

Springfield Primary School



The Use of Reasonable Force, Authority to Search and Violence and Aggression Towards Staff Policy

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SECTION ONE

The use of reasonable force

1. The Use of Reasonable Force

This policy is drawn from advice issued pursuant to the Use of Reasonable Force guidance from the Department for Education (2013).

The use of reasonable force upon any pupil by a member of staff is a serious matter and should only be considered as a last resort. However, the law is clear and the Governors have a responsibility to all concerned, to support any member of staff who, as a last resort, uses reasonable force in accordance with the law, and with this policy.

2. Physical contact with pupils

There are occasions when physical contact with a pupil may be proper or necessary. Some physical contact may be necessary to demonstrate exercises or techniques during PE lessons, sports coaching, or DT, or if a member of staff has to give first aid. Younger pupils or those with SEN may need staff to provide physical prompts or help. Touching may also be appropriate where a pupil is being congratulated or praised, or where the pupil is in distress and needs comforting.

Teachers should use their own professional judgment when they feel a pupil needs this kind of support, but take care that such contact cannot be misinterpreted. As a general principle staff must not make gratuitous physical contact with pupils. It is particularly unwise to attribute touching to their teaching style or as a way of relating to pupils.

Any form of physical punishment of pupils is an unlawful assault as is any form of physical response to misbehaviour unless it is by way of restraint. It is particularly important that staff understand this both to protect their own position and the overall reputation of the school.

3. What the Law means

S93 of the Education and Inspections Act 2006 enables school staff to use such force as is reasonable in the circumstances to:

- remove disruptive children from the classroom where they have refused to follow an instruction to do so.
- prevent a pupil behaving in a way that disrupts a school event or a school trip or visit.
- prevent a pupil leaving the classroom when 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 in the Playground.
- restrain a pupil at risk of harming themselves through physical outbursts.

4. Who may use force?

The staff to which this lawful power is granted are defined in the Act. They are:

- a) any teacher who works at Springfield Primary School,
- b) any other person expressly authorised by the Headteacher to have control or charge of pupils including support staff such as Pastoral Managers, Key Workers, Teaching Assistants, HLTA's. The Headteacher may also give temporary authorisation to those who have received the necessary training.

The power may be used where the pupil is on school premises or elsewhere in the lawful control or charge of a staff member – for example on a school visit. This may also be used with a pupil from another school if they are on our premises.

There is no definition of what reasonable force is but precedent shows there are two principle considerations. They are:

- the use of force can only be reasonable if the circumstances of the particular incident warrant it.
- the degree of force used must be in proportion to the circumstances of the incident and the seriousness of the behaviour or consequence the force is used to prevent. Any force shall only be the minimum required to achieve that objective.

In other words, each use of force must be justified in the specific circumstances, and the use of any force will be the minimum to overcome the behaviour or prevent the consequence of the behaviour.

Staff are reminded that the use of any force upon a pupil may need to be justified at some time after the incident, potentially before an internal enquiry or even ultimately at a Court of Law. Whilst it is not intended that this should be a deterrent from using force where it is appropriate, it will always lie with the individual to justify.

5. Deciding whether to use force

As a general rule staff should only use force when:

- the potential consequences of not intervening are sufficiently serious to justify it,
- the chance of achieving the desired outcome by other non-physical means are low; and
- the risk associated with not using force outweighs the risk of using it.

6. Using Force

Before using force, staff should ask the pupil to stop misbehaving. Care should be taken to avoid giving the impression that the member of staff is angry or frustrated, or are acting to punish the child. It should be made clear with calm language that as soon as the need for force ceases, it will stop.

Appropriate use of force will range from physical passive presence in between pupils, to blocking a pupil's path, ushering them by placing a hand in the centre of the back, leading them by the hand or arm, to in more extreme circumstances using appropriate restraining holds may be needed but staff doing this should have received specific training and expertise.

Whilst it is highly desirable that staff should avoid acting in any way which might reasonably be expected to cause an injury, in truly exceptional circumstances it is recognised that it may not always be possible to avoid. Any such injury caused will be properly investigated by the school and will require justification.

Reasonable adjustments should be considered for disabled children and children with special educational needs (SEN) when using reasonable force.

