



The Use of Reasonable Force and Search Policy

THIS POLICY WAS APPROVED AND RATIFIED BY THE PEOPLE & EXTERNAL RELATIONS
COMMITTEE OF COX GREEN SCHOOL

ON 6th March 2018

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Introduction

Cox Green School is committed to ensuring the health and safety of its staff and the students in its care.

It recognises and accepts its duty to protect:

- Students from harm through unnecessary, inappropriate, excessive or unlawful force
- Staff from harm from verbal and physical assault, including incidents involving students and parents.

The staff and Governors are committed to:

- Encouraging and supporting parents/carers/ and working in partnership with them;
- Listening to and valuing each individual student;
- Ensuring that all members of staff, full time and part time are properly trained and supported.

We are committed to the promotion of good behaviour and this forms the focus of our Behaviour for Learning Policy.

Purpose and definitions

This policy is intended to provide clarification on the use of force to help school staff feel more confident about using this power when they feel it is necessary.

The Education and Inspections Act, 2006, and the *Education Act, 2006*, confirmed the right of staff to use 'such force as is reasonable' for the purpose of preventing a student from:

- committing an offence;
- causing personal injury to, or damage to the property of, any person (including themselves); and
- prejudicing the maintenance of good order and discipline.

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. This can range from guiding a student 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.

Schools generally use force to control students and to restrain them. Control means either passive physical contact, such as standing between students or blocking a student's path, or active physical contact such as leading a student by the arm out of a classroom.

'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 might cause injury, but in extreme cases it may not always be possible to avoid injuring the student.



Screening and Searching Students

The school acknowledges its duties and responsibilities under the Education Acts, of 1996 and 2011, Education and Inspections Act, 2006 and Health and Safety at Work, 1974, in respect of screening and searching students.

Screening

The school can require pupils to undergo screening by a walk-through or hand held metal detector, even if it does not suspect them of having a weapon and without the consent of the pupils.

If a pupil refuses to be screened, then the school can decide whether they refuse to grant the pupil access to the premises. In such an incident, the school has not excluded the pupil and the absence will be treated as unauthorised.

Searching

The Headteacher and staff authorised by them have a statutory power to search students or their possessions, **without consent**, where **they have reasonable grounds** for suspecting that the student may have a prohibited item. Prohibited items include:

- knives, weapons or BB guns;
- alcohol;
- illegal drugs;
- stolen items;
- tobacco, cigarette papers, ecigarettes, vaping devices/paraphernalia;
- fireworks;
- pornographic images;
- any article that the member of staff reasonably suspects has been, or is likely to be, used to commit an offence, or;
- to cause personal injury to, or damage to the property of, any person (including the student).

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

Where possible, the member of staff undertaking the search should be the same sex as the student being searched; and there must be a witness (also a staff member) and, if at all possible, they should be the same sex as the student being searched.

There is a limited exception to this rule. A search of a student of the opposite sex can be carried out and without a witness present, if it is reasonably believed that there is a risk that serious harm will be caused to a person if the search was not conducted immediately and where it is not reasonably practicable to summon another member of staff.

A student refusing to co-operate with such a search raises the same kind of issues as where a student refuses to stay in a detention or refuses to stop any other unacceptable behaviour when instructed by a member of staff – in such circumstances, schools may apply an appropriate disciplinary penalty. A teacher or someone who has lawful control of the child can search a pupil **with their permission** to look for any item that the school's rules say must not be brought into school.

These items include (The list below is not an exhaustive list):

- Aerosols;



- Chewing gum;
- Water Bombs and balloons;
- Jewellery (other than that stipulated in the Uniform Policy);
- Baseball caps and Non-religious headwear;
- Hoodies;
- Laser pens and Laser pointers;
- Water propelling devices;
- Mobile phones or earphones should not be visible (or in top pockets) unless a member of staff has given explicit permission for their use.

After a search:

What the law allows:

Schools' general power to discipline, as set out in Section 91 of the Education and Inspections Act 2006, enables a member of staff to confiscate, retain or dispose of a student's property as a disciplinary penalty, where reasonable to do so.

The member of staff can use their discretion to confiscate, retain and/or destroy any item found as a result of a 'with consent' search so long as it is reasonable in the circumstances. Where any article is thought to be a weapon it must be passed to the police.

Items found as a result of a 'without consent' search:

What the law says:

- A person carrying out a search 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 student.
- 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, cigarette papers, e-cigarettes, vaping devices/paraphernalia** they may retain or dispose of them. As with alcohol, this means that schools can dispose of tobacco, cigarette papers, e-cigarettes, vaping devices/paraphernalia as they think appropriate but this should not include returning them to the student.
- **Fireworks** found as a result of a search may be retained or disposed of but should not be returned to the student.
- If a member of staff finds a pornographic image this must be referred to the DSL immediately. The DSL will follow the Child Protection and guidance related to sexting.



- 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.
- Where a member of staff finds an **item which is banned under the school rules** they should take into account all relevant circumstances and use their professional judgement to decide whether to return it to its owner, retain it or dispose of it.
- Any **weapons or items which are evidence of an offence** must be passed to the police as soon as possible.
- Where staff are unsure as to the legal status of a substance and have reason to believe it may be a controlled drug they should treat it as such.
- With regard to stolen items, it would not be reasonable or desirable to involve the police in dealing with low value items such as pencil cases. However, school staff may judge it appropriate to contact the police if the items are valuable (iPods/laptops) or illegal (alcohol/fireworks).
- As soon as possible a record of the search must be made in CPOMS. This record should be flagged as “search/screen” and the incident explained, including any injuries, damage, to any party, what was done to try and de-escalate the situation, how the search was conducted, what was found, and what was done to calm the student after the incident.

