

Woodcroft Primary School



Policy for use of Reasonable Force

**To be read in conjunction with DfE Advice:
Use of reasonable force Advice for headteachers, staff and
governing bodies July 2013**

Audience: All Staff

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WOODCROFT PRIMARY SCHOOL

POLICY FOR THE USE OF REASONABLE FORCE

INTRODUCTION

The Education Act 1997 (Section 4) clarified the position about any physical force teachers, and others authorised by the Headteacher of a school may use to control or restrain pupils. The clarification was made by adding a section (Section 550A) to the Education Act 1996. This new section came into force on 1 September 1998, and applies to all schools. It restates principles derived from common law and statute which have, in the past, been misunderstood. For example there is a common misconception that, since the Children Act 1989, any physical contact with a child is in some way unlawful. That is not true. Where necessary reasonable force can be used to control or restrain pupils. Physical contact with pupils may also be appropriate or necessary in other circumstances.

The following policy has been drawn up in relation to how the revision of the 1996 Act has been interpreted in the most recent DfE Guidance: Use of reasonable force - Advice for headteachers, staff and governing bodies (July 2013)

1) Definition

- 1.1 The term 'reasonable force' covers the broad range of actions used by most school staff at some point in their career that involve a degree of physical contact with pupils.
- 1.2 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.
- 1.3 'Reasonable in the circumstances' means using no more force than is needed.
- 1.4 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.
- 1.5 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.
- 1.6 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.

2) Rationale

- 1 All members of school staff have a legal power to use reasonable force. 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.

- 2 Good behaviour and appropriate control and discipline are established through the formation of trusting relationships and respect for others.
 - 2.2 Consideration and acknowledgement needs to be given to the life experiences of many children that the school will be involved with. This may include neglect, abuse and violence. This can lead to different types of behaviour being exhibited, including anger, the manifestation of which may put themselves or others in danger on occasions.
 - 2.3 Staff, parents and carers need to be aware of the range of alternative methods of intervention other than physical intervention. It needs to be emphasised that this should be a 'last option' in most circumstances, while acknowledging that certain situations mean this action will be required sooner.
 - 2.4 The proper use of physical intervention requires training, skill and judgement as well as knowledge of safe and potentially harmful practice in this area.

- 2.5 Physical intervention should only be used as a measure of control when there is a situation that involves:
 - (i) Risk of serious harm to the child/younger person, or other persons present;
 - (ii) Serious damage to property is likely to occur.
 - (iii) Risk of significant disorder

3) **Legal Framework**

- 3.1 The legal constraints on physical intervention a child/younger person is derived from:
 - (i) The Children Act 1989
 - (ii) Children's Homes Regulations, 1991
 - (iii) Children's (Secure Accommodation) Regulations, 1991
 - (iv) Children's (Secure Accommodation) Regulations No.2, 1991
 - (v) The Education Act 1996
 - (vi) The Education Act 1997
- 3.2 The DfE Circular 8/94 - Pupil Behaviour and Discipline

3.4 The DfE Circular 7/98 – The Use of Force to Control or Restrain Pupils (Section 550A of the Education Act 1996).

3.5 Unlawful Restriction of Liberty/False Imprisonment

Any total restraint of the liberty of the person, for however short a term, by the use of threat of force or by the confinement, is an imprisonment. To compel a person to remain in a given place is an imprisonment, but merely to obstruct a person attempting to pass in a particular direction or to prevent him from moving in any direction but one is not. An action for false imprisonment may be laid if a person unlawfully imprisons another.

The plaintiff (the person bringing the action) i.e. The young person need to prove that the imprisonment was unlawful or malicious, but establishes a prime facie case if he proves he was imprisoned by the defendant. The onus then lies on the defendant of proving justification. Justification would include the protection from harm for the young person, for the protection of other people or the protection of property.

3.6 The Criminal Law relating to assault

Common assault and battery are separate statutory offences and a person guilty of either is liable to fine or to imprisonment for a term not exceeding six months or to both.

An assault is any intentional or reckless act which causes the person to apprehend immediate unlawful force or personal violence. A battery is any intentional or reckless infliction of unlawful force or personal violence. A battery therefore, often (but not always) includes an assault. As a result, the term “assault” tends to be used in a broad sense to cover both assault and battery. Nevertheless, a clear distinction should be made between the two offences.

A person is entitled to use reasonable force to defend himself, his property or another person. In addition, a person may use “such force as is reasonable in the circumstances in the prevention of crime”. The degree of force permissible depends on whether the defendant’s actions were reasonable in the circumstances.

