

BANNING OF PARENTS OF PUPILS AT MAINTAINED SCHOOLS FOR MISBEHAVIOUR

1. CAN THIS BE DONE?

Yes - case law has established it can. However, certain procedures need to be followed to avoid a ban being overturned by legal challenge.

2. DO PARENTS HAVE AN ABSOLUTE RIGHT TO COME ON TO SCHOOL PREMISES?

No - school premises are not public open space. Parents have rights to attend and enter school premises for legitimate proper purposes - normally in connection with the attendance at the school of their child/children. To that extent, they have greater access rights than the general public but they are not absolute. Schools may determine, within reason, where, on a school site parents may enter and where they may not. The only real exception to the above is if a school happens to have a public right of way (i.e. public footpath or bridleway) running through its grounds. This will be rare - legal advice should be taken in this situation.

3. WHO CAN DECIDE ON A BAN?

As the essential day to day control over maintained schools is with the Governing Body (GB), it is they who should decide. In very serious cases on a short-term basis, the Head may impose a temporary ban (see below).

4. WHAT SORT OF BEHAVIOUR CAN LEAD TO A BAN?

Any sort depending on the seriousness of what has happened - threats, actual violence, (whether towards staff, other parents or pupils), damage to property, refusal to leave when asked, disruption of the running of the school, general abusiveness - all may be relevant.

Clearly, the Head must decide whether the situation has been reached for proposing an actual ban or for a warning letter saying that repeats of such behaviour may well lead to a ban. This is a matter for individual judgment - things may occur in stages or be so serious that consideration of a ban comes immediately. Schools must bear in mind that they are likely to have to maintain some sort of working relationship with the parents if the child remains at the school. Sometimes it may be appropriate for Legal and Democratic Services to write to parents - it all depends on the situation and those involved.

5. **THE PROCESS**

Make sure all those involved in any incidents or witnesses to those incidents make a full written record as soon as possible - i.e. before memories fade. The Head will need to assemble the full accurate facts before proceeding. The crucial elements are:-

- (a) Write to the parent setting out what has happened in detail and why it is unacceptable. Explain that the school will consider banning the parent by way of a GB (or sub-committee of GB) meeting. Give the parent a short (say 7 days) period in which they may respond in writing giving their version and saying why they should not be banned.

Does the parent have a right to attend the GB meeting? - No, it is a matter of discretion for the GB whether to allow this. The key is that the parent has had an opportunity to put their side of the story to the GB in writing. It would normally be appropriate to tell the parent when the decision will be made.

Points to watch: - Can the parent read and write? If not, a different method of communication will be needed. Who, exactly, are you able to ban? Lots of evidence against one parent doesn't mean there is a basis for banning the other one. You should only consider banning those against whom there is good solid evidence of misbehaviour. Involvement of the other parent might present a way forward avoiding the need for a ban altogether.

- (b) Set up a meeting of the GB (or sub-committee) as soon as possible - to meet after the end date for representations from the parent. Head to make sure GB has all the relevant evidence - including any reps from parent. Decide if parent is to be allowed to attend - if yes, give time, date and venue to parent and explain procedure.

NB - if the behaviour involved has been very serious, it may be appropriate for the Head to impose a temporary ban on the parent - but only as a short-term measure leading to the above full procedure. All details of any such temporary ban should be explained fully to the parent - preferably in writing.

- (c) At the GB Meeting - the GB considers all the evidence - probably via a report from the Head plus any witnesses and any parental representations.

What to do re. disputed facts? In this context, the events must be proved "on the balance of probabilities" i.e. is it more likely than not that it

happened? Remember - the more serious the allegation, the stronger the evidence is likely to have to be to satisfy this test.

The GB decides whether to impose a ban and on whom.

Golden Rules: - the ban should not be open-ended. It should be for a fixed period with a review at the end. That review should take into account what happens in the intervening period and then decide whether to extend the ban or not. It is suggested initial bans should not be for over 4 months unless there are exceptional circumstances.

- the parent must receive a full written explanation of what has been decided and why - they must be able to follow the basis of the decision and what view the GB took of any representations they made. The length of and premises covered by the ban must be explained as must its length and the review process. Clearly, if a ban is not imposed, that must be explained to the parent.

