

Policy on the use of Positive Handling of Pupils

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Introduction – What the law says

Can school staff use force to control or restrain a pupil?

- Under the 2006 Education and Inspections Act, section 93 allows members of staff to use reasonable force to control or restrain a pupil. The power conferred by section 93 is in addition to the common law power of a citizen in an emergency to use reasonable force in self-defence, to prevent a person from being injured or committing a criminal offence, and to prevent damage or injury to property. However, section 93 also makes clear that authorised staff may use force to prevent behaviour that prejudices the maintenance of school discipline regardless of whether that behaviour would also be counted as a criminal offence
- Section 45 of the Violent Crime Reduction Act 2006, also allows school to use reasonable force to search pupils for weapons without their consent, but only where there are reasonable grounds for suspecting that a pupil has a weapon. However, if resistance is suspected staff should call the police
- It is always unlawful to use force as a punishment. This is because it would fall within the definition of corporal punishment, abolished by section 548 of the Education Act 1996.

For further details please see the following:

www.teachernet.gov.uk/wholeschool/healthandsafety/schoolsecurity

www.teachernet.gov.uk/_doc/12187/ACFD89B.pdf

Staff Training

We recognise that it is very rare that one of our pupils be the subject of having to be restrained using reasonable force. We have excellent behaviour management policies and practice and our school is well ordered and calm. Pupils, staff and parents know and understand this. Staff are aware of this policy and in the course of their everyday working lives employ a range of strategies to deal with pupil behaviour. Training on the use of force is also covered as part of our on-going child protection training and members of staff are trained on positive handling. However, individuals have statutory power to use force by virtue of their job. So we cannot lawfully prevent teachers or other staff whose job involves having control of charge of pupils, from using that power regardless of whether they have received training.

Authorised Staff

- Who is able to use force to control a pupil? S93 of the Education Act 2006, allows a person who is, in relation to a pupil, a member of the staff, to use such force as is reasonable in the circumstances to prevent a pupil from doing or continuing to do any of the following, namely:
- Committing any offence, including anything that would be an offence if that young person were not under the age of criminal responsibility.

- Causing personal injury to, or damage to property of any person including the pupil himself [sic]
- Prejudicing the maintenance of good order and discipline at the school or among any of its pupils receiving education at the school, whether during a teaching session or elsewhere

Definition of member of staff:

Any adult who works at the school and any other person the Head teacher has authorised to have control or charge of pupils, including support staff whose job normally includes supervising pupils such as teaching assistants, learning support supervisors, learning mentors and lunchtime supervisors

Can also include people who the Head teacher has given temporary authorisation for control or charge of pupils whose job does not normally involve supervising pupils such as catering or premises related staff and unpaid volunteers

Extent of the responsibility of those authorised

Where are authorised members of staff allowed to control a pupil in this manner?

- Staff have the power in law to use force where:
 - The member of staff and pupil are on the premises of the school.
 - They are elsewhere and the member of staff has lawful control or charge of the pupil i.e. on trips or visits.

This provision applies whether the pupil is at school or on an organised activity – e.g. field trip or visit. However the section does cover all situations in which it might be reasonable to a degree of force. For example, everyone has the right to defend himself or herself against attack provided they do not use a disproportionate degree of force to do so. Similarly, in an emergency, for example if a pupil was at immediate risk of injury or on the point of inflicting injury on someone else, any member of staff would be entitled to intervene.

Types of incident

Under what circumstances is a member of staff allowed to use reasonable force against a pupil? Decisions on whether the precise circumstances of an incident justify the use of force, must be reasonable i.e. would any reasonable

person with similar experience have reacted in a similar way? Typically such decisions have to be made quickly, with little time for reflection. Nevertheless, staff need to make the clearest possible judgements about:

- The seriousness of the incident – if force is not used to control the situation is the likely outcome going to be worse for all concerned? If it is, then using force may be justified.
- The chance of achieving the result by other means – Could I achieve the same result in some other way, and not has to use force?

- The relative risks associated with physical intervention compared with using other strategies – Is it likely to cause less damage or stop the incident as quickly as possible, if I were to just step in rather than try any other strategies?

