

Ensuring good behaviour in schools: guidance for governing bodies, head teachers, school staff and Employers

Consultation Response Form

The closing date for this consultation is: 30 May
2011

Your comments must reach us by that date.

THIS FORM IS NOT INTERACTIVE. If you wish to respond electronically please use the online or offline response facility available on the Department for Education e-consultation website (<http://www.education.gov.uk/consultations>).

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes, primarily the Freedom of Information Act 2000 and the Data Protection Act 1998.

If you want all, or any part, of your response to be treated as confidential, please explain why you consider it to be confidential.

If a request for disclosure of the information you have provided is received, your explanation about why you consider it to be confidential will be taken into account, but no assurance can be given that confidentiality can be maintained. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data (name and address and any other identifying material) in accordance with the Data Protection Act 1998, and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

Please tick if you want us to keep your response confidential.

Reason for confidentiality:

Name	Will Gardner
Organisation (if applicable)	Childnet International
Address:	Studio 14, Brockley Cross Business Centre, 96 Endwell Road, London SE4 2PD

If your enquiry is related to the policy content of the consultation you can contact the PCU helpline on:

Telephone: 0370 000 2288

If you have a query relating to the consultation process you can contact the Consultation Unit on:

Telephone: 0370 000 2288

e-mail: consultation.unit@education.gsi.gov.uk

Please mark an X in the box below that best describes you as a respondent.

<input type="checkbox"/> Teacher	<input type="checkbox"/> Governor	<input type="checkbox"/> School Support Staff
<input type="checkbox"/> Local Authority	<input type="checkbox"/> Pupil / Young Person	<input type="checkbox"/> Parent / Carer
<input type="checkbox"/> Union	X Charity	<input type="checkbox"/> Voluntary Group
<input type="checkbox"/> Other		

Please Specify:

Childnet is a registered charity working with children, young people, teachers, parents and carers, government and policy makers to help make the Internet a great and safe place for children. Set up in 1995, Childnet is an independent organisation that seeks to promote the positive use of technology and highlight the positive things that children are doing with new technology, as well as responding to the potential negative side.

Childnet's Education Team have for the past ten years worked on a regular basis in both primary and secondary schools across the UK, conducting targeted comprehensive sessions on e-safety and positive use of ICT technologies as well as considering the risks that school age users may encounter and designing and developing resources to promote safety.

Childnet has produced a range of successful and award winning resources designed to empower the whole school community. In particular, Childnet has previously worked closely with the DoE/DCSF/DfE, BECTA and the TDA on strategic educational projects including the award winning 'Know IT All for Parents' resource of which 2 million copies have been distributed to schools across the UK.

Of particular relevance to this consultation, Childnet wrote the Cyberbullying Guidance, (working with the Cyberbullying Taskforce), that formed part of the 'Safe to Learn: embedding anti-bullying work in schools' for the Department of Children Schools and Families, and also the summary document 'Cyberbullying: a whole-school community issue' and 'Cyberbullying: Supporting school staff' (working closely with the Teaching Unions). We also produced further resources to assist in the teaching and raising awareness about cyberbullying and safe and responsible use of technologies for children, parents and school staff, most notably here the film 'Let fight it together', see <http://www.digizen.org/resources/cyberbullying/films/uk/lfit-film.aspx>. This film has been adapted and adopted for use in other countries, including Australia, New Zealand, Germany and Denmark, and it is also shown in schools across the world.

In January 2011, Childnet was appointed by the European Commission as the UK's Safer Internet Centre, in partnership with the South West Grid for Learning and the Internet Watch Foundation, see www.saferinternet.org.uk .

Ensuring Good Behaviour in Schools

1 Did you find the summary of roles and responsibilities for governing bodies, heads and teachers, parents and pupils, useful?

Yes

No

x Not Sure

Comments:

Childnet support the duty put on the governing body to consult with parents and pupils (as well as the head teacher and staff) when developing the principles that inform the behaviour policy. We see that policies are likely to be more effective when the whole school community has been able to input into the process and can own the policies to some extent. Policies are living and breathing rules, not simply documents for reference. And we have found the approach of making cyberbullying a whole-school community issue, requiring a whole-school community approach, to have been a widely recognised and accepted strategy. As a comment here, we feel that it would be useful to the schools reading this Guidance to see or be pointed to examples of schools who have successfully engaged with the whole school community including children and young people in the formation of their behaviour policies, to give ideas on how it can be done.

We would like to see a more specific mention of cyberbullying in this advice. When 'all forms of bullying' is mentioned, we see great value in specifying cyberbullying as an example, as it is important that this issue is recognised and taken as seriously as other forms of bullying. This all the more relevant, as incidents of cyberbullying are likely to take place out of school. Cyberbullying, though it often takes place outside of school does have a direct impact on the school lives of children and young people, and we have seen a great improvement in the past few years of schools recognising and taking on responsibility in this area. The risk of not specifying cyberbullying more clearly in this Guidance does put at risk the progress that we have made.

