

Wootton Academy Trust



Physical Intervention and Use of Reasonable Force Policy

- a) This policy applies to all schools managed by Wootton Academy Trust
- b) This policy was adopted by Wootton Academy Trust in January 2015
- c) This policy was reviewed by Wootton Academy Trust in January 2015

Use of reasonable force

All members of school staff have a legal power to use reasonable force. In this context, 'school staff' also applies to people whom the Principal has temporarily put in charge of pupils such as unpaid volunteers or parents accompanying students on a school organised visit. Any force used must be 'reasonable in the circumstances' meaning that staff should use no more force than is needed. The force used must be proportionate to both the behaviour of the individual to be controlled or restrained and the nature of the harm they may otherwise cause. Staff may need to make reasonable adjustments for disabled children and those with special educational needs when determining what is 'reasonable' in the circumstances.

Legal justification

Sections 550A, Education Act 1996 & Section 93, Education and Inspections Act 2006 give staff the power to use such force as is reasonable in the circumstances for the purpose of preventing a pupil from doing (or continuing to do) any of the following, namely:

- (a) committing any offence,
- (b) causing personal injury to, or damage to the property of, any person (including the pupil himself), or
- (c) prejudicing the maintenance of good order and discipline at the school or among any pupils receiving education at the school, whether during a teaching session or otherwise.

This power may be exercised only where:

- (a) the member of the staff and the pupil are on the premises of the school in question, or
- (b) they are elsewhere and the member of the staff has lawful control or charge of the pupil concerned.

When can reasonable force be used?

Force may be used to control pupils or to restrain them. Control means either passive physical contact, such as standing between pupils or blocking a pupil's path, or active physical contact such as leading a pupil by the arm out of a classroom. Restraint means to hold back physically or to bring a pupil under control. It is typically used in more extreme circumstances, for example when two pupils are fighting and refuse to separate without physical intervention. Staff should always try to avoid acting in a way that might cause injury, but in extreme cases it may not always be possible.

It is unlawful to use force as a punishment and under no circumstances should physical force be used for this purpose.

The decision on whether or not to physically intervene is down to the professional judgement of the staff member concerned and should always depend on the individual circumstances. Although the use of force is a power, not a duty, when determining whether to use this power, school staff need also to consider their duty of care towards their pupils as it might be argued that failure to use reasonable force, may in some circumstances breach that duty.

Situations in which staff at Wootton Academy Trust may use reasonable force include the following:

- To remove disruptive children from the classroom where they have refused to follow an instruction to do so;
- To prevent a pupil behaving in a way that disrupts a school event or a school trip or visit;
- To prevent a pupil leaving the classroom where allowing the pupil to leave would risk their safety or lead to behaviour that disrupts the behaviour of others;
- To prevent a pupil from attacking a member of staff or another pupil, or to stop a fight; and
- To restrain a pupil at risk of harming themselves through physical outbursts.

Use of Reasonable Force to Search for Prohibited Items

Where there are reasonable grounds for suspecting that a student is in possession of a prohibited item, (under Section 550ZA Education Act 1996 as amended by section 242 Apprenticeships, Skills, Children and Learning Act 2009) the Principal or a member of staff authorised by the Principal, may use reasonable force to search pupils without consent for the following 'prohibited items':

- knives and weapons
- alcohol
- illegal drugs
- stolen items
- tobacco and cigarette papers
- fireworks
- pornographic images
- any article that has been or is likely to be used to commit an offence, cause personal injury or damage to property.

The authorisation of another member of staff, by the Principal, to search a student without their consent for prohibited articles, may be given in relation to: searches under section 550ZA generally, a particular search under that section or a particular description of searches under that section. There is no requirement to provide the authorisation in writing. Staff have the right to refuse to conduct a search requiring the use of force and will not then be required by the Principal to do so.

Searches without consent can only be carried out on the school/college premises or, if elsewhere, where the member of staff has lawful control or charge of the pupil, for example on school trips in England or in training settings.

Staff conducting such a search, must be the same gender as the student being searched and there must be a witness (also a staff member). If at all possible, the witness should also be the same gender as the student being searched. The only exception to the gender and witness rules are where a member of staff reasonably believes that there is a risk that serious harm will be caused to a person if the search is not conducted immediately and it is not reasonably practicable to summon another member of staff.

The extent of the search extends to clothes, pockets, possessions, bags, desks and lockers, but not an intimate search going further than that, which only a person with more extensive powers (e.g. a police officer) can do.

During the search, a member of staff may not require a student to remove any clothing other than outer clothing. 'Outer clothing' means clothing that is not worn next to the skin or immediately over a garment that is being worn as underwear but 'outer clothing' includes: hats, shoes, boots, gloves and scarves. 'Possessions' means any goods over which the student has or appears to have control.

A person carrying out a search without consent, can seize anything they have reasonable grounds for suspecting is a prohibited item or is evidence in relation to an offence.

- Where a person conducting a search finds alcohol, they may retain or dispose of it. This means that schools can dispose of **alcohol** as they think appropriate but this should not include returning it to the pupil.