7. Planning for Incidents

Where there is an awareness that a pupil is likely to behave in a way which may require physical control or restraint, the school will plan how to respond if the situation arises. Particular attention will be given to individuals' needs which arise from statements of SEN or Disability.

8. Training for Staff

Physical restraint is an available option, only to be used when other means of dealing with the situation have failed. Identified staff will be provided with training in appropriate forms of restraint and should be used where possible if restraint of a child is needed.

All Staff should also have appropriate training in other skills as an alternative to restraint as part of staff training.

9. Recording of incidents involving restrictive physical intervention

When an incident occurs where a member of staff uses any form of restrictive physical intervention to prevent a pupil from causing injury to self or others or causing harm or damage to property, this should be recorded on CPOM's and/or Smartlog.

This is available for inspection by relevant Local Authority officers or others with a relevant inspection role.

The purpose of recording is to ensure that policy guidelines are followed, to inform parents, to inform future planning as part of school improvement processes, to prevent misunderstanding or misinterpretation of the incident and to provide a record for any future enquiry. Staff may find it helpful to seek advice from a senior colleague or a representative of their staff association when compiling the report.

Differing accounts may sometimes be given of the same incident; however, all should be recorded and stored.

Incidents involving the use of force may cause parents of the pupil in question great concern. It is school policy to inform parents of such an incident involving their child and to give them the opportunity to discuss it. Parents should be told when and where the incident took place, which members of staff were directly involved (anonymised where necessary), why they decided that force had to be used, what force was used, whether there were any injuries and what follow-up action (support and/or disciplinary) was being taken in relation to their child. The Headteacher or member of staff to whom the incident is reported will consider whether that shall be done straight away or at the end of the school day, and whether the pupil's parents should be told orally or in writing.

10. Post-incident support

If there are injuries, medical help should be sought straight away. It is also important to ensure that staff and pupils are given emotional support. A debrief should take place with the staff and the pupil involved as soon as is practical after the incident and the details of this debrief recorded.

If injuries occur then, as soon as possible after the incident, parents should be informed. This will be followed up in writing confirming the details. At the time of writing, parents should be provided with a copy of this policy.

For parents of pupils whose behaviour is associated with SEN and/or disabilities, a meeting should be arranged to agree a Support Plan. (See also, planning for incidents above).

When assessing the incident, consideration will be given to involving multi-agency partners. This could include Local Authority Children's Services, Child and Adolescent Mental Health Services or the Youth Offending Team.

Where a pupil is responsible for injury to another, as well as holding him/her to account and issuing appropriate sanction, the pupil will be given the opportunity to repair the relationships with staff and pupils affected by the incident and/or to develop their social and emotional skills. The pupil

and staff will be offered help to develop strategies for avoiding such crisis points in future and given continuing support, if necessary, in respect of:

- physical consequences
- support to deal with emotional stress or loss of confidence
- opportunity to analyse, reflect and learn from the incident

11. Complaints and allegations

If a specific allegation of abuse is made against a member of staff then the school will follow the guidance set out in dealing with allegations of abuse against teachers and other staff – guidance for local authorities, headteachers, school staff and governing bodies. Other complaints will be dealt with under the school's Complaints Procedure which is set out on the school's website.

SECTION TWO

Authority to Search

12. Guidance published in 2018 (Searching, Screening and confiscation: advice for schools, 2018), allows staff, within a range of safeguards, to search pupils with and without consent.

What the law means

S91 of the education and Inspections Act 2006, enables school staff to confiscate, retain or dispose of a pupil's property as a disciplinary penalty where reasonable to do so.

13. Schools obligations under the European Convention on Human Rights (ECHR):

- Under article 8 of the European Convention of Human Rights pupils have a right to respect for their private life. In the context of these particular powers, this means that pupils have the right to expect a reasonable level of personal privacy.
- The right under Article 8 is not absolute, it can be interfered with but any interference with this right by a school (or any public body) must be justified and proportionate.
- The powers to search in the education Act 1996 are compatible with Article 8. A school exercising those powers lawfully should have no difficulty in demonstrating that it has also acted in accordance with Article 8.

There is no legal requirement to make or keep a record of a search although this is recommended good practice. Any member at Springfield Primary School staff who has conducted a search must record this on CPOMs and parents must be contacted.