Childnet would specifically like to raise an issue that relates to the Searching of pupils, though more specifically the searching of pupil's possessions, and also to the disciplining of pupils as a result. There has been a need for greater clarity in this area in relation to cyberbullying, and mobile phones specifically. In the original Safe to learn guidance on cyberbullying, following advice from the DCSF, the issue was outlined as follows:

"School staff may request a pupil reveal a message or show them other content on their phone for the purpose of establishing if bullying has occurred, and a refusal to comply might lead to the imposition of a disciplinary penalty for failure to follow a reasonable instruction. Where the text or image is visible on the phone, staff can act on this. Where the school's behaviour policy expressly

provides, a member of staff may search through the phone themselves in an appropriate case where the pupil is reasonably suspected of involvement” (1.1.8, p7, Safe to Learn: embedding anti-bullying work in schools, Cyberbullying, <http://www.digizen.org/resources/cyberbullying/understanding/default.aspx>).

In 2009, Childnet wrote some further Guidance on Cyberbullying: supporting school staff, and this time the advice from the DCSF was slightly different: “Staff cannot search the contents of a pupil’s mobile phone without the consent of the pupil. Where a pupil refuses to allow the contents of his/her phone to be searched, the matter can be referred to the police who have more extensive search powers. If the pupil is suspected to have committed a criminal offence, it may be advisable to involve the police from the outset” (p5, http://www.digizen.org/downloads/cyberbullying_teachers.pdf).

So previous Guidance has not been clear on this point, as on the one hand, the advice to schools is that searching is allowable if school policies allow for this, but on the other hand, the searching is not allowed and the police can be brought in to enable a search. Clearly the opportunity has presented itself in the drafting of this new guidance to clarify this situation.

Childnet, having reviewed this new Guidance do not feel this situation has been sufficiently clarified. This Guidance agrees that staff can search pupils with their consent for any item which is banned by the school rules. And head teachers and others authorised by the head, can search pupils and their possessions without consent of the pupil where they suspect that a pupil has weapons, alcohol, illegal drugs and stolen items.

How does the new Search of pupils apply to content on mobile phones, say for example content such as images which contain inappropriate or indecent images, or content of a bullying nature? Childnet would encourage this issue to be clearly specified here, as otherwise it will lead to uncertainty and confusion on the part of schools.

Specifically:

“School staff can search pupils with their consent for any item which is banned by the school rules’. Can this be drafted so it does clearly indicate that this would also refer to content on mobile phones for example. So the search in this case would be of pupils and their possessions.

‘Head teachers have the power to search pupils or their possessions, without their consent, where they suspect the pupil has weapons, alcohol, illegal drugs and stolen items’. This drafting alludes to the situation that staff may not search mobile phones without the consent of the pupils, which is consistent with the Guidance given in Cyberbullying: Supporting school staff.

Childnet would support this stance, but would require that this is spelt out here, as currently this is not clear.

The Guidance, Ensuring good behaviour in schools does specify the power of schools staff to discipline when fail to follow a reasonable instruction. Do we assume then that with regards to searching the phone of a pupil suspected of involvement of cyberbullying for example, that the request can be made to the pupil, and punishment can ensue following a refusal to comply with such a request, but that neither school staff, nor head teachers have the power to search the mobile phones of pupils (beyond what is visible on the screen at the moment of confiscation).

Childnet, with its partners the South West Grid for Learning and the Internet Watch Foundation, form the UK Safer Internet Centre, see www.saferinternet.org.uk. One issue which has arisen, particularly in the work undertaken by our partner the SWGfL in establishing a helpline for professionals working with children (Professionals Online Safety Helpline, or POSH, see <http://www.saferinternet.org.uk/helpline>), is that a proportion (26%) of cyberbullying of school staff actually is by parents and carers of the children at school (<http://www.swgfl.org.uk/News/Content/News-Articles/Professionals-Online-Safety-Helpline>). Childnet wanted to make sure that appreciation was given to this issue in the drafting of this Guidance.

Behaviour and Discipline in Schools: guidance for head teachers and school staff

Having read this guidance:

2 a) Do you understand your powers better?

Yes

No

Not Sure

Comments:

In point 10, p2, there is reference to the standard of behaviour expected of all pupils to be included in the school's home-school agreement. Childnet would recommend that this is reflected through all relevant policies and agreements at school, including for example the Acceptable Use Policy in relation to ICT use, for both in and out of school.

