

Education Leeds



ASSAULTS ON STAFF

INDEX

Introduction	4
Definition	5
Procedure for dealing with an assault	5
Immediate action to take when a member of staff has been assaulted	5
Immediate action to take with a pupil who has carried out an assault	6
Action to take once a pupil has been removed from the immediate vicinity	6
Where an assault has been carried out by a member of the public	7
Exclusion resulting from an assault	7
Written statements and witnesses	8
Pupil suspension	8
1. Exceptional circumstances	8
2. Removal of pupils on health and safety grounds	9
Advice and assistance	9
Risk assessment	9
Training	10
Post assault support	11
Monitoring	11
Legal issues	12
Legal support and advice	12
Guidelines for staff	13
Useful documents and contacts	14

Introduction

The Health and Safety at work Act states that it is the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees. This includes the provision and maintenance of an environment that, as far as is reasonably practicable, is without risks to health.

This Collective Agreement replaces the previous Agreement dated March 1992. In view of the changes that have taken place in the past 12 years it has been felt necessary to update the 1992 Agreement. However the main principles remain unchanged.

The following statement, which Education Leeds supports, is taken from the introduction to the DfES publication "A Legal Toolkit for Schools" DfES 0504 2002 -

"Violence, threatening behaviour and abuse against school staff or other members of the school community will not be tolerated. All members of the school community have a right to expect that their school is a safe place in which to work and learn. There is no place for violence, threatening behaviour or abuse in schools. Where such behaviour does occur, schools must know that their LEA will play a proactive role in taking all possible action to deal with it, in response to the wishes of the school."

Assaults on staff are a serious problem. Between April 2001 and March 2004 an average of 700 reports of physical violence and 125 of verbal abuse were reported annually to Education Leeds. On average 15 of these resulted in injuries sufficient to require a report to be sent to the Health and Safety Executive.

The signatories to this Agreement are fully supportive of the general principles of Inclusion. They are, however, equally of the belief that assaults on staff must be taken extremely seriously and schools must be seen to be following such a policy.

It should be noted that the ultimate action taken in all cases will not necessarily be permanent exclusion as each case will be considered on its own facts. It should be noted, however, that the DfES Guidance "Improving Behaviour and Attendance: Guidance on Exclusion from Schools and Pupil Referral Units (March2004)" makes it clear that Headteachers may consider it appropriate to permanently exclude a child for a first or one-off offence if there has been *"serious actual or threatened violence against another pupil or a member of staff"*.

It is to be hoped that the consistent application of these procedures will result in a decrease in acts of violence against staff, as the threat of being assaulted and the consequences of being assaulted, can have a significant adverse affect on the health of staff. This, in turn, can have a negative effect on staff absence, improvement and retention.

This agreement gives similar protection to all staff working in schools and Education Leeds as is given to staff working in the National Health Service and other public utilities.

Definition

For the purposes of this guidance an assault is defined as:

Any occasion where any person deliberately intends to cause harm to a member of staff by either physical or verbal means.

“Verbal means” includes threats and verbal abuse.

An assault will occur where a physical or verbal act causes a member of staff distress or affects their ability to carry out their duties. It is the individual’s perception or belief that they have or have not been assaulted that will enable an act to be recorded as an assault, irrespective of whether other staff believe it to be an assault or not.

“Any person” includes pupils, parents, pupil’s relatives, other members of staff, and members of the public.

“Deliberately intends” requires that the person assaulting the member of staff intended to cause that member of staff some degree of harm or distress.

Injuries caused and violence perpetrated by people who have no control of their actions due to their current medical condition will be dealt with outside of these procedures, however **Headteachers and Managers are reminded of the requirements of the Health and Safety at Work Act** to provide staff with safe systems of work and safe places of work and to prevent non staff from being placed at risk will apply. As such violent incidents where there is no deliberate intent must still be reported to Education Leeds Personnel, using form CF/50a

In some cases it will not be clear as to whether an assault was with deliberate intent or not. In such cases the incident must be investigated as quickly as possible to enable clarity. An example would be where a pupil walking down a corridor knocks into a member of staff.

