a visitor or intruder, the Headteacher will immediately:

- take steps to ensure that all staff and pupils are safe and secure • take appropriate steps to isolate the assailant • and subsequently:
- inform the Chair of Governors
- if the assailant is known:

A report of the incident will be compiled

The member of staff assaulted will be asked to complete the Incident Report Form (Appendix A)

The Headteacher will request that the Chair of Governors send her/him a letter stating that her/his behaviour is unacceptable and that s/he is not permitted to come onto the school premises in future without an appointment, (See Appendix B and C). If s/he does so, and causes a nuisance or disturbance, s/he will be regarded as a trespasser and will be liable to prosecution for causing a nuisance or disturbance as a trespasser on educational premises

- where appropriate, take action to prosecute her/him either directly or via the police.

Where such episodes are a recurrent problem, the school should consider putting a formal notice on the entrance or entrances to the school informing intruders that they may face prosecution.

### **Assaults by pupils**

In the event of an assault on a member of staff by a pupil, the assailant should normally be removed from school immediately. In cases where it is impractical to remove her/him from the premises (eg where attempts to contact parents have been unsuccessful), the pupil concerned should be isolated from other pupils. Exclusion from the beginning of the next day should be considered.

The removal of the pupil, as a fixed-term exclusion, will allow for an investigation of the circumstances of the assault. Permanent exclusion procedures may then follow.

If/when the pupil returns to school, the Headteacher will consult the assaulted member of staff about appropriate arrangements. S/He will not be required or expected to teach, supervise or support the pupil concerned.

## Action when an assault occurs

If a member of staff is assaulted, the following action should be taken.

- S/he should be allowed access to a private area for as long as necessary where s/he can sit with a friend, representative or colleague.
- S/he should be allowed to leave the school and go home if s/he wishes and the employer will make appropriate arrangements which may include arranging transport for her/him.
- S/he may have to attend a hospital, accompanied by a friend, representative or colleague.
- Similarly, s/he may have to attend her/his GP's surgery and may wish to be accompanied.
- S/he may also wish to seek an appointment with the employer's occupational health advisor. Professional counselling services will also be made available free of charge. The staff member will be made aware of the availability of these facilities.
- In addition, staff who have been assaulted will be provided with other appropriate support, including legal advice.
- A medical assessment of any injury should be made as soon as practicable, for example at hospital or by her/his GP. The employer will pay any reasonable charges (eg from a doctor, dentist or optician) which may be incurred in obtaining the assessment.
- In cases of visible injuries, it is helpful to obtain photographs. The employer will pay all reasonable costs of obtaining them.
- If the assault has occurred away from the premises, the school should be formally notified.
- A written record covering the circumstances leading up to the assault, the assault itself and any injury should be made as soon as possible (see Appendix A).
- As soon as practicable after the assault, the member of staff should prepare a written statement on the incident and should be given the opportunity to consult her/his trade union before submitting it.
- Written statements should be obtained as soon as practicable from all witnesses. Wherever possible, they should be prepared on the day of the incident or as soon as possible thereafter.
- The member of staff who has been assaulted should be provided with a copy of all written statements.
- The incident must be reported to the police. The Headteacher, acting on behalf of and with the consent of the member of staff, will normally inform the police of any physical assault on school premises. If the member of staff concerned does not wish the police to be informed, those views will be taken into consideration. In all cases, the member of staff has the right to report the incident personally to the police.
- The incident must be reported to the Headteacher.
- The Headteacher must pass on information about the assault to the Chair of Governors. The Headteacher must confirm this in writing to the member of staff.
- The member of staff should be advised to contact their trade union representative. In any discussions about the incident, the staff member may be accompanied by a representative of her/his trade union who will be accorded facilities time to support and advise the member of staff.

- The Headteacher will undertake an investigation and prepare a formal written report as soon as practicable. This report will be agreed with the employee concerned. The report will be given to the police by the Headteacher or her/his representative and to those with overall responsibility for health and safety.

### **Further support for the victim of assault**

The school will permit the assaulted member of staff to take reasonable paid time off to consult her/his trade union, the police or legal advisors and to attend court if a prosecution is initiated, or for the purposes of any other form of litigation.

Where the member of staff is injured and is obliged to take sick leave, the employer will advise her/him of her/his sick pay rights, including the additional entitlements to sick pay for those suffering injury at work (in accordance with section 4, paragraph 9 of the Burgundy Book for teachers in maintained schools).