Childnet strongly recommend that in this document, as in the others included in this consultation, a strong and explicit reference to online behaviour is given, to ensure the school sees that it has the power and duty to deal with cyberbullying. For eg, in paragraph 20, p5, the school behaviour policy should set out what the school will do when bullying occurs anywhere off the school premises – adding “including on the internet and via new technologies” will bring greatly strengthen and make clear this issue to schools, and also give greater recognition to the fact that this guidance includes and applies to the internet and other technologies too.

On p7, in the footnote 5, it outlines the Government's intention to make regulations to add pornography to the list of prohibited items, which would then allow for searching without consent. Childnet has raised the issue about the lack of clarity about the ability of school staff to search mobile phones of pupils that needs to be clarified. The reasons for wanting to search a phone may be linked to pornography, but could be cyberbullying more broadly, and could even include indecent images of children. Childnet urges the Guidance to be much clearer in their advice to schools on this subject of being able or not to search the phones of pupils. See the response to Question 1 above.

2 b) If relevant, would you be more confident in using these powers?

Yes

No

Not Sure

Comments:

Behaviour and Discipline in Schools: guidance for governing bodies

Having read this guidance:

3 a) Do you understand your powers and duties better?

Yes

No

Not Sure

Comments:

This Guidance for governing bodies should specifically make Governors aware of the issue of cyberbullying. Cyberbullying forms a significant part of overall bullying – recent research by Prof Sonia Livingstone found that whilst 21% of 9-16 year olds said they had experienced bullying, 8% said they had experienced cyberbullying

([http://www2.lse.ac.uk/media@lse/research/EUKidsOnline/EUKidsII%20\(2009-11\)/ParticipatingCountries/UKReport.pdf](http://www2.lse.ac.uk/media@lse/research/EUKidsOnline/EUKidsII%20(2009-11)/ParticipatingCountries/UKReport.pdf) , p9). It is imperative that cyberbullying is explicitly made clear to Governors in this Guidance, and that cyberbullying, ie bullying using the internet or mobile phones, is included. This issue is particularly pertinent when there is consideration of bullying beyond the school gates.

Childnet have also expressed elsewhere in this response, the need for there to be much greater clarity around searching powers in relation to mobile phones and pupil-owned technology.

3 b) If relevant, would you be more confident in using these powers?

Yes

No

Not Sure

Comments:

Use of Reasonable Force

Having read this guidance:

4 a) Do you understand your powers better?

Yes

No

Not Sure

Comments:

4 b) If relevant, would you be more confident in using these powers?

Yes

No

Not Sure

Comments:

Screening, Searching and Confiscation

Having read this guidance:

5 a) Do you understand your powers better?

Yes

X No

Not Sure

Comments:

Childnet have made comments earlier in the document about the need for greater clarity for school on their ability to search technology personally-owned by the pupils, such as a mobile phone. This is not explicitly given in this Guidance. This Guidance outlines that consent is required unless there is a suspicion the pupil has a prohibited item, which includes knives or weapons, alcohol, illegal drugs and stolen items. This implies that it is not possible to search pupils' mobile phones without their consent. If this is the case, the Childnet strongly recommend that this is explicitly stated, so that schools can be clear on this issue.

This Guidance states that 'The ability to give consent may be influenced by the child's age or other factors'. Greater clarity would be useful here, or at least a link to somewhere where this is discussed or outlined in further detail (see responses to Questions 1,2 and 3).

Comments:

Childnet strongly recommend that more explicit reference is given to online behaviour and the online world and cyberbullying. This is a significant issue which it is imperative that schools are fully aware of in relation to preventing and tackling bullying. Currently, there are not enough references to this in this document which runs the risk that this issue will not be taken on by schools.

Currently there is an indirect mention of cyberbullying in the section looking at Criminal Law, with a description of the Malicious Communications Act 1988. However, there is no mention of this when there is a discussion about Bullying Outside school premises. It is vital that there is mention of cyberbullying here. If we want schools to take cyberbullying seriously, and recognise that it is within their remit to prevent and respond to this type of bullying even when it is likely to actually take place outside of school, and online, then schools need to be given explicit indications that this is under their remit here.

The first paragraph of 'Dealing with Bullying' on p3, there is a need to address cyberbullying more accurately. The term cyberbullying is introduced without any explanation, and it would be worth making sure everyone understood what this was at this point. The simplest definition is bullying via technology, but cyberbullying can take a wide variety of different forms.

In the section looking at Successful schools, the approach that has been taken and promoted in relation to cyberbullying, and other forms of bullying, is a 'whole-school community approach', involving all members of the schools community, from teachers and non-teaching staff, heads and governors, but also parents and carers and the children and young people themselves.

We would add education to this list of actions by Successful schools. We have done a lot of work to educate children and young people, as well as parents and school staff, on digital citizenship, and the safe and responsible use of new technologies. Young people need to be able to look after themselves and their peers and wider community in their use of technology. This is the ultimate answer to cyberbullying, making sure that children know how to use the technology safely and responsibly, supported by parents and carers and school staff.