Examples of such situations that particularly call for judgements of this kind include:

- A pupil attacks a member of staff or another pupil
- Pupils are fighting, causing risk of injury to themselves or others
- A pupils is committing, or on the verge of committing deliberate damage to property
- A pupil is causing, or at risk of causing injury or damage by accident to themselves, another pupil or property, by rough play, or by misuse of dangerous materials or objects
- A pupil absconds from a class or tries to leave school other than at an authorized time. Refusal of a pupil to remain in a particular place is not enough on its own to justify use of force, BUT it would be justifiable if allowing the pupil to leave would entail a serious risk to the pupil's safety or to the safety of other pupils of staff. As all our pupils are under 11 years, we view absconding from the premises, or from a member of staff who is responsible for them, as a serious risk to safety.
- A pupil persistently refuses to follow an instruction to leave a classroom
- A pupil is behaving in a way that seriously disrupts a lesson
- A pupil is behaving in a way that seriously disrupts a school sporting event or school visit.

In these examples use of force would be reasonable (and therefore lawful) if it was clear that the behaviour was sufficiently dangerous or disruptive to warrant physical intervention of the degree applied and could not be realistically dealt with by other means. Wherever possible, these judgements should take account of the particular characteristics of the pupil including his or her age, understanding and any SEN or disability that he or she may have. This would include the outcomes of any risk assessment and, as appropriate, any specific strategies and techniques set out in the pupil's positive handling plan.

Positive Handling Plans and Risk assessments:

What if a pupil is likely to need to be restrained because they have SEN?

We will assess the frequency and severity of incidents requiring use of force that are likely to occur in the school as a whole, and we will also make individual risk assessments for particular pupils who's SEN and/or disability is associated with extreme behaviour. An individual risk assessment is also essential for a pupil who's SEN and/or disabilities are associated with:

- Communication impairments that make them less responsive to verbal communication e.g. autism
- Physical and/or sensory impairments

- Conditions that make them fragile e.g. haemophilia, brittle bone syndrome or epilepsy
- Dependence on equipment such as wheelchairs, breathing or feeding tubes

If a pupil is deemed to be in one of the above categories they will have a positive handling plan which will set out clearly the techniques that should be used and those that should not normally be used. Any planned use of physical intervention should be compatible with a pupil's statement and properly documented in school records. As far as possible staff that come into contact with such pupils should be aware of the relevant characteristics of those pupils particularly:

- Situations that may provoke difficult behaviour, preventive strategies and what de-escalation techniques are most likely to work.
- What is most likely to trigger a violent reaction, including relevant information relating to any previous incident requiring use of force
- If physical intervention is likely to be needed, any specific strategies and techniques that have been agreed by staff, parents and the pupil concerned.

Information from parents will be valuable and some of this may be sensitive, so consent must be sought in order to share this kind of information. But if consent is withheld unreasonably, the information may still be made available to staff in the interests of minimising the use of force for that child. Designated staff to be called if incidents related to particular pupils occurs. This does not necessarily mean waiting for them to arrive before taking action, if the need for action is urgent. Teach pupils who are at risk how to communicate in times of crisis and strategies to use in a crisis and ensure all staff are familiar with those strategies.

Positive Handling:

- Must only be used for the minimum amount of time necessary to diffuse or resolve the immediate situation
- Must not inflict pain or be punitive
- Must not impede breathing
- Must avoid vulnerable parts of the body (neck, chest, genitals, or undue weight on spine)
- Must avoid hypertension, hyper flexion and pressure on or across joints

All incidents where positive handling has been used will be recorded and reported in the usual way.

For further information please go to:

www.teachernet.gov.uk/wholeschool/sen/piguide

www.teachernet.gov.uk/doc/5334/PI%20risk%20assessment%20proforma.pdf

Reasonable Force

Who decides what reasonable force is?

There is no legal definition of when it is reasonable to use force. Force can only be regarded as reasonable if the circumstances of the particular incident warrant it.

BUT: Members of staff have a Duty of Care towards all pupils to keep them safe.