Procedure for dealing with an assault

All assaults should be immediately reported to the Headteacher/Manager.

Immediate action to take when a member of staff has been assaulted

In the event of an assault on a member of staff by a pupil or visitor it is important that action is taken as quickly as possible, which should first evaluate whether there are any health issues that need to be considered and then determine whether the member of staff should return to or be relieved of their duties. The person assaulted should be advised to make and keep personal notes of the incident as soon as possible after it has occurred.

For the **member of staff** assaulted action following a reported assault could include -

- Referring the member of staff to a hospital Accident & Emergency department if that member of staff has been injured. Reasonable charges for a written medical statement concerning the injuries sustained as a result of the assault will be met by the LEA.
- The member of staff should be advised that they have the right to report an assault to the Police. If this is carried out a record should be kept of any details supplied to and by the Police. A copy of this record should be kept by the school and the member of staff.
- Referring the member of staff to Personnel to receive counselling.
- Relieving the member of staff of any duties for a specified time agreed between that member of staff and their manager.
- Allowing the member of staff to return to their normal duties immediately.

Following the above actions the Headteacher/Manager should ensure that there are suitable support mechanisms within school to assist the member of staff assaulted.

Immediate action to take with a pupil who has carried out an assault

Where there is clear intent, a pupil undertaking an assault as defined in this document should be excluded for a period of up to 2-3 days. During this time school staff and external agencies will need to consider the options available to them.

When a pupil has carried out an assault the Headteacher/Manager should -

- Remove the pupil from the immediate vicinity of the member of staff concerned.
- Provided it can be done without placing anyone at risk, any weapon used as part of the assault should be retained by the Headteacher/manager.
- Discuss the incident with the pupil concerned.
- Discuss available options with the child's parents and suitable staff concerned, including support agencies.

Action to take once a pupil has been removed from the immediate vicinity

During the 2 - 3 day period of removal from the immediate vicinity the Headteacher/Manager should investigate the assault and, in consultation with their member of staff who has the right to be represented by their trade union officer, consider what further action to take. The pupil should be interviewed, preferably in the presence of their parent/guardian, to establish the reasons for carrying out the assault and to identify the most appropriate course of action to take next. When investigating the assault it is important that the investigation includes discussions with staff involved and any witnesses.

The action to be implemented will depend upon the severity of the assault and the pupil's previous record. Options could include:

- Exclusion for a fixed period of up to 2-3 days to enable alternative measures to be put in place.
- Implement measures outlined as alternatives to exclusion within the DfES guidance on exclusion - i.e. restorative justice, mediation, internal seclusion or managed move.
- Provision of an alternative learning programme or a monitored return to school after the signing of a contract for good behaviour.
- Referral to the PRU
- Implement measures outlined as an alternative to exclusion within the DfES Guidance, i.e. restorative justice, mediation, internal exclusion or managed move.
- Permanently exclude the pupil where the assault is serious enough to warrant it; ensuring that any exclusion is implemented in accordance with DfES Guidance.

Automatic consideration should be given in all circumstances, other than permanent exclusion, to transferring the pupil from the assaulted teacher's teaching group. In consultation with the member of staff it may be considered useful for counselling to be arranged through Personnel. Consideration should also be given to the establishment of support mechanisms within the school.

Where an assault has been carried out by a member of the public

The member of staff should be advised that they have the right to report the matter to the Police. If this is carried out a record should be kept of any details supplied to and by the Police.

If the member of staff does not wish to contact the Police it is essential that a record of the incident is maintained at the school. In such cases the Headteacher/manager may choose to write to the person carrying out the assault, although this should only be done in consultation with the member of staff concerned.

The Headteacher/manager should involve Leeds City Council's Legal Department in writing to the person carrying out the assault to prevent them from entering the school premises.

