

RED ROSE SCHOOL

USE OF FORCE

Updated: October 2017

Section 6

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References:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/444051/Use_of_reasonable_force_advice_Reviewed_July_2015.pdf

Key points

- School staff have a power to use force and lawful use of the power will provide a defence to any related criminal prosecution or other legal action.
- Suspension should not be an automatic response when a member of staff has been accused of using excessive force.
- Senior school leaders should support their staff when they use this power.

WHAT IS REASONABLE FORCE?

- 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 pupils.
- Force is usually used either to control or restrain. This can range from guiding a pupil 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.
- As mentioned above, schools generally use force to control pupils and to restrain them. Control means either passive physical contact, such as standing between pupils or blocking a pupil's path, or active physical contact such as leading a pupil by the arm out of a classroom.
- Restraint means to hold back physically or to bring a pupil under control. It is typically used in more extreme circumstances, for example when two pupils 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 pupil.

WHO CAN USE REASONABLE FORCE?

All members of school staff have a legal power to use reasonable force¹.

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 pupils such as unpaid volunteers or parents accompanying students on a school organised visit.

¹ Section 93, Education and Inspections Act 2006

WHEN CAN REASONABLE FORCE BE USED?

- Reasonable force can be used to prevent pupils from hurting themselves or others, from damaging property, or from causing disorder
- in a school, force is used for two main purposes – to control pupils 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 pupil behaving in a way that disrupts a school event or a school trip or visit
- prevent a pupil leaving the classroom where 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.

Schools cannot:

- use force as a punishment - it is always unlawful to use force as a punishment.

POWER TO SEARCH PUPILS WITHOUT CONSENT

See Section 7 Chapter 7.

COMMUNICATING THE SCHOOL'S APPROACH TO THE USE OF FORCE

- Every school is required to have a behaviour policy and to make this policy known to staff, parents and pupils. The school behaviour policy is to include the power to use reasonable force.
- There is no requirement to have a policy on the use of force but it is good practice to set out, in the behaviour policy, the circumstances in which force might be used. For example, it could say that teachers will physically separate pupils found fighting or that if a pupil refuses to leave a room when instructed to do so, they will be physically removed.
- Any policy on the use of reasonable force should acknowledge their legal duty to make reasonable adjustments for disabled children and children with special educational needs (SEN).
- Schools do not require parental consent to use force on a student.
- Schools should **not** have a 'no contact' policy. There is a real risk that such a policy might place a member of staff in breach of their duty of care towards a pupil, or prevent them taking action needed to prevent a pupil causing harm.
- By taking steps to ensure that staff, pupils and parents are clear about when force might be used, the school will reduce the likelihood of complaints being made when force has been used properly.

USING FORCE

- A panel of experts¹ identified that certain restraint techniques presented an unacceptable risk when used on children and young people. The techniques in question are:
 - the 'seated double embrace' which involves two members of staff forcing a person into a sitting position and leaning them forward, while a third monitors breathing;
 - the 'double basket-hold' which involves holding a person's arms across

¹ Physical Control in Care Medical Panel - 2008

their chest; and

- the 'nose distraction technique' which involves a sharp upward jab under the nose.

STAFF TRAINING

All school staff are trained by a member of staff trained to Safe Handling & Restraint Instructor Level 3.

TELLING PARENTS WHEN FORCE HAS BEEN USED ON THEIR CHILD

The Headteacher will decide:

- whether it is appropriate to report the use of force to parents
- to record in the Incident Log the use of force

PUPIL COMPLAINTS WHEN FORCE IS USED ON THEM

All complaints about the use of force will 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. Where an allegation of using excessive force is made against a teacher, schools should refer to page 1 of the "Dealing with Allegations of Abuse against Teachers and Other Staff ". This guidance states that a person must not be suspended automatically, or without careful thought.

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.

If a decision is taken to suspend a teacher, the school should ensure that the teacher has access to a named contact who can provide support.

As employers, schools and local authorities have a duty of care towards their employees. It is important that schools provide appropriate pastoral care to any member of staff who is subject to a formal allegation following a use of force incident.

OTHER PHYSICAL CONTACT WITH PUPILS

It is not illegal to touch a pupil. There are occasions when physical contact, other than reasonable force, with a pupil is proper and necessary.

Examples of where touching a pupil might be proper or necessary:

- holding the hand of the child at the front/back of the line when going to assembly or when walking together around the school
- when comforting a distressed pupil
- when a pupil is being congratulated or praised
- to demonstrate how to use a musical instrument
- to demonstrate exercises or techniques during PE lessons or sports coaching
- to give first aid.

FREQUENTLY ASKED QUESTIONS

Q. I'm worried that if I use force a pupil or parent could make a complaint against me. Am I protected?

A. Yes, if you have acted lawfully. If the force used is reasonable all staff will have a robust defence against any accusations.

Q. How do I know whether using a physical intervention is 'reasonable'?

A. The decision on whether to physically intervene is down to the professional judgement of the teacher concerned. Whether the force used is reasonable will always depend on the particular circumstances of the case. The use of force is reasonable if it is proportionate to the consequences it is intended to prevent. This means the degree of force used should be no more than is needed to achieve the desired result. School staff should expect the full backing of their senior leadership team when they have used force.

Q. What about school trips?

A. The power may be used where the member of staff is lawfully in charge of the pupils, and this includes while on school trips.

Q. Can force be used on pupils with Special Educational Needs or disabilities?

A. Yes, but the judgement on whether to use force should not only depend on the circumstances of the case but also on information and understanding of the needs of the pupil concerned.

Q. I'm a female teacher with a Year 10 class - there's no way I'd want to restrain or try to control my pupils. Am I expected to do so?

A. There is a power, not a duty, to use force so members of staff have discretion whether or not to use it. However, teachers and other school staff have a duty of care towards their pupils and it might be argued that failing to take action (including a failure to use reasonable force) may in some circumstances breach that duty.

Q. Are there any circumstances in which a teacher can use physical force to punish a pupil?

A. No. It is always unlawful to use force as a punishment. This is because it would fall within the definition of corporal punishment, which is illegal.