Statutory guidance for dealing with electronic devices

Where the person conducting the search finds an electronic device they may examine any data or files on the device if they think there is a good reason to do so. Following an examination, if the person has decided to return the device to the owner, or to retain or dispose of it, they may erase any data or files, if they think there is a good reason to do so.

The member of staff must have regard to the following guidance issued by the Secretary of State when determining what is a “good reason” for examining or erasing the contents of an electronic device:

- In determining a ‘good reason’ to examine or erase the data or files the staff member must reasonably suspect that the data or file on the device in question has been, or could be, used to cause harm, to disrupt teaching or break the school rules.
- If inappropriate material is found on the device it is up to the teacher to decide whether they should delete that material, retain it as evidence (of a criminal offence or a breach of school discipline) or whether the material is of such seriousness that it requires the involvement of the police. As an example, pornographic image(s) of a child or an extreme pornographic image, should not be deleted prior to handing over to the police.

The staff member will store any seized items in the finance office safe or the school’s strong room, prior to passing to the Police.

A record is kept of any item that is confiscated (and students /parents will sign to indicate when it has been returned) – there is a log in the SAFE Team office and Main office for this purpose. Cox Green School has a duty to ensure that any confiscated item (especially those of monetary or emotional value) is stored safely until they can be returned. This also limits the chance of problems with loss of items while in the care of staff. All reasonable steps are taken to make such arrangements secure. Learning Walk can be used to collect confiscated items if required.

Who can use reasonable force?

All members of school staff have a legal power to use reasonable force.



This power applies to any member of staff at the school. It can also apply to people whom the Headteacher has temporarily put in charge of students such as unpaid volunteers or parents accompanying students on a school organised visit. The Head teacher will identify a senior member of staff who will oversee any incident relating to the implementation of this policy. In the case of this member of staff being absent, the Headteacher will clearly identify who will deputise for this role. All staff will be given a copy of this policy, including new staff at induction and should expect to be reminded of the policy annually.

When can reasonable force be used?

Reasonable force can be used to prevent students from hurting themselves or others, from damaging property or from causing disorder.

In a school, force is used for two main purposes – to control students 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.

Schools can use reasonable force to:

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

The use of reasonable force – operational procedures

Reasonable force should only ever be used as a last resort when other strategies have failed. It should serve to de-escalate or prevent a violent or potential violent situation. It should not be used purely to force compliance with staff instructions when there is no immediate risk to people or property.

The following principles are:

- Staff should take steps in advance to avoid the need for physical intervention by the adoption of a planned, proactive approach to behaviour management, e.g. through dialogue and diversion.
- Staff should have good grounds for believing that immediate action is necessary to prevent a student from significantly injuring him/herself or others, or causing serious damage to property.
- Reasonable force must not be used in anger. When it becomes apparent that the student is not responding to verbal instructions and a violent incident is imminent, the member of staff, wherever possible, should call for assistance before engaging in physical intervention. Calling for support and assistance should not be considered as a personal failure, but could prove helpful in providing assistance as well as having a witness to what happens.
- When it becomes necessary to use reasonable force with a student, the member of staff should continue to talk to her in a calm manner, offering choices and time to calm.
- Only the minimum force necessary, to prevent physical injury or damage, should be applied. Particular care must be taken to avoid inflicting any unnecessary pain or injury.



- When using reasonable force, members of staff have a responsibility to justify that means other than force have been attempted or are proving impracticable.
- As soon as it is safe, the reasonable force should be gradually relaxed to allow the student to regain self-control.
- Intervention should be an act of care and control, not punishment.
- A student must never be asked to use reasonable force on another student.
- Staff must be able to show that the method of force was in keeping with the incident that gave rise to it and will need to record the event and the reason for their decision
- The degree and duration of any force applied must be proportional to the circumstances.
- The potential for damage to persons and property in applying any form of force must always be kept in mind.
- Escalation should be avoided at all costs, especially if it would make the overall situation more destructive and/or unmanageable.

Procedures following an incident involving the use of reasonable force

- The circumstances and justification for using reasonable force must be recorded immediately or as soon as possible, but no later than the next working day in CPOMS. This record should be flagged as “reasonable force” and the incident explained, including any injuries, damage, to any party, what was done to try and de-escalate the situation and what was done to calm the student after the incident.
- The member of staff must inform the Headteacher or person in charge as soon as possible of the incident.
- The student’s views should also be recorded as soon as possible, preferably on the same day.
- The views of witnesses should also be recorded as soon as possible, preferably on the same day.
- The parents / carers of the student should be informed as soon as possible of the incident
- The Headteacher should discuss the incident with the staff member within 24 hours.
- Counselling may need to be provided for any staff who are distressed following the incident.
- Following the incident the student should be counselled on the reasons why it was necessary to restrain him/her.

Complaints

Complaints about screening or searching should be dealt with through the normal school complaints procedure. 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. Schools 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.

Governing bodies should always consider whether a teacher has acted within the law when reaching a decision on whether or not to take disciplinary action against the teacher.



Schools are not required to inform parents before a search takes place or to seek their consent to search their child. Cox Green school will keep a written log, which is passed to the Headteacher, following any search.

Schools should inform the individual student's parents or guardians where alcohol, illegal drugs or potentially harmful substances are found, though there is no legal requirement to do so.

Communication of policy

The Policy is published on the school website and the school intranet "Sharepoint"

Evidence of implementation

The Senior Lead will report back to the People and External Relations Committee on instances of implementation of the policy.

Review of policy

This policy shall be reviewed every 3 years by the People and External Relations Committee.