4) Local Authority Framework

4.1 This policy should be used in conjunction with Local Authority policies and and school procedures including:

- (i) Child Protection
- (ii) Violence at Work

- (iii) People Handling
- (iv) Behaviour Management
- (v) Equal Opportunities
- (vi) Health & Safety
- (vii) Complaints

5) **The United Nations Convention on The Rights of The Child 1991**

5.1 The Local Authority has adopted this convention. All incidents of physical intervention should therefore be mindful of this.

5.2 The important elements in the context of physical intervention are:

- (i) Children have the right to be protected from all forms of violence;
- (ii) Children must be kept safe from harm;
- (iii) Children must be given proper care by those looking after them;
- (iv) Children have a right not to be punished cruelly or in a way that would belittle them.

6) The principles relating to the use of physical intervention may be summarised as follows:

- (i) Staff should have good grounds for believing that immediate action is necessary to prevent a child/young person from significantly injuring himself/herself or others, or causing serious damage to property;
- (ii) Staff should take steps in advance to avoid the need for physical intervention, e.g. through dialogue and diversion, and the child/young person should be warned verbally that physical intervention will be used unless he/she desists;

- (iii) A dialogue should be kept up with the child/young person through out any intervention;
- (iv) Use wherever possible, a member of staff who has an established relationship with the child/young person, so they can explain what they are doing and why;
- (v) A child/young person may be successfully diverted from destructive or disruptive behaviour by being lead away by the hand, arm, or by an arm around the shoulder;
- (vi) Only the minimum force necessary to prevent injury or damage should be applied; physical restraint should only be attempted when there are sufficient staff at hand to ensure that it can be achieved safely.
- (vii) Every effort should be made to secure the presence of other staff before using physical intervention. These staff can act as assistants and witnesses;
- (viii) As soon as it is safe the physical intervention should be gradually relaxed to allow the child/young person to regain self control;
- (ix) Physical intervention should be an act of care and control; not punishment;
- (x) Physical intervention should not be used purely to force compliance with staff instructions when there is no immediate risk to people or property;
- (xi) It is important that the issues and factors of age, sex, size, personal history and background and the relationship between the child/young person and the staff involved, are considered wherever possible before a physical intervention is undertaken;
- (xii) There must be care about the way in which a child/young person is held, to avoid any contact with intimate parts of the body;
- (xiii) When physical intervention is being used a staff member of the same gender should be present wherever possible;
- (xiv) If staff are not confident about their ability to contain a particular situation or type of behaviour, consideration should be given to involving the Police.

7) **Responsibility to Staff**

- 7.1 The Headteacher will investigate all complaints of inappropriate physical intervention and will ensure that a written record of the investigation is retained on the appropriate file.

- 7.2 Should the complaint subsequently be found proven, the disciplinary procedures will then be followed.

WHO HAS AUTHORISATION TO CONTROL PUPILS?

The Act allows all teachers and any other staff authorised by the Headteacher to have control of pupils. These include classroom assistants, mealtime supervisors, caretakers and voluntary helpers accompanying children on visits. The Headteacher should inform everyone who has a need to know that they have authorisation and what it entails.

WHEN MIGHT FORCE BE USED? - Section 550A

Teachers and other persons who are authorised by the Headteacher to have control or charge of pupils may use such force as is reasonable to prevent a pupil from doing, continuing to do, any of the following:-

- Committing a criminal offence (including behaving in a way that would be an offence if the pupil were not under the age of criminal responsibility)
- Injuring themselves or others
- Causing damage to property (including the pupils own property)
- Engaging in any behaviour prejudicial to maintaining good order and discipline at the school or among any of its pupils, whether that behaviour occurs in a classroom during teaching session or elsewhere.

The provision applies when a teacher, or other authorised person, is on the school premises, and when he or she has lawful control or charge of the pupil concerned elsewhere eg. on a field trip or other authorised out of school activity.

TYPES OF INCIDENTS

There are a wide variety of situations in which reasonable force might be appropriate, or necessary, to control or restrain a pupil. They fall into three broad categories:-

- a) Where action is necessary in self-defence or because there is an imminent risk of injury.
- b) Where there is a developing risk of injury, or significant damage to property.
- c) Where a pupil is behaving in a way this is compromising good order and discipline.