Exclusion resulting from an assault

Without reproducing the guidance in full or reproducing the national list of reasons to exclude, DfES guidance clearly outlines when pupils can be excluded by stating -

“There is sufficient evidence that a pupil has committed a disciplinary offence. In these circumstances the pupil may be excluded from school for a fixed period or permanently.

A decision to exclude a pupil should be taken only:

- a) In response to serious breaches of the school's behaviour policy
- b) If allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.

An assault on a member of staff would be a serious breach of any school's behaviour policy.

Any exclusion must be implemented in accordance with DfES guidance.

Written statements and witnesses

The member of staff assaulted should be asked to make a written statement that is as detailed as possible. This statement should be made as soon as possible, if not immediately, after the incident, and at least on the same day and be signed, dated and timed. The statement to be retained by the member of staff until they have had an opportunity to consult with their trade union.

Any witnesses to the incident should be identified as soon as possible, if not immediately, after the incident. The names, addresses and ages of any witnesses should be recorded. Written statements should be requested from all witnesses to the incident.

Any member of staff asked to provide a written statement should be advised to contact their Trade Union/professional association before doing so. It must be borne in mind, however, that the sooner a written statement is made the more accurate the information will be.

Anyone asked to complete a written statement should be advised to state what happened according to their personal recollection of the facts. Personal opinions and hearsay should not be included.

Any written statement should include details about what was happening prior to, during and after the incident.

In addition to providing a written statement an assault must be reported using Education Leeds' Report of an Assault/violent incident form CF/50a. This must be signed by the Headteacher/ manager of the staff member before being sent to Personnel.

Pupil suspension

DfES guidance outlines two occasions when a pupil may be removed from a school site without resort to exclusion. These being -

1. Exceptional Circumstances

“There may be exceptional circumstances in which head teachers need to

remove pupils from the school site when exclusion would be illegal.

An example is where a pupil is accused of committing a serious criminal offence which took place outside the head teacher's jurisdiction (perhaps during a weekend or school holiday and off the site) and/or there is insufficient evidence to warrant exclusion.... There may be compelling reasons for removing that pupil from the school premises pending the outcome of a police investigation. A head teacher can authorise leave of absence for a fixed period, with the parents' agreement, or, exercising powers delegated by the governing body under section 29(3) of the Education Act 2002, can arrange for the pupil to be educated elsewhere (without parental consent if deemed necessary, although the parents should be notified). However, such education elsewhere must be arranged for the purposes of receiving any instruction or training included in the secular curriculum of the school. Whether the pupil has been granted leave of absence or is being educated elsewhere, the school must ensure that the pupil's full-time education continues while off site. Any such arrangements do not amount to a formal exclusion from school and should be kept under periodic review.

2. Removal of pupils on health and safety grounds

Head teachers may send a pupil home, after consultation with the parents, on health and safety grounds in circumstances where he or she poses an immediate and serious risk to the health or safety of other pupils or staff. This may only be done for medical reasons. An example of where it would be legitimate is where a pupil is known to be suffering from a notifiable disease which others might catch. This is not an exclusion.

Suspension, rather than exclusion, may also be legal where a pupil is suspended due to mental health issues that can be identified as being medical reasons. In such cases it would be prudent to check with Legal Services prior to suspending.

Advice and assistance

Education Leeds Psychology and Assessment Team can provide advice and assistance to Headteachers in regard to implementing behaviour programmes to reduce the likelihood that a pupil will assault a member of staff or another pupil, as can the Heads of Centres from Education Leeds' Pupil Referral Units. Training in suitable diffusion and ultimately pupil restraint techniques can also be provided.

Support is also available to assist Headteachers with the reintegration of pupils following a period of exclusion and where consideration is being given to permanently exclude a pupil.

Risk assessment

Headteachers are responsible for assessing the level of risk presented by any hazard within their school. Advice and assistance to do this can be obtained from Education Leeds Health and Safety Team. In regard to an assault the pupil carrying out that assault can be regarded as the hazard. As such an assessment should be carried out as early as possible to determine whether further action is required to prevent a pupil's behaviour escalating towards causing an assault.