The school can seize any prohibited item found as a result of a search. They can also seize and item, however found, which they consider harmful or detrimental to school discipline.

If a pupil is suspected of being in possession of something they should not have in school (the complete list of items that will be confiscated can be found in the Positive Behaviour Policy) then the pupil should be asked to hand it over. If the pupil should refuse, the matter should be reported to the Pastoral or Learning Manager or someone from the Leadership Team. They may then obtain the pupil/student's consent and conduct a 'with consent' search of the pupil/student's outer clothing (clothing that is not worn next to the skin e.g. coat) and possessions over which the pupil/student has control such as their bag.

A without consent search can be conducted if pupils/students are thought to be in possession of knives or weapons, alcohol, illegal drugs, stolen items, tobacco and smoking related paraphernalia, fireworks, pornographic images and any article that has been or is likely to be used to commit an offence, cause personal injury or damage to property. At Springfield Primary School the policy is to conduct without consent searches as a last resort.

If a search is conducted (either with or without consent) the member of staff involved must be the same sex as the pupil and another member of staff should act as a witness. However, a search can be carried out by a member of staff who is of the opposite sex to the pupil and without a witness where the staff member reasonably believes that there is a risk of serious harm to a person if such a search is not carried out immediately and it is not reasonably practicable to call another member of staff. In such cases, staff should take into account the increased expectation of privacy for older pupils. Every effort should be made to persuade the pupil to hand over the item voluntarily. If a pupil decides to leave at any point, then he/she should not be prevented from doing so. Physical restraint should not be attempted in circumstances such as these, as it may amount to an unlawful detention. If appropriate, this will be reported to the Police.

In any situation where a pupil is suspected of having something illegal in his/her possession and where he/she has been asked to empty their pockets/bag/locker, parents must be contacted, regardless of whether the result was positive or negative.

SECTION THREE

Violence and aggression to staff

14. Introduction

The Governing Body is aware that some members of staff will on occasion be in a position where they may face verbal abuse, threatening behaviour or even be assaulted in some way. This will be distressing for themselves, their families and their colleagues. Where violence and aggression is anticipated, the school will operate systems of work that minimise risks. This policy sets out ways in which the school and its staff can help prevent such incidents and minimise their effect.

We work with a diverse range of young people and adults and it may not always be possible to foresee a particular incident. However, the overwhelming majority of situations can be anticipated in which there might be a risk to personal safety, and this document sets out the way in which these potential incidents should be managed.

When incidents do occur, it is important that managers and staff follow the reporting procedure so that relevant information from the incident can be used to adjust operational, managerial and policy practices.

15. Definition of 'Violence and Aggression' in School

The School defines the term as:

'Any incident in which an employee is abused, threatened or assaulted by another person in circumstances arising out of the course of his or her employment.'

This applies whether the member of staff is on or off duty and is irrespective of the status of the perpetrator.

16. Examples of behaviour classed as 'violence' or 'aggression':

- Kicking
- Biting
- Punching
- Poking or pushing
- Spitting
- Scratching
- Head butting
- Tripping
- Actions that restrict movement
- Unwanted physical contact which results in no injury
- Use of weapons
- Use of missiles
- Extreme or repetitive verbal or written abuse which causes personal offence or distress
- Sexual, racial or other harassment
- Bullying
- Intimidation
- Damage to personal property

Other aggressive behaviour

- Shouting
- Posturing
- Gestures

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- Insults
- Innuendo
- Unreasonable demands or blackmail

17. General Policy

Violence and aggression are unacceptable. However, given the nature of the services we provide, it is acknowledged that some staff may, on occasion, encounter violence or aggression and therefore the school takes reasonable measures to eliminate or minimise the risks.

- Risk assessments will be undertaken for specific pupils with known difficulties.
- Staff will receive training from time to time on measures to be taken in different circumstances.
- All incidents of violence and aggression **must** be reported to a member of the Leadership Team e.g. Positive Handling and any incident requiring a member of staff to use any form of restrictive physical intervention should be reported and recorded on CPOMs.
- Following an incident of violence or aggression, support will be offered by the school.
- Staff are expected to take account of their own safety when considering their actions in intervening in any incidents of violence or aggression.