Practical Points: - make sure, if the children of the parent are young or disabled, that safe and effective arrangements for delivery and collection of them at school are made i.e. the ban should not put the children at risk.

Make sure clear arrangements are made to enable the banned parent to request, through the Head, for a pre-arranged meeting with staff at the school for proper purposes. This will allow school to prepare and avoid depriving a parent of all rights to communicate with the school. Remember, you can control when these meetings happen and who attends.

Don't forget to hold the Review where appropriate and keep the parents informed.

6. **WHAT, IN FACT, DOES A BAN ACHIEVE?**

The cynic might say - on its own, not a lot. There is no inherent "magic" in a ban - it is not a Court Order in itself. However, bans are an important step in -

- (a) Confirming to a parent that the school will not tolerate misbehaviour - setting an example to others.
- (b) Showing the school takes the health and safety of its staff, pupils and visitors seriously.
- (c) Forming a key element in making it easier to use more draconian legal remedies to prevent repeated misbehaviour - primarily
 - (i) Use of S547 of the Education Act 1996 to enable Police removal and possible prosecution of those on school

premises without permission and who cause a nuisance to legitimate users. When it comes to parents, they will often start off on school premises with permission and, and thus, if they misbehave, will have to be told to leave before S547 could be relevant. If, however, they are subject to a ban, that will not be so and if they come on to school premises and misbehave, S547 can be used immediately.

and in exceptional circumstances

- (ii) Forming the basis for an application for an injunction to curtail repeated instances of misbehaviour. Injunctions are generally discretionary - having properly been through the banning process is likely to increase the chance of getting one.

7. **CAN A PUPIL LEGITIMATELY BE PUNISHED FOR MISBEHAVIOUR ON SCHOOL PREMISES BY HIS/HER PARENTS?**

No.

8. **COMMON SENSE**

If there is a ban and the subject parent steps on to the playground etc. but behaves perfectly properly, it is unlikely that anything will/can be done other than a warning. Really bans are to assist in stopping further misbehaviour by the parent on the school premises. It is if further misbehaviour occurs that they really bite.

9. **ARE BANS RELEVANT TO MISBEHAVING NON-PARENTS I.E. TRESPASSERS ON SCHOOL PREMISES?**

No, not really - as such people will not be authorised to be on the premises in the first place, S547 of the Education Act will mean they are committing a criminal offence and can be removed if they cause a nuisance on the premises. A ban adds nothing to this - it is only relevant to those who would normally be entitled to be there i.e. parents.

10. **CAN PARENTS CHALLENGE BANS?**

There is no automatic internal right to appeal a ban (though the GB could choose to give this right) but a parent might seek to bring Judicial Review proceedings in the High Court - hence the need for solid process and this guidance!

Perhaps unfortunately, there would be nothing to stop a parent using the school complaints procedure to raise a complaint about a ban imposed on them.

11. **LEGAL ADVICE**

It is always appropriate for a school to seek legal advice about this topic as it can lead to legal issues arising and procedure need to be up to scratch. It is necessary to keep Human Rights in the sense of “right to a fair trial” in mind.

12. **GENERAL POINTS**

Bans should not be used as a substitute for reporting criminal matters - e.g. assault, criminal damage, public order offences - to the Police. Bans may also arise from such behaviour but Police involvement and actual or threatened prosecution remains by far the most effective deterrent for the vast majority of parents. Often bans are not the first but a later step in a process. Warnings of bans may be enough - it all depends on the circumstances. Be aware that by way of the Data Protection Act, a parent may be able to obtain sight of copies of information about themselves in GB minutes.

13. **THE KEY POINTS**

- (a) Assemble the evidence fully and quickly - get the accurate facts. Take care in deciding against whom the evidence will support a ban.
- (b) Make sure the parent understands what is happening and why - give them the chance to put their side of the story and explain why a ban is proposed.
- (c) Always time-limit a ban with a review process.
- (d) Make sure parent understands outcome and why it is what it is.
- (e) Provide arrangements for legitimate business between banned parent and school to take place - bans should not disadvantage the child.