To be judged as lawful:

- The force used would need to be in proportion to the consequences it is intended to prevent.
- E.g. Force cannot be justified to prevent trivial misbehaviour

Before using force staff will, wherever practicable tell the pupil to stop misbehaving and communicate in a calm and measured manner throughout the incident. Staff will not give the impression of acting out of anger or frustration or to punish a pupil, and will make it clear that physical contact or restraint will stop as soon as it ceases to be necessary. The types of force used could include:

- Passive physical contact resulting from standing between pupils or blocking a pupil's path:
- Active physical contact such as leading a pupil by the hand or arm
- Ushering a pupil away by placing a hand in the centre of the pupil's back
- In more extreme circumstances, using appropriate restrictive holds which may require specific expertise or training

Where there is a high risk of death or serious injury any member of staff would be justified in taking any necessary action. Such situations could include preventing a pupil running off the pavement and onto a busy road or preventing a pupil from hitting someone with a dangerous object. Staff should make every effort to avoid acting in a way that might be reasonably expected to cause injury. However in the most extreme circumstances such as risk of death or serious injury, it may not be possible to avoid injuring a pupil. Staff should always avoid touching or restraining a pupil in a way that could be interpreted as sexually inappropriate conduct.

Sometimes a teacher should not intervene in an incident without help (unless it is an emergency). For example, when dealing with an older pupil or a physically large pupil, or more than one pupil, or if the teacher believes he or she may be at risk of injury. In those circumstances the teacher should remove other pupils who might be at risk, and summon assistance from a colleague or colleagues, or where necessary phone the Police. The teacher should inform the pupil(s) that he or she has sent for help. Until assistance arrives the teacher should continue to attempt to defuse the situation orally, and try to prevent the incident from escalating.

Application of force

If force is used against a pupil – what is the member of staff permitted to do?

Physical intervention can take several forms. It might involve staff:

- Physically interposing between pupils
- Blocking a pupil's path
- Holding
- Pushing
- Leading a pupil by the hand or arm
- Shepherding a pupil away by placing a hand in the centre of the back
- Or, in extreme circumstances, using more restrictive holds.

In exceptional circumstances, where there is an immediate risk of injury, a member of staff may need to take any necessary action that is consistent with the concept of "reasonable force"; for example to prevent a young pupil running off a pavement onto a busy road, or to prevent a pupil hitting someone, or throwing something. Staff should always avoid touching or holding a pupil in a way that might be considered inappropriate.

Where the risk is not so urgent the teacher should consider carefully whether, and if so when, physical intervention is right. Teachers should always try to deal with a situation through other strategies before using force. All teachers need developed strategies and techniques for dealing with difficult pupils and situations, which they should use to defuse and calm a situation. In a non-urgent situation force should only be used when other methods have failed. That consideration is particularly appropriate in situations where the aim is to maintain good order and discipline, and there is no direct risk to people or property. As the key issue is establishing good order, any action, which could exacerbate the situation, needs to be avoided. The possible consequences of intervening physically, including the risk of increasing the disruption or actually provoking an attack, need to be carefully evaluated. The age and level of understanding of the pupil is also very relevant in those circumstances. Physical intervention to enforce compliance with staff instructions is likely to be increasingly inappropriate with older pupils. It should never be used as a substitute for good behavioural management.

Recording Incidents

If force is used against a pupil, who will know about it and what records will be kept? Every significant incident where force has been used will be recorded in accordance with the school's behaviour policy. The purpose of recording is to ensure policy guidelines are followed, to inform parents, to prevent misunderstanding of the incident and to provide a record for any future enquiry. If the incident needs to be recorded the following questions are used as a guideline:

- Did the incident cause injury or distress to a pupil or member of staff?

- Even though there was no apparent injury or distress, was the incident sufficiently serious in its own right to require a written record? Any use of restrictive holds would fall into this category.
- Is a written record needed to be able to justify the use of force? This is particularly relevant where the judgement was very finely balanced.
- Is a record needed to help identify and analyse patterns of pupil behaviour or staff training needs?

If the answer to any of these questions is yes, a written record needs to be made and either written on the back of, or attached to, a blue form. Such records can provide evidence of defensible decision-making in the event of a subsequent complaint or investigation. It is possible that not all of the specifics of an incident can be recorded where it is not known on whom the force was used, as for example where a member of staff has hastily had to part several pupils encircling a fight. The staff member may understandably focus on and recall the identities of the fighting pupils and not the individual spectators.

