



Unreasonable
Force Policy

September

2017



AIMS

We seek to fulfil the needs of learners in a caring, happy environment, enabling them to realise their true potential as young people and citizens.

We aim to enable our learners to:-

PREPARE for adult life in a happy, caring and purposeful environment

ACHIEVE their full potential regardless of individual need

CCARE for everyone and encourage respect and tolerance

ENJOY education and rejoice in success



Use of reasonable force at the Whitby High School

This policy supersedes all previous policies and is designed to complement the Department for Education's 'Use of Reasonable Force – Advice for Headteachers, Staff and Governing Bodies'. The Guidance applies to **all** staff in school (Section 93, Education and Inspections Act 2006).

The basic principle at The Whitby High School is to avoid physical contact with students. However, there are circumstances when it is necessary to intervene and use **reasonable force** or **restraint**. Such circumstances include:

- When a student is assaulting another student
- When a member of staff needs to intervene to stop a fight between students
- When a member of staff is acting in self-defence
- When the behaviour of a student is endangering others
- When the behaviour of a student is endangering himself or herself
- When the behaviour of a student is leading to damage of school property
- When the behaviour of a student is causing serious disruption to the operation of the School

In all other circumstances, use of physical contact should be avoided. Other means of dealing with the situation may be more appropriate, such as negotiation or seeking assistance from Senior Staff.

It is important to stress that The Whitby High School is **not** a no-contact school, as this may place a member of staff in breach of their duty of care towards a student. However, physical contact should only be used as a **last resort**.

When should I avoid using force? (This is for Guidance only, every scenario is different)

Scenario	Action
A student refuses to move when instructed to do so in class	Repeat the instruction. If the student refuses to move, seek support from HoD/SCL. If the student still refuses to move, use the 'on call' system. Do not use force.
A student refuses to stay for a detention	Allow them to leave and then report it to the HoD/SCL. The appropriate House will be contacted if necessary and further sanctions applied.
A student wants to get past a member of staff to leave a room	Allow them to leave and follow the guidance above. Do not block the student.
A student walks away from a member of staff when spoken to around the site	Allow them to walk away and report it to the duty lead – the appropriate House will issue a sanction. This is defiance .
A student is pushing in a busy doorway to get into a building	The member of staff should stand his or her ground but avoid touching the student unless he or she is causing danger to others or him / herself.
A student refuses to hand a phone over or another object	Again, this is defiance – do not try to 'grab' the item.

When a student is causing serious disruption to a class or School area by refusing to comply with instructions, the SLT 'on call' system should be used. Trained staff will then be dispatched.

What should staff do after 'handling' a student?

If a situation occurs whereby the member of staff feels physical intervention is necessary, he or she should warn the student that this course of action will be taken (whenever possible). The member of staff involved must complete a 'Use of Physical Contact Incident Record Form' (in the 'Info. For Staff' area). Return the form to the Deputy Headteacher responsible for pastoral care. Further details about the process are outlined on the form (see 'Appendix 1).

It is **not** illegal to touch a student. Apart from the situations above, physical contact between students and staff takes place in a range of scenarios. Some of these are listed below:

- When comforting a distressed student. Please be very careful when doing this. It is human nature but staff leave themselves open to allegations when comforting students. Try to use words whenever possible and ensure another member of staff is present.
- When a student is being congratulated or praised.
- To demonstrate how to use a musical instrument.
- To demonstrate exercises or techniques during PE lessons or sports coaching.
- To demonstrate how to use specific technology equipment.
- To give first aid.

Searching students for contraband items (see also the DfE document 'Searching, Screening and Confiscation' Guidance, February 2014)

Schools have the right to search students should there be a suspicion that any of the following items have been brought onto the premises:

- Knives and weapons
- Alcohol
- Illegal drugs
- Stolen items
- Tobacco and cigarette papers
- Fireworks
- Pornographic images
- Items being sold for a profit by the student, such as sweets or drinks
- Items banned under school policies*
- Any article that has been or is likely to be used to commit an offence, cause personal injury or damage to property.

***Force cannot be used to search for items banned under the school rules.**

What do I do if I suspect a student has brought one of the above onto the school site?

Please report concerns to the student's House. The designated staff to search students are members of the Senior Leadership Team and House Progress Managers (with a member of SLT in attendance). The student will be asked to remove his or her bag and empty items. He or she will also be asked to empty blazer pockets and other pockets on clothing. Any items found will be confiscated. A suitable sanction in line with school policy will be imposed. **It is important that two members of staff are present when a search takes place (when possible).** Most searches will take place **with consent**. Written consent from the student is not required. Should a student

refuse to be searched, assistance should be sought from a Deputy Headteacher or the Headteacher.

Should a weapon be confiscated (e.g. a combat knife/gun), **the police must be informed.**
Are any staff trained in using 'Reasonable Force?'

