

TROUBLEMAKERS ON SITE

TRESPASS

Trespass is not, generally, a criminal offence. Schools are not public places and anyone who enters without permission of the Headteacher (who has day to day management of the school) is trespassing, unless there is a recognised “right of way” across the school site. Some groups of people, such as parents, have an “implied licence” to enter school premises.

A number of people may have good reason to be on the school premises and therefore possess an “implied licence” i.e.

- Registered pupils of the school during school hours or by agreement of the Headteacher e.g. after school clubs and sports. Pupils who have been excluded could, however, be trespassers.
- Parents or guardians responsible for a pupil at the school.
- Governors, OfSTED inspectors, Local Authority staff, contractors, those using facilities provided as part of a school “let” etc.

Governing bodies may wish to consider posting signs up to indicate that access to the site is restricted and that all visitors should report to reception. The existence of good school security measures will also assist in minimising the incident of trespass. Examples of security measures include: appropriate signs, reception area, signing system, badges for visitors, access control and maintaining boundary fences in good order.

NUISANCE AND DISTURBANCE

If a trespasser refuses to leave a school premises or enters after being required to leave or causes a disturbance, their behaviour may give rise to a criminal offence under Section 547 of the Education Act 1996. As a general rule, anything done by trespassers where it disrupts the routine of the school or the duties of its staff will be an offence.

Section 547 of the Education Act 1996 makes it a criminal offence for a person who is on school premises without legal permission to cause or permit a nuisance or disturbance. Trespassing itself does not constitute a criminal offence.

To have committed a criminal offence, an abusive individual must have been barred from the premises or have exceeded their ‘implied license’, then also have caused a nuisance or disturbance.

If a school has reasonable grounds to suspect that someone has committed an offence, then they can be removed from the school by a police officer or a person authorised by the appropriate authority such as the:

- governing board
- local authority
- proprietor of that school

Where an individual has an “implied licence” to enter school premises this can be withdrawn by the Headteacher, provided authority to do so is delegated to the Headteacher by the governing body. Publicising this through signs or the school prospectus is helpful and prudent since this can clarify the circumstances in which consideration would be given to barring someone from the site. Recent case law (*Wandsworth Borough Council v A*, 2000) makes it clear that if the person to be barred has an “implied licence” to enter the premises, he or she should first be given an opportunity to make representation as to why a ban should not be imposed before a final decision is taken to withdraw the licence to enter. A ban will be effective immediately. A refusal to accept a ban from school premises may lead to consideration being given to applying to the court for an injunction and/or to the taking of action under Section 547 of the 1996 Act.

The incidence of such behaviour appears to be on the increase with parents being the main offending group.

REMOVING TRESPASSERS FROM THE SITE

It is possible to remove from the school premises people who are suspected of committing an offence under section 547. Police constables may do this, a person authorised by the Local Authority or, in voluntary aided and foundation schools a person authorised by the governing body.

Headteachers need to use discretion in determining whether they, or other staff, are able to safely escort a trespasser from the site. Although they would be entitled to use reasonable force, this should be avoided, and the police called if the situation is impossible to control. School staff should not put themselves at risk. Anyone taking this action must be able to justify their actions and show that the action taken was appropriate and proportionate in the circumstances. Therefore, there should be reasonable cause to suspect the person of committing, or having committed, an offence under Section 547.

RECORDING EVENTS

It is very important to record by making a file note of any event involving trespass that results in nuisance or disturbance. Witnesses, if any, should also make signed and dated statements of what they said and heard.

WARNING LETTERS

Different considerations apply in relation to people such as parents who can lawfully enter school premises as opposed to trespassers. With regard to those who have implied permission to enter, a two-stage approach will need to be

taken when working with them. Section 547 will only become relevant once a parent's "lawful authenticity" to enter the premises has been terminated.

A parent of a child registered at a school will not be on school premises "illegally" (i.e. a trespasser) until his or her "implied licence" to enter the school premises has been terminated and until then he or she cannot be guilty of an offence under this section.

For example, if a parent causes a nuisance and the Headteacher thinks a ban should be imposed, the following steps should be taken:

- A warning should be given (in writing) and the parent given the opportunity to answer the accusations made (see warning letter below).
- If a ban is then imposed (and it will only be at this point that the parent will become a trespasser if he or she enters the premises). This should be confirmed in writing and notice given that a breach of the ban may result in an offence being committed under Section 547 and an action taken under that section to remove the person from the premises (though only if entry onto the premises is coupled with causing a nuisance) or in an application being made to the court for an injunction (see banning letter below).

If the nuisance or disturbance has been caused by an individual with no right implied or otherwise to enter the premises, then immediate action can be taken under Section 547 as that person is by definition a trespasser. No warning would need to be given.

HARASSMENT, THREATENING, ABUSIVE OR DISORDERLY BEHAVIOUR

Such offences are covered by the Public Order act 1986. The Protection from Harassment Act 1997 provides further safeguards with respect to incidents of harassment.

Headteachers are more likely to involve the police in such matters and the police may be able to take action under this Act.

However, Headteachers may not wish to involve the police in cases where the offender is very young, and the offence took place. Individual cases therefore need to be considered before deciding on a course of action.

Further advice can be attained from Ealing Council Legal Services if necessary or contact Steve Dunham- Schools Safety and Security Officer

WARNING LETTER

The following is an example of a warning letter to be sent to a parent who has caused a disturbance at the school. The actual wording would have to be varied according to the actual circumstances. It is advisable to discuss this with the LA before sending such a letter.

To (the parent)

Behaviour on School Site

It has been reported to me that you caused a disturbance at the school on (date) by _____.

This behaviour has upset a number of staff and the pupils who were present.

Such behaviour is totally unacceptable and may result in you being banned from the site.

I would be grateful if you could contact me by telephone or in writing by _____ in order to answer these allegations.

I shall then consider what further action maybe necessary including the possibility of imposing a ban on your entry to the school premises.

Yours sincerely

BANNING LETTER

The following is an example of a letter to a parent imposing a ban after the warning letter has been issued and subject to any response from the parent.

To (the parent)

Further to my earlier letter of _____, which warned you that you may be banned from the site, I have considered your responses to the allegations and have decided that they are insufficient.

I am therefore banning you from the premises with immediate effect. This will be reviewed on _____ **(it is recommended to limit a ban to no more than 1 term in the first instance)**

A breach of this ban may result in an offence being committed under Section 547 of the Education Act 1996 and an action taken under that section to remove you from the premises or in an application being made to the court for an injunction.

Yours sincerely

*** Headteachers are strongly advised to contact Ealing Council legal services before issuing a letter banning an individual from the premises.**