The employer, on request, will provide legal advice to assist and prepare the assaulted member of staff for any appearance in court if the matter leads to a criminal prosecution.

If the assaulted member of staff decides to bring a private prosecution, the employer will, on request, offer legal advice and assistance without cost to the employee.

Employees who have been assaulted are encouraged, but should not be obliged, to cooperate with the police to ensure that criminal proceedings are brought. Headteacher's should encourage witnesses (including employees and pupils) to come forward with evidence whenever possible.

If the assailant is prosecuted, the employee and other employees who are witnesses may be required to give evidence in court. Paid leave of absence will be granted for this purpose and appropriate cover will be provided.

In cases where the assaulted member of staff suffers injury, the employer will provide her/him with advice on the prospects of obtaining compensation through the Criminal Injuries Compensation Authority (CICA) and will offer assistance in making and pursuing an application where appropriate.

Where the injuries arising from the assault cause temporary or permanent disablement, the employer will advise the member of staff of any insurance scheme (in accordance with section 8, paragraph 1 and appendix V of the Burgundy Book for teachers in maintained schools).

The employer will compensate the employee for any damage to her/his personal property or clothing as a result of the assault. The employer will also reimburse any prescription charges incurred by the employee as a direct result of the assault

**APPENDIX A**

**Incident report form**

This includes trespass, nuisance or disturbance on school premises, verbal abuse, sexual or racial abuse, threats, aggression, physical violence and intentional damage to personal property.

This form should be completed as fully as possible (please use a continuation sheet if necessary). For an incident involving or witnessed by a pupil, a member of staff should complete the form on their behalf.

However, any discussion between one witness and another should not precede completion of the form, as this might lead to allegations of collusion.

Date of incident: .....

Day of week: .....

Time: .....

**1. Member of staff reporting incident**

Name: .....

Work address (if different from school address): .....

.....

Position: .....

**2. Personal details of person assaulted/verbally abused (if appropriate)**

Name: .....

Work address (if different from school address)/home address (if pupil)

.....

Job/Position (if member of staff): .....

Dept/Section/Class: .....



Age: ..... Sex: .....

**3. Details of trespasser/assailant(s) (if known)**

.....

**4. Witness(es) if any**

Name: .....

Address: .....

.....

Age: (approx): ..... Sex: .....

**Other information**

Relationship between member of staff/pupil and trespasser/assailant, if any

.....

**5. Details of incident**

a) **Type of incident** (eg. if trespass, was the trespasser causing a nuisance or disturbance and how; if assault, give details of any injury suffered, treatment received etc)

.....

b) **Location of incident** (attach sketch if appropriate)

.....

c) **Other details:** describe incident, including, where relevant, events leading up to it; relevant details of trespasser/assailant not given above; if a weapon was involved, who else was present

.....

**6. Outcome:** (eg. whether police called; whether trespasser was removed from premises under section 547; whether parents contacted; what happened after the incident; any legal action)

.....

**7. Other information (to be completed as appropriate)**

a) Possible contributory factors

.....  
b) Is trespasser/assailant known to have been involved in any previous incidents

YES/NO  
.....

c) Give date and brief details of (b) if known  
.....

d) Had any measures been taken to try to prevent an incident of this type occurring? If so, what?  
.....

..  
Could they be improved?  
.....

e) If no measures had been taken beforehand, could action now be taken? If so, what?  
.....

f) Name and contact details of police officer involved, and incident number or crime reference number, as appropriate  
.....

g) Any other relevant information  
.....  
.....

Signed

Date

Please return as soon as possible to:

Headteacher,  
St Joseph's Catholic High School  
Shaggy Calf Lane  
Slough  
SL2 5HW

**RECORDED DELIVERY**

**APPENDIX B**

Dear Sir/Madam,

I have received a report from the Headteacher at St Joseph's Catholic High School about your conduct on (enter date and time).

[Add summary of the incident and of its effect on staff, pupils, other parents.]

I must inform you that the Governing Body will not tolerate conduct of this nature on its premises and will act to defend its staff and pupils. On the advice of the Headteacher I am therefore instructing that (for a temporary period) you are not to reappear on the premises of the School. If you do not comply with this instruction I shall 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.

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 Headteacher.