A number of staff are trained in using 'reasonable force' and they can be called upon when students are causing major disruption to the operation of the School. The most senior member of the SLT present at the incident will deem whether the situation constitutes 'major disruption'.

How will student complaints against staff be dealt with?

All complaints will be dealt with openly and efficiently in order to minimise distress caused to all parties involved. The Guidance states, "Where a member of staff has acted within the law – that is, they have used reasonable force in order to prevent injury, damage to property or disorder – this will provide a defence to any criminal prosecution or other civil or public law action".

When a complaint is made, the onus is on the person making the complaint to prove that his/her allegations are true – it is **not** for the member of staff to show that he/she has acted reasonably. The Whitby High School fully embraces this sentiment.

Any investigation will be carried out by Senior Staff in the school (SLT and/or House Progress Managers in some circumstances). Statements will be taken from the member of staff involved, the student (s) and other witnesses. It is good practice to inform parents/carers of any allegations as this can often prevent any misrepresentation by students. Further steps will then be taken in line with school procedures of dealing with allegations against staff.

The Headteacher will deal with any staff disciplinary issues and involve outside bodies, such as the Local Authority Designated Officer (LADO) as necessary (see 'Appendix 2').

Students making malicious allegations will be sanctioned in accordance with school policy – this may involve a fixed-term exclusion from school.

Frequently Asked Questions (From the National Guidance)

What is reasonable force?

- The term 'reasonable force' covers the broad range of actions used by most teachers at some point in their career that involve a degree of physical contact with students.
- Force is usually used either to control or restrain.
- 'Reasonable in the circumstances' means using no more force than is needed.
- As mentioned above, schools generally use force to control students and to restrain them.
- Restraint means to hold back physically or to bring a student under control. It is typically used in more extreme circumstances, for example, when two students are fighting and refuse to separate without physical intervention.
- School staff should always try to avoid acting in a way that may cause injury. However, in extreme cases it may not always be possible to avoid injuring the student.
- The general approach of the law is that it allows such force to be used as is reasonable in the circumstances as the member of staff believes it to be. This is the case even if his/her belief was mistaken and the mistake was an unreasonable one.

What underpins this definition?

The requirement to use force, which is reasonable, involves two issues:

- Was the force used **necessary** (or honestly believed to be necessary?) The phrase 'honestly believed to be necessary' is crucial.
- Was the force used **proportionate** to the 'evil' to be avoided?

I am worried that if I use force a student or parent could make a complaint against me. Am I protected?

Yes, if you have acted lawfully. If the force used is reasonable all staff will have a robust defence against any accusations. Please see the 'scenarios' earlier in this policy.

How do I know whether using a physical intervention is 'reasonable'?

The decision on whether to physically intervene is down to the professional judgement of the teacher concerned. Whether the force used is reasonable will always depend on the particular circumstances of the case. The use of force is reasonable if it is proportionate to the consequences it is intended to prevent. This means the degree of force used should be no more than is needed to achieve the desired result.

What about school trips?

The power may be used where the member of staff is lawfully in charge of the students, and this includes school trips.

What if a student refuses to be searched?

Staff should seek assistance from a member of the SLT. The students' parents/carers may then be contacted or the police, if it is believed the item is illegal or could cause harm.

Can staff forcibly search students?

For certain items, for example weapons and illegal drugs, staff do have the right to forcibly search students. However, this is not the case for items banned under the school rules. **Staff must never routinely forcibly search students.** Ultimately, seek intervention from the Deputy Headteacher or Headteacher if you believe a student is harbouring an illegal item.

Can force be used on students with SEN or disabilities?

Yes, but the judgement on whether to use force should not only depend on the circumstances of the case but also on information and understanding of the needs of the student concerned. At all times, the school has a legal duty to ensure reasonable adjustments are made.

I am a female teacher with a Year 10 class – there is no way I would want to restrain or try to control my students. Am I expected to do so?

There is a power, not a duty, to use force so members of staff have discretion whether or not to use it. However, teachers and other school staff have a duty of care towards their students and it might be argued that failing to take action (including a failure to use reasonable force) may in some circumstances breach that duty.

Are there any circumstances in which a teacher can use physical force to punish a student?

No. It is always unlawful to use force as a punishment.

Will an allegation against me lead to automatic suspension?

No. As long as you acted within the law and used **reasonable force** this would not be the case. The Guidance states unequivocally that there will be no automatic suspension in these circumstances. You will have the full support of the school Senior Leadership Team.

Does the school have staff trained in 'manual handling?'

Yes, a range of staff from different areas of the school are trained in techniques to safely handle students and these staff will be deployed in certain circumstances.

Please remember: professional judgement underpins this policy



Appendix 1 - Use of Physical Contact Incident Record Form

Please complete this form in as much detail as possible after you have had cause to use physical contact on pupils in order to safeguard others or protect property.
Return to the Deputy Headteacher responsible for pastoral care.