The member of staff involved in an incident is usually the person who will compile the report and this will be checked over by senior staff. Differing accounts of the same incident should all be recorded. The senior staff involved will decide if it is appropriate that the parents/carers should be given a copy of the incident report in its entirety (particularly if this becomes or is part of a child protection enquiry or criminal enquiry) The record is likely to form part of the educational records of the school, either in the SEN file of the child if they have one, or the behaviour file, as such the parent /carer is entitled to see it should they wish within 15 school days of receipt of the parent's written request. When schools comply with such requests there is some information that must not be disclosed (see Data protection Act 1998 – sections 30 (2) and 38 (1))

- Information, that could cause serious harm to the physical or mental health or condition of the child or someone else, if it was publicly known
- Information relating to abuse either suspected or actual, where telling someone else might put that child at more risk
- Any references supplied to potential employers of the child, any national body concerned with student admissions, another school, an institution of further or higher education, or any other place of education and training may not be seen
- Information supplied by the school in a report to any juvenile court, where the rules of that court provide that the information or part of it may be withheld from the child
- Information concerning the child, which also relates to another person who can be identified from that information or which identifies another person as the source of that information. Unless the person has consented to the disclosure, or it is reasonable in all the circumstances to disclose the information without his/her consent or the person is an employee of the LA or of the school. (This exemption does not apply where it is possible to edit the information requested so as to omit the name or any other identifying particulars of that other person)

- Information recorded by the pupil during an examination

For further information on school records and the law please see:
www.teachernet.gov.uk/management/atoz/p/pupilrecords/

After any recordable incident it is best practice that parents are informed verbally as soon as is reasonably possible. Parents should be given a copy of this policy and information on post-incident support if requested. All injuries should be recorded in accordance with school procedures and relevant injuries to staff or pupils should be reported to the Health and Safety Executive – this can be done online or by phone. The website gives a list of major injuries and serious near misses that need to be reported to them immediately. 0845 300 99 23 (www.hse.gov.uk/riddor/index.htm) Members of staff who have been assaulted may wish to report this to the police.

Post Incident support

What happens after a pupil has been the subject of reasonable force?

Serious incidences that require the use of force can be upsetting to all concerned and may result in injuries to the pupil or to staff. Immediate action should be taken to provide first aid for any injuries and to access medical help for any injuries that go beyond first aid. It is also important that pupils are given emotional support.

Parents will be informed as soon as is reasonably possible verbally of what has happened. If it is deemed necessary the parents will be invited in for a meeting to discuss the incident and to set out subsequent actions and support to avoid such an incident recurring. Parents should be involved in appropriate support arrangements. For parents of pupils whose behaviour is associated with SEN and/or disabilities, we will agree an individual positive handling plan (to be part of an IEP) if this is the first incident of this nature, and all concerned think there may be a repeat occurrence. School will also decide whether multi-agency partners need to be involved e.g. CAMHS.

Where reasonable the pupil should also be held to account for what has happened and the chance be given for that pupil to repair the harm that has been caused to any staff or pupil relationships. The pupil should also be offered opportunities to improve their social and/or emotional skills. In some cases an incident might lead to exclusion. Guidance on this is at

www.dfes.gov.uk/exclusions/guidance

Complaints

What if I want to complain about the way the situation was handled and the force that was used against a pupil? Parents have the right to complain about actions taken by school staff. If a specific allegation of abuse is made against a member of staff then we will follow the guidance set out in

Safeguarding Children and Safer Recruitment in Education

(www.everychildmatters.gov.uk/resources-and-practice/IG00175)

Other complains will be dealt with under our normal complaints procedure. In such circumstances the Head teacher/Deputy Head teacher would respond to the complaint in the light of this policy. Parents may then choose to appeal against this decision. At this point a Governor's panel would be convened. The school policy and the degree to which it had been followed will be at the core of any investigation (see the complaints policy)

Physical contact with pupils under other circumstances

Government guidance recognises that there will be some circumstances where physical contact with pupils may be necessary, such as;

- To demonstrate exercises or sports / PE techniques
- To demonstrate how to use a piece of equipment (e.g. IT or CDT)
- To give first aid
- To prompt or help young children or pupils with special educational needs / disability
- Touching may also be appropriate where a pupil is being congratulated or praised
- Touching may also be necessary where a pupil is in distress and needs comforting.
- Professional judgement must apply in all cases
- For some pupils touching may be a particularly sensitive issue EG: for cultural reasons or the child may have been abused
- Physical contact with pupils becomes increasing difficult as pupils reach or go through puberty
- REMEMBER – The main factor is not about 'touching' per se but whether the touching is appropriate or inappropriate

Links with other policies:

Learning & Teaching policy

Safeguarding policy

Inclusion Policy

Equal Opportunities Policy

Special Educational Needs Policy

Complaints Policy