There is a brief mention of the new Ofsted inspection framework that will come into force in 2012. This is an effective motivator for action and accountability, and it may be useful to give this sentence more prominence that it currently has. Adding the phrase 'including cyberbullying' in relation to Ofsted's framework including behaviour and safety as key criteria, this discussion of would be a powerful message that this issue is taken into the heart of the advice from the Government.

In the FAQs, particularly the question about out of school bullying, adding for

example cyberbullying, would be a strong addition.

In the FAQ on involving parents in anti-bullying work, it would be a strong preventative message to include something about making sure the parents are familiar with the rules on acceptable and unacceptable use of technology.

In the Further Sources of Information:

There is reference to the Let's Fight it together film. It is on Youtube, though many schools may have difficulties showing a film from Youtube due to their filtering. It is also at <http://www.digizen.org/resources/cyberbullying/films/uk/lfit-film.aspx>, which would be a more appropriate link to give.

We would also like to give some more information to the mention of Childnet International. Our website is www.childnet.com, we have a site that houses much of our cyberbullying work at www.digizen.org.

6 b) If relevant, would you be more confident in using these powers?

Yes

No

Not Sure

Comments:

6 c) Are the Department's expectations on how schools should tackle bullying sufficiently clear?

Yes

No

Not Sure

Comments:

**Dealing with allegations of abuse against teachers and other staff:
guidance for local authorities, head teachers, school staff, governing
bodies and proprietors of Independent Schools.**

Having read this guidance:

7 a) Do you understand how to fulfil your statutory duties better?

Yes

No

Not Sure

Comments:

7 b) If relevant, would you be more confident in using these powers?

Yes

No

Not Sure

Comments:

In general

8 Is it clear from the documents that school leaders should provide pastoral support to teachers?

Yes

No

Not Sure

Comments:

9 Is there anything else we could usefully add?

Comments:

Childnet want to see a greater mention of cyberbullying in these Guidance documents. There has been great effort over the past few years in particular and some successes in schools taking steps to prevent cyberbullying. It has been the focus of a recent Anti-bullying week for example, and many schools have ordered resources dealing with this subject area. The risk of it not featuring more prominently in this Guidance is that it will not feature in the policies drawn up. There is much more detail about cyberbullying, which readers of the current guidance may not be aware of. The fact that cyberbullying can take place in a variety of ways, via a range of different technologies, such as social networking, mobile phone texts and picture messaging, gaming, instant messenger, and video-hosting sites for example.

Some aspects of cyberbullying are different. The nature of the technology for example means that the bully can reach their target 24/7, and be able to reach them while they are at home, even in the privacy of their own bedroom. The differences cyberbullying bring also have implications for prevention, for examples, the policies that need to be updates, such as the AUP. The fact that there is evidence, and it should be kept, the fact that reports can be made to service providers, for example to get content taken down off their service. None of this is addressed at all in these Guidance documents, and that is an opportunity missed.

Education is a key preventative measure, and that education should be for the whole-school community, but particularly the children and young people. There is not enough mention of this work as a key policy strategy. Childnet recommends that a priority is put on Education for prevention. The key method for reducing and preventing bullying is in the development of citizenship, including digital citizenship and e-safety skills, so pupils have the skills to use technology safely and responsibly with regard to themselves and others.

And we have outlined in this response that there is a great need for clarity particularly about the ability (or not) of staff to search mobile phones of children.

Thank you for taking the time to let us have your views. We do not intend to acknowledge individual responses unless you place an 'X' in the box below.

Please acknowledge this reply X

Here at the Department for Education we carry out our research on many different topics and consultations. As your views are valuable to us, would it be alright if we were to contact you again from time to time either for research or to send through consultation documents?

X Yes

 No

All DfE public consultations are required to conform to the following criteria within the Government Code of Practice on Consultation:

Criterion 1: Formal consultation should take place at a stage when there is scope to influence the policy outcome.

Criterion 2: Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.

Criterion 3: Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

Criterion 4: Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

Criterion 5: Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

Criterion 6: Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

Criterion 7: Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

If you have any comments on how DfE consultations are conducted, please contact Donna Harrison, DfE Consultation Co-ordinator, tel: 01928 738212 / email: donna.harrison@education.gsi.gov.uk

Thank you for taking time to respond to this consultation.

Completed questionnaires and other responses should be sent to the address shown below by 30 May 2011

Send by post to

Paula Morgan
Behaviour and Attendance in Schools Division
Sanctuary Buildings
Great Smith Street
London
SW1P 3BT

Send by e-mail to: behaviourguidancedocuments@education.gsi.gov.uk