Name of staff: _____

Date of incident and time:	Location:
Name and form group of pupil (s):	Other staff present:
Pupil witnesses:	Did you warn the pupil that you would have to use physical contact? Y / N If not, why?
Outline any de-escalation strategies attempted before physical contact was used:	First aid required for pupil or staff? Y / N
Details of incident (please include as much information as possible and make it clear why you thought it was necessary to use physical contact): 	
Further action to be taken and follow-up (to be completed by Deputy Headteacher): 	
Parent / carer informed about incident? Y / N	Date / time:
Please comment on their reaction: 	

Staff signature: _____ **Deputy Headteacher signature:** _____

Appendix 2 – Local Authority Procedures

PLEASE ALSO REFER TO THE FOLLOWING LINK:

www.cheshirewestlscb.org.uk/policy-and-procedures/allegations-management-lado/



Guidance for Senior Managers regarding the Referral Process to the Local Authority Designated Officer [LADO]

INTRODUCTION

The procedures in Cheshire West and Chester Council for managing allegations or concerns about adults working with children provide an independent service that ensures at all referrals are appropriately monitored by the Local Authority Designated Officer [LADO]. This service will respond to concerns/allegations of "harm" and other concerns, which may render an adult unsuitable to work with children. The key principles of this service are that children are appropriately safeguarded, and that the process is proportionate, consistent, transparent and timely. The process of any investigation can be very difficult and stressful for those involved, and it is therefore crucial that support is offered for both the child/ren and adult/s involved.

Working Together to Safeguard Children states that each LSCB member organisation should have a named senior officer who has overall responsibility for:

- 1] Ensuring the organisation operates procedures for dealing with allegations in accordance with the guidance in Appendix 5
- 2] Resolving any inter-agency issues and
- 3] Liaising with the LSCB on the subject

Local authorities may also designate officers to be involved in the management and oversight of individual cases.

REFERRAL PROCESS (please also refer to Flow Chart)

If you have a concern or an allegation is made about a person who works with children, whether a professional, staff member, foster carer or volunteer and they may have: -

- behaved in a way that has harmed a child, or may have harmed a child
 - possibly committed a criminal offence against or related to a child or
 - behaved towards a child or children in a way that indicates s/he is unsuitable to work with children, then the process outlined below should be followed:-
1. Your member of staff should first discuss this matter with you, the named senior officer in your organisation with responsibility for allegations management who will liaise with the LADO within the children's safeguarding unit. This will not necessarily be the line manager for the staff member. If, however the concern/ allegation relates to the named senior officer, then the concern/allegation

should be notified to another senior officer within the organisation, who would then liaise with the LADO.

2. If the concern/allegation meets the criteria set out in Cheshire West and Chester's Local Safeguarding Children Board Procedures http://www.cheshirewestlscb.org.uk/?page_id=3221, then the named senior officer must make contact within one working day with the LADO. The LADO contact details are: **0151 337 4570**. The LADO together with the conference chairs operate a duty system to ensure advice and guidance is available when an initial discussion can take place regarding how the matter will be progressed.
3. If it is agreed that it is an appropriate referral to the LADO, then a referral form, (available at http://www.cheshirewestlscb.org.uk/?page_id=3221) should be completed by the referrer and sent immediately to the Safeguarding Unit.

safeguardinglado@cheshirewestandchester.gcsx.gov.uk

4. If a strategy meeting or discussion is required, it will normally be chaired by the LADO, or Independent Conference Chair.
5. There are six possible outcomes to a referral being made:
 - The referral does not meet the threshold for investigation
 - The referring agency undertakes their own investigation within agreed timescales and advises the LADO of the outcome
 - The LADO assists the referring agency with an investigation (i.e. in the voluntary sector or for the purpose of independence) within agreed timescales.
 - A social worker from children's services social care undertakes an investigation regarding "significant harm" as defined in Section 47 of the Children Act (1989) within agreed timescales
 - A social worker from the appropriate Local Authority social care service assists with some investigative functions where there are concerns about harm to a child.
 - A criminal investigation is conducted by the Police, working with other relevant agencies.

Each case will be reviewed monthly in accordance with the 'Working Together to Safeguard Children' 2006 [Appendix 5 , Revised 2010]] and LCSB Procedures by the LADO , to monitor progress and ensure that matters are appropriately progressed.

7. As the named senior officer in your organisation, you will be informed about whether a referral has been accepted, and if so, you will be kept informed of the progress of the case. A representative of your organisation would be invited to participate in the strategy meeting/discussion. On completion of the investigation you will be informed of the outcome of the investigation.

The Local Authority Designated Officer is Catherine Appleton and she is based at

**The Children's Safeguarding Unit
4, Civic Way [Floor 4]
Ellesmere Port
Cheshire
Tel: 0151 337 4570
Fax : 0151 355 4692**

FLOW CHART FOR REPORTING ALLEGATIONS AGAINST ADULTS WORKING WITH CHILDREN