Examples of situations that fall within one of the first two categories are:-

- A pupil attacks a member of staff, or another pupil.
- Pupils are fighting.
- A pupil is engaged in, or is on the verge of committing, deliberate damage or vandalism to property.
- A pupil is causing, or at risk of causing, injury or damage by accident, by rough play, or by misuse of dangerous materials or objects.
- A pupil is running in a corridor or on a stairway in a way in which he or she might have or cause an accident likely to injure him or herself or others.
- A pupil absconds from a class or tries to leave school (N.B. this will only apply if a pupil could be at risk if not kept in the classroom or at school).

Examples of situations that fall into the third category are:-

- A pupil persistently refuses to obey an order to leave a classroom.
- A pupil is behaving in a way that is seriously disrupting a lesson.

If an adult feels at any time that they are unable to intervene in a situation because they themselves might be at risk of injury, they should summon assistance from another colleague and attempt to diffuse the situation orally until help arrives.

WHAT KIND OF FORCE MAY BE USED?

Before intervening physically an adult in charge of pupils should tell the pupil(s) who is behaving inappropriately to stop. As calm an approach to the situation as possible should be attempted and the pupil(s) should never receive the impression that the adult is out of control or is acting out of anger or frustration.

If physical intervention is unavoidable because there is a risk of injury, it might take the form of:-

- Interposing between pupils
- Blocking a pupil's path
- Holding
- Pulling
- Taking a pupil by the hand or arm
- Shepherding a pupil away by placing a hand in the center of the back or
- In extreme circumstances using a more restrictive hold

Adults should not intervene in such a way that might reasonably be expected to cause injury or in a way that might be considered indecent.

When, as a last resort, physical intervention becomes necessary, the principles for intervention are:-

- (i) Staff should have good grounds for believing that immediate action is necessary to prevent a child/young person from significantly injuring himself/herself or others, or causing serious damage to property;
- (ii) Staff should take steps in advance to avoid the need for physical intervention, e.g. through dialogue and diversion, and the child/young person should be warned verbally that physical intervention will be used unless he/she desists;
- (iii) A dialogue should be kept up with the child/young person through out any intervention;
- (iv) Use wherever possible, a member of staff who has an established relationship with the child/young person, so they can explain what they are doing and why;
- (v) A child/young person may be successfully diverted from destructive or disruptive behaviour by being lead away by the hand, arm, or by an arm around the shoulder;

- (vii) Only the minimum force necessary to prevent injury or damage should be applied; physical restraint should only be attempted when there are sufficient staff at hand to ensure that it can be achieved safely.
- (vii) Every effort should be made to secure the presence of other staff before using physical intervention. These staff can act as assistants and witnesses;
- (viii) As soon as it is safe the physical intervention should be gradually relaxed to allow the child/young person to regain self control;
- (ix) Physical intervention should be an act of care and control; not punishment;
- (x) Physical intervention should not be used purely to force compliance with staff instructions when there is no immediate risk to people or property;
- (xi) It is important that the issues and factors of age, sex, size, personal history and background and the relationship between the child/young person and the staff involved, are considered wherever possible before a physical intervention is undertaken;
- (xii) There must be care about the way in which a child/young person is held, to avoid any contact with intimate parts of the body;
- (xiii) When physical intervention is being used a staff member of the same gender should be present wherever possible;
- (xiv) If staff are not confident about their ability to contain a particular situation or type of behaviour, consideration should be given to involving the Police.

After any physical intervention, the *Report of Physical Intervention* form must be completed and returned to the Headteacher Appendix A

HOW SHOULD INCIDENTS BE RECORDED AND REPORTED?

When an adult in charge of children has had to physically intervene in a situation, then the event and the action should be recorded as soon as possible on the **Report of Physical Intervention Form (Appendix A)** A copy of the form must go to the Headteacher.

The adult should inform the headteacher or her representative immediately following the incident and should take advice from her with regard to how the parents/guardians of the child should be notified.

Advice from a professional association might also have to be sought especially where the incident is serious.

Where a complaint is made by a pupil or a parent about force used in an incident the school will follow recognised disciplinary procedures.

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Report of Physical Intervention

<u>Name(s) of young person/people on whom physical restraint was used</u>	
<u>Age of young person/people</u>	
<u>Situation leading up to the physical intervention</u>	
<u>Steps taken to avoid physical intervention</u>	
<u>Grounds for believing that physical intervention was necessary</u>	
<u>Member(s) of staff using physical intervention</u>	
<u>Type of physical intervention used (give full details)</u>	
<u>Any witnesses to the event</u>	
<u>What follow up action is being taken?</u>	