- Where they find **controlled drugs**, these must be delivered to the police as soon as possible but may be disposed of if the person thinks there is a good reason to do so.
- Where they find **other substances** which are not believed to be controlled drugs these can be confiscated where a teacher believes them to be harmful or detrimental to good order and discipline. This would include, for example, so called 'legal highs'. Where staff suspect a substance may be controlled they should treat them as controlled drugs as outlined above.
- Where they find **stolen items**, these must be delivered to the police as soon as reasonably practicable – but may be returned to the owner (or may be retained or disposed of if returning them to their owner is not practicable) if the person thinks that there is a good reason to do so.
- Where a member of staff finds **tobacco or cigarette papers** they may retain or dispose of them. As with alcohol, this means that schools can dispose of tobacco or cigarette papers as they think appropriate but this should not include returning them to the pupil.
- Fireworks found as a result of a search may be retained or disposed of but should not be returned to the pupil.
- If a member of staff finds a pornographic image, they may dispose of the image unless its possession constitutes a specified offence (i.e. it is extreme or child pornography) in which case it must be delivered to the police as soon as reasonably practicable. Images found on a mobile phone or other electronic device can be deleted unless it is necessary to pass them to the police.
- Where an article that has been (or could be) used to commit an offence or to cause personal injury or damage to property is found it may be delivered to the police or returned to the owner. It may also be retained or disposed of.
- Any weapons or items which are evidence of an offence must be passed to the police as soon as possible.

Force **cannot** be used to search for items banned **only** under Wootton Academy Trust/internal rules. In these instances, schools' common law powers to search permit staff to search pupils **with** their **consent** for **any** item (including the items prohibited by law and listed listed above).

Procedures following Incidents involving the use of reasonable force

Behaviour Watch should be used to record and report all incidents involving the use of reasonable force by staff to control or restrain pupils. Incidents will normally be recorded as either **C2/3, C4 or serious incident, as applicable**. Where an incident of physical intervention occurs and poor or undesirable behaviour is not involved, for example where a student is grabbed firmly by the arm to prevent them falling down stairs, the Behaviour Watch incident report should be recorded as a 'contact' slip

The report should include:

- Details of the incident leading up to the physical intervention
- Details of all staff and pupils involved in the incident
- Justification for use of reasonable force
- The precise nature and degree of force used
- Reasonable adjustments made for disability and special educational need
- Whether any injuries were sustained by any of the parties involved and first aid or treatment given
- Iain Stewart (Assistant Headteacher – Guidance) should be copied into the report.

For all **serious incidents** involving the use of reasonable force, the following additional actions should be taken.

- i. The pupil/s subject to the use of reasonable force by staff should be removed to the Partnership Centre unless a member of staff feels it is unsafe or otherwise inappropriate to do so.
- ii. Partnership Centre staff should report the incident to the pupil's parent/main care giver once sufficient information about the incident is available to give basic details, or in any case before the end of the day.
- iii. Where the serious incident involves a child who is looked after by the local authority, the child's social worker should also be made aware.

In deciding what is a 'serious incident', staff should use their professional judgement and consider the:

- student's behaviour and level of risk presented at the time of the incident;
- degree of force used;
- effect on the student or member of staff; and
- whether the student has a disability

Where an incident involving physical intervention/the use of reasonable force is not classified as a serious incident but nonetheless the force/intervention used may still have been sufficient to cause tenderness or injury to the student, Partnership Centre Staff should be alerted to the facts and should report the matter to parent/carer/social worker as per points i & ii above.

Complaints against staff relating to the use of reasonable force

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 Trust recognises its duty of care towards employees and will provide appropriate pastoral care to any member of staff who is subject to a formal allegation following a use of force incident.

All complaints about the use of force will be thoroughly, speedily and appropriately investigated.

- Where a member of staff has acted within the law – that is, they have used reasonable force in order to prevent an offence, injury, damage to property or disorder – this will provide a defence to any criminal prosecution or other civil or public law action.
- Where an allegation concerning the use of force by staff is made, Wootton Academy Trust will follow statutory procedures and as appropriate, involve the Local Authority Designated Officer (LADO). The Principal/Director with responsibility for safeguarding (as appropriate) will seek to establish and report whether the incident was part of the school disciplinary process for students and the entitlement of staff to use reasonable force to control or restrain children (in accordance with the law under the Education & Inspections Act 2006). However, no investigation must take place before consulting the LADO.
- Statutory guidance Keeping Children Safe in Education (2014) states that where an allegation against staff "is about physical contact, the strategy discussion or initial evaluation with the police should take into account that teachers and other school and college staff are entitled to use reasonable force to control or restrain children in certain circumstances, including dealing with disruptive behaviour."
- Suspension will not be an automatic response when a member of staff has been accused of using excessive force. The Trust will consider carefully whether the circumstances of the case warrant a person being suspended until the allegation is resolved or whether alternative arrangements are more appropriate.
- If a decision is taken to suspend a member of staff, the Trust will ensure that the staff member has access to a named contact who can provide support.
- The Kimberley or Wootton Advisory Board (as applicable) will always consider whether a member of staff has acted within the law when reaching a decision on whether or not to take disciplinary action against that staff member.