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, you will be supplied with details of how to pursue a review of the circumstances of your case.

Yours faithfully,

Chair of Governors

*BAN LETTER-1*

*Letter to Parent with child/ren at the school*

**RECORDED DELIVERY**

**APPENDIX C**

Dear Sir/Madam,

I have received a report from the Headteacher at St Joseph's Catholic High School about your conduct on (enter date and time).

[Add summary of the incident and of its effect on staff, pupils, other parents.]

I must inform you that the Governing Body will not tolerate conduct of this nature on its premises and will act to defend its staff and pupils. On the advice of the Headteacher 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 shall 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 faithfully,

Chair of Governors

*BAN LETTER-1(a)*

*Letter to member of the public*

**RECORDED DELIVERY**

**APPENDIX D**

Dear Sir/Madam,

On (give date) I wrote to you informing you that on the advice of the Headteacher, I had withdrawn permission for you to come onto the premises of St Joseph's Catholic High School. To enable the Governing Body to determine whether to confirm this decision 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 date], the contents of which I have noted. (delete either sentence as appropriate). In the circumstances, and after further consideration of the Headteacher's report, I have determined that the decision to withdraw permission for you to come onto school premises should be confirmed. I am therefore instructing that until further notice you are not to come onto the premises of the School without the prior knowledge and approval of the Headteacher. If you do not comply with this instruction I shall 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 Headteacher and staff at St Joseph's Catholic High School remain committed to the education of your child/children (delete as appropriate), who must continue to attend school as normal.

The Governing Body will take steps to review the continuance of this decision on (give date). When deciding whether it is necessary to extend the withdrawal of permission to come onto the school's premises the Governing Body will take into account the extent of your compliance with the decision, any appropriate expressions of regret and assurance 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 Headteacher to ensure that your complaint that (give brief details) is considered under the appropriate stage of the School's parental complaints 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 contacting the Clerk to the Governors.

Yours faithfully,

**RECORDED DELIVERY**

Chair of Governors

*BAN LETTER 2*

*Letter to parent with child/ren at the school*

**APPENDIX E**

Dear Sir/Madam,

I wrote to you on (give date) withdrawing permission for you to come onto the premises of St Joseph's Catholic High School until further notice. In that letter I also advised you that I would take steps to review this decision on (give date).

I have now completed the review. However, after consultation with the Headteacher, 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 St Joseph's Catholic High School without the prior knowledge and approval of the Headteacher remains in place until further notice.

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

[If the letter is from the Governing Body] If you are dissatisfied with this decision, you have a right to complain to the local education authority.

Yours faithfully,

Chair of Governors

*BAN LETTER 3*

*Letter to parent with child/ren at the school*

## DEALING WITH ASSAULT POLICY 2014 - 2016

### APPENDIX F

Dear Sir/Madam,

On (insert date) I wrote to you informing you that, on the advice of the Headteacher, I had temporarily withdrawn permission for you to come onto the premises of St Joseph's Catholic High 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).

[However] In the circumstances, and after consulting with the Headteacher, 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 again.

Yours sincerely,

Chair of Governors

*UNBAN LETTER*

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### APPENDIX G

Dear Sir/Madam,

I wrote to you on (give date) informing you that I had withdrawn permission for you to come onto the premises of St Joseph's Catholic High School until further notice. In that letter I also advised you that I would take steps to review this decision on (give date).

I have now completed the review. After consultation with the Headteacher, 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 again.

Yours sincerely,

Chair of Governors

*Depending on who signed original banning letter. UNBAN LETTER 2*

### **Legal remedies for violence or abuse against members of the 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. There is further information on some of the remaining remedies in this Annex in School Security Dealing with Troublemakers (DfEE and Home Office 1997). This is available free from the Department's Publications Despatch Centre 0845 602 2260 or on [www.dfes.gov.uk/schoolsecurity/dwthome.shtml](http://www.dfes.gov.uk/schoolsecurity/dwthome.shtml)

#### **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**

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. LEAs or governing bodies should thus ensure that they are familiar with the relevant legislation and their powers under it.

Other remedies are available under civil and criminal law. These are as follows:

#### **Protection from Harassment Act 1997**

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.



## DEALING WITH ASSAULT POLICY 2014 - 2016

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 LEA 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.

## DEALING WITH ASSAULT POLICY 2014 - 2016

### **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.