Once a pupil has assaulted a member of staff an assessment must be undertaken prior to allowing them to return to the classroom.

This assessment should include information gathered from all the support agencies involved in the case as well as from the member of staff who had been assaulted and others who had been affected by the assault. The information gathered during this assessment should be used to inform the pupil's Individual Education Plan where they have one.

An assessment should also be undertaken to determine the potential for an assault or for violence from pupils to occur within the school. This would need to take into account the behaviour of pupils and the training, information and instruction given to staff to enable them to prevent or diffuse an escalation of violence. It will not be an exact science but would indicate where additional help and support or training may be required.

Training

The above risk assessments should highlight where there is a need to provide staff with training. The assessment should also outline the most appropriate level and type of training required.

No employer expects any member of staff to suffer an assault as a part of their duties. It is recognised that there will be occasions where staff professionalism enables them to cope with difficult situations and, in some cases, means that staff do not report all assaults. Training should build upon this staff professionalism to enable them to diffuse conflict situations. Physical assault will, however, remain a possibility. As such any training should include elements of staff protection and strategies to use following an assault.

Training provided to staff should include the following broad objectives:

1. Increase staff's level of awareness and build confidence in their ability to cope with people and situations.
2. Give guidance on recognising the difference between verbal abuse and language that people might use everyday when agitated or upset.
3. Further develop interpersonal skills, especially when dealing with awkward individuals and people who are agitated or upset.
4. Enable staff to identify when there is an increased likelihood that violence will occur, and what options they have to deal with those situations.
5. Provide staff with the confidence to be able to undertake their duties without fear of being assaulted.
6. Encourage the further development of safer working practices.
7. Outline techniques that can be used for self-protection and the protection of others.

Training in physical self-protection techniques such as break away and restraint techniques should only be provided by those competent to do so and will require a programme of regular practice and refreshment to maintain staff's ability to use

them safely and appropriately. Such techniques should only be used as a last resort.

Post assault support

The ideal situation is for no assault to occur. Potentially violent situations should be assessed and proactive interventions undertaken to prevent a pupil or member of the public from assaulting a member of staff.

It must be recognised, however, that there may be occasions when a person will become violent and aggressive without there being any indication beforehand. This may then lead to a member of staff being assaulted.

After any assault the procedures outlined above should be followed. Good management techniques will help to ensure that the emotional and psychological effects of an assault upon the member of staff are minimised as much as possible.

It should be recognised that if a member of staff states that they have been assaulted then irrespective of whether the manager believes an assault took place or not the report must be accepted and recognition given to the member of staff that it will be recorded as such.

The manager should discuss the incident with the member of staff. The discussion should include details about what led up to the assault, what factors the member of staff attributes to the cause of the assault and what the member of staff feels should be done next.

During the course of this discussion an assessment should be made as to whether it would be appropriate to refer the member of staff to Occupational Health for counselling support.

If a member of staff states that they do not want to receive counselling the manager should accept and record this refusal. If, however, the manager believes that the member of staff would benefit from counselling they should then contact the Occupational Health provider to discuss the issue and identify the most appropriate steps to take.

Throughout the process it is important that the person who declares that they have been assaulted is believed and treated with sensitivity.

Monitoring

Headteachers and managers should monitor the numbers of assaults and violent incidents reported. This will assist with their overall assessment of the level of risk for their school.

Monitoring reports will also enable key issues to be identified – such as whether the same child is involved in a number of incidents concerning a variety of staff or whether the same member of staff has been involved in a number of incidents either with the same pupil or with a number of pupils. In each of these examples the Headteacher or manager should be alerted to the need to further investigate the situations.

This may indicate issues such as those below

- That a member of staff has not received suitable training
- That a pupil requires additional support
- That a group of pupils have targeted a specific individual
- That a member of staff requires additional support.