18. Roles and Responsibilities

The Governing Body, as the employer, is responsible for the provision of measures to safeguard its staff. It delegates the implementation of the measures provided for within this policy to the **Headteacher**.

The Headteacher and Leadership Team will:

- ensure that risk assessments are undertaken where required.
- ensure that relevant staff receive training at appropriate intervals in skills that can be used to minimise risks to personal safety.
- ensure that all staff are aware of the procedure to report incidents of violence and aggression.
- ensure that all such reports are thoroughly investigated and responded to.
- offer and provide appropriate post-incident support to staff.
- monitor the effectiveness of this policy.

Individual members of staff are responsible for:

- following working procedures and risk assessments.
- reporting likely or actual incidents of violence or aggression.
- taking due regard of their own personal safety and well-being and for withdrawing from a situation where the risk of actual or potential violence or aggression is high. An exception to this is where any formal plan (e.g. a care plan) relating to a pupil, requires an alternative, prescribed course of action to be followed.

19. Risk Assessment

Risk is defined as “the likelihood of harm”. The significance of a risk depends upon the severity of the possible outcome and the number of people who may be affected. All risks will be managed before harm occurs – that is to say, by adopting a proactive approach rather than a reactive one.

These assessments are not to be confused with those made for an individual pupil, through a formal plan such as a Care Plan or a Personal Support Plan. They are different and separate

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because the risk of violence or aggression from a pupil or service user may extend beyond the staff who might normally be expected to have access to the agreed plan. In the case of care plans, these individual assessments will be taken into account when preparing the risk assessment.

Risk assessments will seek to establish the risk to staff after taking into account:

- information about children including the frequency and severity of any previous incidents.
- frequency and nature of the contact.
- experience and training of the staff.
- location.
- adequacy of existing precautionary measures.

The risk assessor will identify any necessary measures and ensure that identified post holders accept the responsibility to act upon them within an agreed timescale commensurate with the risk.

All significant risks will be recorded on a risk assessment form. Both assessors and managers are responsible for ensuring that the outcomes of assessments are made known to all relevant personnel.

All assessments will be reviewed at least annually but more frequently if enhanced risks are identified or whenever relevant circumstances change. Assessments will be reviewed after each incident.

20. Preventative Strategies

20.1 General Security

School procedures provide for the registration of all visitors at Reception. However, due to the nature of the site, unauthorised access is possible, and it is acknowledged that this may pose a risk to staff or pupils.

If a member of staff observes a stranger not wearing a visitor's badge, they will challenge this person immediately and alert Reception or a member of senior staff.

20.2 Suitable Working Environments

When speaking to a member of the public/parent/pupil, staff will wherever possible use rooms with an unobscured vision panel in the door.

Classroom layout is at the discretion of the individual teacher and is governed by space and teaching needs. Wherever possible staff will base themselves in a position which allows sight of all entrances and immediate access to at least one of them.

20.3 Working Practices and Patterns

If it is anticipated that a visitor or pupil may display aggressive behaviour, staff will consider whether to meet with that person alone and will prepare their responses to any violent or aggressive behaviour in advance of the meeting.

Staff will avoid working in isolation, particularly out of normal hours.

If telephone callers become abusive or threatening, staff will issue a caution along the lines of, 'if you continue to be abusive, I shall put the telephone down', and then do so if the caller persists.

20.4 Physical Intervention (Control and Restraint)

As a general rule, physical interventions will only be used as a last resort when other strategies have been tried and found to be unsuccessful or when the risks of not employing an intervention outweigh the risks of using reasonable force.

There is no legal definition of 'reasonable force' so it is not possible to set out comprehensively when it is reasonable to use force, or the degree of force that may reasonably be used. It will always depend on all the circumstances of the case.

There are two relevant considerations:

- the use of force can be regarded as reasonable only if the circumstances of the particular incident warrant it. The use of any degree of force is unlawful if the particular circumstances do not warrant such use.
- the degree of force employed must be in proportion to the circumstances of the incident and the seriousness of the behaviour or the consequences it is intended to prevent. The degree of force and the duration of its application will always be the minimum needed to achieve the desired result.

