

WORK SKILLS LEARNING
POSITIVE HANDLING POLICY
2016 / 2017

WSL has taken key points from the DfE regarding reasonable force:

Staff have a power to use force and lawful use of the power will provide a defence to any related criminal prosecution or other legal action. Suspension should not be an automatic response when a member of staff has been accused of using excessive force. Senior leadership should support their staff when they use this power.

What is Reasonable Force?

The term 'reasonable force' covers the broad range of actions used by WSL staff at some point in their career that involve a degree of physical contact with pupils:

- force is usually used either to control or restrain. This can range from guiding a pupil to safety by the arm through to more extreme circumstances such as breaking up a fight or where a student needs to be restrained to prevent violence or injury.
- 'Reasonable in the circumstances' means using no more force than is needed.
- 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 to avoid injuring the pupil.

Who can use reasonable force?

- All members of WSL staff have a legal power to use reasonable force.
- This power applies to any member of staff at WSL. It can also apply to people whom the Director has temporarily put in charge of pupils such as unpaid volunteers or parents accompanying students on a WSL organised visit.

When can reasonable force be used?

- Reasonable force can be used to prevent pupils from hurting themselves or others, from damaging property, or from causing disorder.
- At WSL, force is used for two main purposes – to control pupils or to restrain them.
- 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.

The following list is not exhaustive but provides some examples of situations where reasonable force can and cannot be used.

WSL can use reasonable force 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;
- prevent a pupil from attacking a member of staff or another pupil, or to stop a fight;
- restrain a pupil at risk of harming themselves through physical outbursts.

WSL cannot:

- use force as a punishment – it is always unlawful to use force as a punishment.

Power to search pupils without consent

In addition to the general power to use reasonable force described above, authorised staff can use such force as is reasonable given the circumstances to conduct a search 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.

Force cannot be used to search for items banned under WSL rules, e.g mobile phones.

Communicating WSL’s approach to the use of force.

- WSL has a Behaviour Policy and it is WSL’s duty to make this policy known to staff, parents and pupils.
- Staff will physically separate pupils found fighting or that if a pupil refuses to leave a room when instructed to do so, they will be physically removed.
- WSL acknowledge our legal duty to make reasonable adjustments for disabled children and children with special educational needs (SEN).
- WSL does not require parental consent to use force on a student.

Restraint techniques presenting an unacceptable risk:

A panel of experts identified that certain restraint techniques presented an unacceptable risk when used on children and young people. The techniques in question are:

- the ‘seated double embrace’ which involves two members of staff forcing a person into a sitting position and leaning them forward, while a third monitors breathing;
- the ‘double basket-hold’ which involves holding a person’s arms across their chest; and
- the ‘nose distraction technique’ which involves a sharp upward jab under the nose.

Staff training

WSL ensures staff are trained in positive handling techniques, where force is seen as a measure of last resort.

Telling parents when force has been used on their child

WSLs will speak to parents about serious incidents involving the use of force and record such serious incidents.

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

- the pupil's behaviour and level of risk presented at the time of the incident;
- the degree of force used;
- the effect on the pupil or member of staff; and
- the child's age.

What happens if a pupil complains when force is used on them?

- All complaints about the use of force should 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 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.
- Suspension must not be an automatic response when a member of staff has been accused of using excessive force. WSLs should refer to the "Dealing with Allegations of Abuse against Teachers and Other Staff" guidance where an allegation of using excessive force is made against a teacher. This guidance makes clear that a person must not be suspended automatically, or without careful thought.
- WSL must 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 teacher, WSL should ensure that the teacher has access to a named contact who can provide support.
- Consideration should be taken as to whether a teacher has acted within the law when reaching a decision on whether or not to take disciplinary action against the teacher.
- As employers, WSL has a duty of care towards their employees. It is important that WSL provide appropriate pastoral care to any member of staff who is subject to a formal allegation following a use of force incident.

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