

Case 1 Issue 37 – Young people		LEARNING THE LESSONS
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School pupil not informed of arrest and de-arrest

Restraint of a pupil at a school, raising issues about:

- *Giving information on arrest/de-arrest*
- *Accurate recording of decisions surrounding arrest/de-arrest*

This case is relevant if you work in:

Neighbourhood policing



Personal safety



Overview of incident

Miss A, a 13-year-old girl, got into an argument with another pupil at school. She was sent to the school 'inclusion room' as a consequence of her behaviour. The inclusion room is a managed learning environment for students that have breached the schools behaviour policy. However, after going to the inclusion room, Miss A became disruptive. She was told to go to Mr B's office. Mr B was the assistant headteacher in charge of managing pupil behaviour.

CCTV footage showed Miss A outside Mr B's office being obstructed by two teachers at opposite ends of the hallway.

Miss A entered Mr B's office. She told the IOPC the teachers were trying to talk to her about her behaviour but she just wanted to go home. She described her behaviour in Mr B's office as sarcastic. Her teachers corroborated this account. Mr B stated Miss A would not calm down so he decided to seek the assistance of PC C the safer schools officer who worked with the school. He stated he did this because Miss A kept trying to get out of the room and he did not want to place his staff in that situation. He said PC C had been involved before and had managed to calm Miss A down on several occasions.

Mr B stated that as a result of Miss A's behaviour he decided to temporarily exclude her from the school.

Some time after, PC C entered the office. Mr B stated PC C was calm and continued to ask Miss A to sit down and listen to her teachers. Mr B stated when Miss A refused to sit down, PC C placed his hands on her shoulders and pushed her down until she sat in her chair. Miss A continued to stand back up.

Miss A and Mr B stated at one point PC C told Miss A he was going to put handcuffs on her until she calmed down. Mr B recalled PC C saying “I’m not arresting you, I am placing handcuffs on you, just so you can calm down, and they will be taken off you once you’ve calmed down.” PC C recorded in his personal day book he had applied the National Decision Model (NDM) and used section 3 of the Criminal Law Act to justify placing Miss A in handcuffs. PC C later told the IOPC he made a ‘deliberate choice’ not to inform Miss A of her arrest and de-arrest. PC C explained his rationale for doing this by saying the forces policy on safer schools stated officers should be ‘prepared to do things differently’.

Criminal Law Act (1967), Section 3

“Use of force in making arrest, etc.

(1) A person may use such force as is reasonable in the circumstances in the prevention of crime, on in effecting or assisting in the lawful arrest of offenders or suspected offenders or of persons unlawfully at large.

(2) Subsection (1) above shall replace the rules of the common law on the question when force used for a purpose mentioned in the subsection is justified for that purpose.”

Read more online:

<https://www.legislation.gov.uk/ukpga/1967/58/section/3>

Police and Criminal Evidence Act (1984)

Part 3, Section 28

(1) Subject to section (5) below, where a person is arrested, otherwise than by being informed that he is under arrest, the arrest is not lawful unless the person arrested is informed that he is under arrest as soon as is practicable after his arrest.

(2) When a person is arrested by a constable, subsection (1) above applies regardless of whether the fact of the arrest is obvious.

(3) Subject to subsection (5) below, no arrest is lawful unless the person is informed of the ground for the arrest at the time of, or as soon as is practicable after, the arrest.

(4) Where a person is arrested by a constable, subsection (3) above applies regardless of whether the ground for the arrest is obvious.

(5) Nothing in this section is to be taken to require a person to be informed –
a. That he is under arrest; or
b. Of the ground for the arrest,

If it was reasonably practicable for him to be so informed by reason of his having escaped from arrest before the information could be given.

Find out more online:

<https://www.legislation.gov.uk/ukpga/1984/60/section/28>

After PC C put the handcuffs on Miss A, the teachers described how her behaviour escalated. One of the teachers, Mr D described how she was “really struggling” and “thrashing her arms”. He recalled PC C telling Miss A to calm down, and he would take the handcuffs off once she had calmed down.

All the witnesses to the incident were clear they did not believe Miss A was under arrest at this point. Miss A explained when she had been arrested previously, she had been cautioned. As she had not been cautioned by PC C, she believed she had not been arrested.

Mr B explained to Miss A she would be fixed-term excluded. PC C removed the handcuffs.

After leaving the office, Miss A stated she went in the opposite direction to that which Mr B had asked her to go. As a result, Mr B and Mr D took hold of Miss A and walked her down the hallway. They paused outside the inclusion room in front of a set of double doors with magnetic locks. PC C entered the hallway behind Mr B and Mr D who were still holding Miss A by the arms. Miss A managed to get one of her arms free. PC C stepped forward, grabbing Miss A’s arm as he did so. PC C was blocked from the view of CCTV so it is unclear what position Miss A’s arm was placed in. PC C, Mr D and Mr B continued to escort Miss A down the hallway.

In his personal day book, PC C said he considered his ‘empty hand skills’ and ‘powers under criminal law’ before he placed Miss A in a ‘Home Office approved... arm lock’. The IOPC accepted PC C’s rationale for the force used was reasonable and proportionate given Miss A’s behaviour.

All of the teachers confirmed Miss A did not give any indication she was in any pain during her escort out of the building.

Miss A made her way home. When she arrived home she complained to her mother about pain in her right wrist. They visited hospital the same day where medical staff found she had sustained an injury to her right wrist. Her arm was placed in a plaster cast and she was referred to the fracture clinic.

Miss A stated she believed the injury took place when PC C bent her wrist backward and forward when removing her from the school.

Later that day, a log was entered onto force systems for breach of the peace at the school. The person who made the entry was asked by PC C to do so because he had arrested and de-arrested Miss A.

Type of investigation

IOPC independent investigation

Outcomes for officers and staff

PC C

OFFICIAL

1. PC C, the safer schools officer who responded to the incident involving Miss A, had a case to answer for misconduct. This was in respect of his failure to inform a young person of her arrest, in breach of the *Police and Criminal Evidence Act*. PC C attended a misconduct meeting, at which misconduct was proven. The officer received training in the use of the National Decision Model (NDM) and interpretation of PACE as a result.

Questions to consider

Questions for policy makers and managers

1. How does your force make sure officers are aware they need to tell a person they are being arrested and the grounds for the arrest under the *Police and Criminal Evidence Act* (PACE)?
2. What advice or training do you give to officers to help them communicate effectively with children and young people?
3. Does the guidance or training you give to officers advise them to treat young people differently depending on their age?

Questions for police officers and police staff

4. If you were the police officer in this incident, what other methods would you have considered to deal with the girl's behaviour?