It is a criminal offence to use physical force, or to act in a way that leads another person to fear the use of force (for example, by raising a fist or issuing a verbal threat), unless the circumstances give rise to a 'lawful excuse' or justification for the use of that force. Such justification may be to prevent an injury to oneself or to others or to prevent serious damage to property. In these circumstances, a reasonable amount of force may be used. Staff are aware that the use of unjustified and excessive force might be an offence.

All instances of physical intervention will be reported to a senior member of staff and recorded on CPOMs.

20.5 Self Defence

Leaving or getting away is often the best defence using any pretext that may work but individuals do have the legal right to defend themselves, or others, if attacked. The amount and degree of defensive force used must be proportional to the level of risk being faced. This will depend upon the circumstances. You do not have to be hit first if you are in fear of being injured.

20.6 Positive Behaviour Policy

Staff will refer to the School's Positive Behaviour Policy which outlines the school's expectations of pupils and includes a Code of Conduct, as well as providing advice on creating a positive climate for learning and information on School rewards and sanctions.

20.7 Lone Working

There will be occasions when members of staff will be working alone in their particular area of the School, particularly outside of normal school hours/term time.

The risk of violence and aggression towards staff increases in a lone working situation. Staff will take care not to make an appointment to see a visitor who is not previously known to them at a time when they will be alone in an area of the school.

If possible, they will cancel or re-schedule the appointment, re-arrange the venue or arrange for an additional member of staff to be present.

21. Responsive Measures

21.1 Short-term Debriefing

The nature and level of action following an incident will depend on the circumstances of each case. Some 'minor' instances may not require any action, but it is important that no incident is dismissed as being too trivial to deal with without first exploring the effect of it with the member of staff involved.

Immediately after an incident, the line manager or Medical Officer will ensure that all necessary first aid or medical treatment is arranged.

It is probable that the victim will want to talk about the incident but may be feeling distressed or guilty. It is important that sensitive support is given at this point. Line Managers will be aware that other colleagues are likely to be seen as primary emotional supports and this may require some flexibility about the normal work routine continuing. Further opportunities to talk about the incident will be provided after a period for reflection.

All parties involved in the incident will write down their thoughts and recollection of the incident as soon as they feel able to. The staff member will be offered counselling and reminded that a trade union or professional association representative may be present at any meeting where a discussion of the incident takes place.

All incidents will be formally acknowledged, verbally and/or in writing.

The Headteacher and other managers will review risk assessments and care and support programmes in the light of any incident. This will include the sharing of information to ensure that all staff are made aware of risks as appropriate.

21.2 Longer-term Debriefing

Victims of violence or aggression may need time to come to terms with the implications of the incident.

The Headteacher, Leadership Team and Line Manager will be alert to the possibility that the member of staff is underestimating his or her own needs.

Other staff who witnessed the incident or are likely to come into contact with the aggressor will be given information about the incident and its implications.

Any staff development needs that are highlighted by the incident will be addressed.

If a member of staff is absent from work for a lengthy period following the incident, a referral will be made to an Occupational Health Adviser in accordance with the School's Sickness and Ill Health Absence Management Policy.

21.3 Counselling

Counselling will be offered where it is deemed appropriate by the Leadership Team and/or Human Resources.

21.4 Change of Duties

The staff member and Headteacher/Line Manager should agree any need to alter work duties as a result of the incident. This will be done such that the member of staff is not put under duress or made to feel guilty.

21.5 Involvement of the Police

The police will usually be informed of all incidents where a member of staff has been assaulted. In some circumstances the member of staff may not wish the police to be involved. However, the

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Headteacher has the final decision and may judge that the wider protection of the community requires that a report be made to the police, notwithstanding the wishes of the individual.

If, during the course of the incident, a child is assaulted or abused, this will be reported in accordance with current statutory regulations.

21.6 Employers Liability

A member of staff who believes that they have suffered harm as a result of a work-related incident may seek independent advice as to any civil claim they may have. The School's Employers Liability insurance will apply where legal liability is established against the school or any other employee.

Employees may also contact the Criminal Injuries Compensation Board. Details can be found at www.cica.gov.uk. In order to pursue a claim, the incident must be reported to the police within 24 hours and to the Board within two years.

