Reform of anti-social behaviour powers

Bullying

What is the issue?

There is no legal or standard definition of bullying but most people understand it as behaviour by an individual or group, repeated over time, that intentionally hurts another individual or group either physically or emotionally. All bullying, whatever the motivation or method is unacceptable and should not be tolerated. It can affect anyone - children, young people or adults. Bullying can take many forms (for example, cyber-bullying via text messages or social media, name calling and physical abuse) and it is often motivated by prejudice against particular groups based on actual differences or perceived differences between the perpetrator and the victim.

Bullying in the Community: Children and young people can be bullied both in and out of the educational establishment. To tackle bullying successfully, the whole community and all services for children and young people need to work together to change the culture so that all forms of bullying are perceived as totally unacceptable. Being victimised restricts a group or child's use of their area’s amenities, which can lead to one group gradually dominating a territory. For example, some children do not play outdoors because they are scared of being bullied. Whether in groups, clubs or residential care, on the street, in parks or when using public transport they should feel safe from victimisation and discrimination. Early intervention is important to prevent or stop bullying and safeguard children and young people. Local authorities, Local Safeguarding Children Boards and the police all have a key role to play by employing interventions to prevent and respond to bullying.

Cyber-bullying: Cyber-bullying is the use of technology to deliberately upset someone else. It can be an extension of face-to-face bullying, with technology providing the bully with another route to harass their target. However, it differs in several significant ways from other kinds of bullying: the invasion of home and personal space; the difficulty in controlling electronically circulated messages; the size of the audience; perceived anonymity; and even the profile of the person doing the bullying and their target.

Tackling bullying

Prevention: By law, all schools must have measures in place to prevent all forms of bullying among pupils. This policy is decided by the school. All teachers, pupils and parents should be told what it is. A school or college’s response to bullying should not start at the point at which a child or student has been bullied. Good schools develop an ethos to prevent bullying happening in the first case. When bullying does occur, it is important for schools to respond promptly, support the bullied pupil and ensure that bullying does not happen again.
Disciplinary measures: In the vast majority of cases, schools should apply internal school disciplinary measures to pupils who bully in order to show clearly that their behaviour is wrong. This means using these measures against pupils for misbehaving inside the school, and for misbehaviour outside the school premises where it is reported to the school or witnessed by a member of school staff, and it is reasonable for the school to regulate the pupils conduct at that time. This approach sends a strong message to pupils and students that bullying will not be tolerated and that perpetrators will be held to account.

Disciplinary measures must be applied fairly, consistently and reasonably given all the circumstances. Schools must take into account any special circumstance of the pupil including the pupil's age, special educational needs, disability or religious requirements. It is also important to consider the motivations behind the bullying behaviour of perpetrators, whether it reveals any concerns for their safety and if they may also need support themselves. Schools should also talk to parents about the anti-bullying policy and make it available to them and prospective parents as part of their behaviour policy. Schools may also encourage positive messages about good behaviour and respect for others at home through their behaviour policy.

The Department for Education (DfE) have published advice for headteachers, staff and governing bodies on preventing and tackling bullying. DfE's advice may also be useful for the Further Education community settings: http://www.education.gov.uk/aboutdfe/advice/f0076899/preventing-and-tackling-bullying

Injunction to Prevent Nuisance and Annoyance (IPNA): The IPNA is designed to stop or prevent behaviour where a perpetrator has engaged, or threatens to engage, in conduct capable of causing nuisance or annoyance to any person. Bullying is a behaviour that could fall into the category of 'nuisance or annoyance'. The injunction could be used to stop emerging behaviour before it becomes more serious or even criminal. Schools should continue to adopt the same approach that they do now, that is, if their disciplinary framework has not worked in dealing with a bullying incident (or series of incidents) they may consider bringing the matter to the attention of the police or other agencies such as the local authority. This will allow for the range of possible more formal interventions to be considered, including whether to apply for an IPNA as a last resort to protect the victim.

The injunction may provide a locally agreed intervention to protect victims from bullying in schools and colleges, in the community or cyber-bullying. For example, the injunction could stop the perpetrator associating with the victim outside of school/college or from entering named areas in the community. The positive requirements that can be included in the injunction could get the perpetrator to address the underlying drivers for their behaviour in all forms of bullying. For example, the perpetrator could be required to attend bullying awareness training or counselling and mentoring sessions provided by the voluntary and community sector.

Criminal law: Bullying is not a specific criminal offence in the UK although in some circumstances the conduct could constitute a criminal offence, for example under the Protection from Harassment Act 1997, the Malicious Communications Act 1988, the Communications Act 2003, and the Public Order Act 1986.
Legal Requirements

Section 89 of the Education and Inspections Act 2006 provides that head teachers of maintained schools, pupil referral units and non-maintained special schools must have measures to encourage good behaviour and prevent all forms of bullying amongst pupils. The Independent Schools Standards Regulations 2010 provide that the proprietor of independent schools (including Academy schools and alternative provision Academies) are required to ensure that an effective anti-bullying strategy is drawn up and implemented.

Section 90 and 91 of the Education and Inspections Act 2006 gives head teachers the power to discipline pupils’ conduct when they are not on school premises and are not under the lawful control or charge of a member of school staff to such an extent as is reasonable to regulate the pupils conduct. This can include bullying incidents occurring in school or on public transport, outside the local shops, or in a town or village centre.

Where there is reasonable cause to suspect that a child is suffering, or is likely to suffer, significant harm, bullying incidents must be considered to be a child protection concern under the Children Act of 1989. The government’s guide ‘Working together to safeguard children’ is clear that professionals must be alert for signs of physical and emotional abuse. School staff should be alert to abuse carried out by one child on another, including bullying. Where there is significant concern about a child’s welfare as a result of bullying, the school staff should report their concerns to their local authority children’s social care team. Even where safeguarding is not considered to be an issue, schools may need to draw on a range of external services to support the pupil who is experiencing bullying, or to tackle any underlying issue which has contributed to a child engaging in bullying.