Legal issues

Under the Health and Safety at Work Act an employer has to ensure, as far as is reasonably practicable, the health, safety and welfare of their staff. This includes the requirement to provide safe systems of work as well as safe places to work in.

The Act, further supported by the Management of Health and Safety at Work Regulations, requires that risks to the health and safety of employees and others are assessed, and that significant risks are recorded. The risk assessment should outline the measures required to eliminate or reduce that risk.

The Education Act allows schools to prevent people who have no lawful authority and who cause harassment, nuisance and disturbance to those using the premises lawfully, from entering school premises.

An assault is a criminal offence and can result in the person carrying out that assault being arrested by the Police. It can also result in the victim seeking compensation from the person carrying out the assault as an assault is a breach of a person's Common Law Duty of Care towards others.

The use of force is not illegal, however anyone using any force against anyone else must be able to justify the use of that degree of force. If any force used can be shown or proven to be reasonable in the circumstances no criminal offence is likely to have been committed.

Legal support & advice

Leeds City Council and Education Leeds employees who are subject to an assault in course of their work will be fully supported. This may include occasions where a person is subjected to violence outside of their normal place of work where it can be shown that the incident arose in the course of, or out of the performance of, that person's normal duties.

The Council's Legal Services department will provide support and assistance where a school wishes to prevent a member of the public from accessing the school premises. To do so the school will need to contact Legal services and present evidence that a person is causing nuisance, disturbance or harassment to enable Legal Services to write to the member of the public. It is usually pertinent that the school can show that they have already written to the member of the public to no avail, however in extreme circumstances this may not be

required.

In certain circumstances Leeds City Council may determine that legal proceedings will be instigated against an assailant.

Guidelines for staff

These are general guidelines that staff may wish to consider. They may not apply to all circumstance where there is a threat of violence. It is advised that where an assessment shows that there is a significant likelihood that violence and assaults will occur, staff are provided with suitable and appropriate training.

If you have attempted to avoid or diffuse a situation but you now believe you will be assaulted -

Try to remove yourself from the immediate risk. If this is not possible try to put a barrier between yourself and the assailant.

Never threaten to or use physical force unless you have no other option than to defend yourself. Remember you must only use the minimum amount of reasonable force required to defend yourself and must be able to justify its use.

If you have been assaulted try to identify or remember anyone that may have witnessed the assault and try to write down what happened as soon as you can, including details of what was happening in the lead up to the assault.

If you have been assaulted do not be afraid or ashamed to report it immediately to your manager. They will be able to contact anyone you feel needs to be informed, such as family or friends. If you feel unable to inform your manager you should immediately contact your union representative.

If you have been assaulted you should ensure that a report form CF/50a is completed and handed to your manager. You should keep a copy of this form.

Do not admit any liability, particularly if you have had to use force yourself.

When completing any statement only record the facts as you are able to remember them – if you cannot remember something say that you can't. Do not record anything that is not truthful as far as you can recall.

When asked to make a statement you should speak with your union representative before doing so.

If you have been physically injured it is advisable to have photographic evidence of injuries sustained. Your employer should bear any reasonable costs.

Useful documents & contacts

“A Legal Toolkit for Schools” DfES 0503 2002 issued July 2002 & Poster available to download or order via the DfES website online publications at <http://publications.teachernet.gov.uk>.

“Improving Behaviour and Attendance: Guidance on Exclusion from Schools and Pupil Referral Units” DfES 2004
<http://www.teachernet.gov.uk/wholeschool/behaviour/exclusion/guidance/>

Leeds City Council Legal Services

DfES Teachernet Safer School Partnerships site -
<http://www.teachernet.gov.uk/wholeschool/behaviour/saferschoolpartnerships/>

DfES publication - “ Dealing with Troublemakers”

Employment, Education and General Legal - 0113 247 8991

Education Leeds Health and Safety Team – 0113 247 5763/5778/5785

Education Leeds Personnel – contact your School Personnel Advisor