21.7 Legal Advice and Support

If an employee is the victim

If an employee is a victim of an assault in School which gives rise to criminal proceedings, the school's solicitors will provide support in terms of advising on the criminal process. However, this will not extend to bringing a civil action for damages, save to the extent that this is necessary in order to secure an injunction to prevent further assaults or harassment. If an injunction is to be sought against the perpetrator, the school's solicitors will advise on each case as to whether the circumstances justify such an application or whether alternative action may be more suitable.

If an employee is alleged to have committed an offence

Where an employee is the subject of a criminal investigation as a result of allegations made by one of the school's clients, the school cannot provide legal advice or representation to that individual. This is so, even where it appears that the employee has followed the school's procedures.

If the police decide to take action against a member of staff, then the school will be as supportive as the merits of the case allow. However, the School is also unable to provide financial assistance to an employee to seek his or her own legal advice and representation from another source. Nor can it reimburse an employee's legal costs in the event of a prosecution not proceeding or ending in an acquittal.

In light of these two paragraphs, it is strongly recommended that staff consider membership of an appropriate Professional Association. Alternatively, staff may want to consider the possibility of taking out private insurance cover for such eventualities.

If a third-party claims compensation

Where an employee is the subject of civil proceedings arising from an incident in which a third party alleges injury, the matter will be dealt with under the school's insurance arrangements, thus protecting individual employees. The only circumstances where employees may find themselves outside the protection of the school's insurance are where criminal acts have been committed or where the individual is negligent.

21.8 Exclusion of Pupils

Guidance on the exclusion of pupils has been provided by Statutory guidance for those with legal responsibilities in relation to exclusion 2017.

Only the Headteacher of a school can exclude a pupil and this must be on disciplinary grounds. A pupil may be excluded for one or more fixed periods (up to a maximum of 45 school days in a single academic year), or permanently. Please refer to the Positive Behaviour Policy regarding the school's approach to permanent exclusion.

21.9 Warning Letters

The school's solicitors will, at the request of the Headteacher and subject to satisfactory evidence, issue a warning letter to any adult who has committed a serious act of violent, abusive or aggressive behaviour.

22. Reporting Procedures

Only by reporting incidents can working practices and procedures be adjusted to provide as much protection for staff as is possible. The cumulative effect of several minor incidents can be just as harmful as that from those of a more serious nature.

The reporting process has two elements:

- The School's Accident Report Forms are kept by the Medical Officer and are used to record all incidents and accidents.
- Any incidents resulting in major injury to staff or that cause staff to be off work for three days or more must be reported under the RIDDOR Regulations 1995.
- Any incident which results in a member of the public being taken directly to hospital from the premises must also be reported. Managers should contact the HSE Incident Contact Centre on 0845 300 9923 to report the incident.
- For incidents that are more serious, staff complete an on-line Accident/Incident Report with a copy being retained at the school.
- Any incident requiring a member of staff to use any form of restrictive physical intervention should be recorded on CPOMs.

The Headteacher and Leadership Team, via the Health and Safety Committee, will use these reports to identify measures that can reduce the likelihood of any recurrence as well as spotting regular or repeated perpetrators and victims. All reports will also be monitored by the Committee and regular cumulative reports will be compiled to identify trends and areas for further action.

If a major injury is attributable to an act of violence in a work-related incident, then the incident will be reported to the Health and Safety Executive immediately. Any injury which results in an absence of more than 3 days from normal work duties must also be reported to the HSE.

23. Further Support and Advice

Support and advice in respect of violence to staff is available from any member of the Leadership Team who will be able to refer a member of staff for more specialist support where appropriate.

The school still liaises with the Local Authority regarding Health and Safety advice and such advice can be accessed by the Headteacher in the first instance.

Some other useful contacts are:

Health and Safety Executive Department for Education

The Pithay Castle View House

Bristol, BS1 2ND East Lane

Tel: 0117 988 6000 Runcorn

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Cheshire, WA7 2GJ

British Association for Counselling and Psychotherapy Tel: 0370 000 2288

BACP House

15 St John's Business Park Victim Support

Lutterworth 9A The Butts

Leicestershire, LE17 4HB Ilminster

Tel: 01455 883300 Somerset, TA19 0AY

Tel: 01460 55535

Criminal Injuries Compensation Authority

Alexander Bain House

15 York Street

Glasgow, G2 8JQ

Tel: 0203 6842517