



ASHGATE PRIMARY SCHOOL

Acceptable Physical Contact, Reasonable Force and the Right to Search

Ashgate Primary School, Ashbourne Road,
Derby DE22 3FS
Telephone 01332 343928
Email:-Admin@ashgate.derby.sch.uk

Head teacher: Mr Peter Seargent

Approved by the Full Governing Body on:

To be read in conjunction with and written with consideration to

- School Acceptable Behaviour Policy
- School Handbook
- School Exclusions Policy
- DfE revised guidance on 'Use of Force'
- DfE revised guidance on 'Search, Screening and Confiscation'

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AIM	3
KEY POINTS	3
WORKING WITH CHILDREN AND ACCEPTABLE PHYSICAL CONTACT	3
<i>EXAMPLES OF WHERE TOUCHING A PUPIL MIGHT BE PROPER OR NECESSARY:</i>	3
RESPONSES TO TOUCH	4
WHAT IS REASONABLE FORCE?	5
WHEN CAN REASONABLE FORCE BE USED?	6
<i>SCHOOLS CAN:</i>	6
<i>SCHOOLS CANNOT:</i>	6
POWER TO SEARCH PUPILS WITHOUT CONSENT	9
USING FORCE	6
REPORTING PHYSICAL RESTRAINT / INTERVENTION	9
WHAT HAPPENS IF A PUPIL COMPLAINS WHEN FORCE IS USED ON THEM?	9
FREQUENTLY ASKED QUESTIONS	10

Aim

This policy is structured on advice and guidance issued from the Department for Education. It is intended to provide clarification on the use of force to help school staff feel more confident about using this power when they feel it is necessary and to make clear the responsibilities of Headteachers and governing bodies in respect of this power. 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 and in line with policy.

Key points

- Physical contact with pupils can be appropriate under specified circumstances.
- 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.
- Parental permission to restrain a pupil is not a requirement.
- 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 within the law.

Working with children and acceptable physical contact

It is not illegal to touch a pupil and Department for Education guidance emphasises that 'non contact' policies are not to be enacted by school governors.

By the nature of working with young children there will be 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 if managed effectively:

- 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; and
- To give first aid.

For some children, physical contact with adults can be a preferred way of communicating positive affection or emotion, particularly for those who find other communication challenging. Some children, for example, feel a desire to hug their teacher when they see them after a holiday break or when distressed, or reach out for their arm in the morning. Staff should not be afraid of such natural responses and children should not be chastised for acting in a manner that is natural to them.

However, there are common sense and responsible approaches under such circumstances:

- **Where possible ensure there are other adults or responsible children around.**
- Do not show favour to individual children.
- Do not touch a child in the area between the waist and mid thigh or near the chest.
- Never touch a child in a way that could be mis-interpreted as being anything other than friendly appropriate adult-child support, this includes 'tickling'.
- Where a child tries to get closer than appropriate, the message should always be along the lines of, *"I like you and I enjoy being with you, but I would rather you held my arm/hand like this"*.
- Some very active children sometimes calm down and focus on a lesson when having a specified touch response (for example a stroke of the hand can be for some children a 'recognized' appropriate contact). In this case such a support mechanism must be written into and agreed in the child's Care Plan or similar.
- If a child attempts to cuddle a staff member, it should be short and side-by-side.
- Do not kiss a child, and do not encourage children to kiss adults other than their parents.
- A child should only sit on an adult's knee for a short time and for a specific reason (such as supporting a colleague administer first aid following an injury) and not too close to the body. If a child may need to sit on a member of staff's knee for longer term support, this must be written into the child's Care Plan.
- For children within Foundation Stage, appropriate relationships are still being established, and there is a greater need for a more nurturing environment where it may be more appropriate for closer physical contact during some activities. The above cautions still apply, except that sitting on a knee, may be more acceptable until the child is established and confident in school.

Where children require help with changing or toileting, the dignity of the child must be maintained at all times. Great care must be taken to ensure that all physical contact is specifically and only for the purpose of the operation being carried out. Where toileting is an on-going issue a 'Continence Plan' or other form of care plan may be required to agree acceptable practice.

Responses to touch

Staff must always be aware that all children interpret and react to touch in different ways. Some children are over-demonstrative and try to demand a great deal of affection and physical contact, whilst others shy away from or have a dislike of physical contact. **We must never assume that a child will accept a touch that is meant as a friendly gesture.**

There may be children in our care who have backgrounds where there has been inappropriate physical contact, or even emotional, physical or sexual abuse. These

children will be confused about adult-child contact and will need very sensitive support and care. Wherever there is physical contact, this must be seriously considered. Again, care plans or similar may be appropriate.

Physical restraint and intervention

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 to manage that situation/circumstance quickly and with minimal risk

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.

Once a condition or circumstance leading to physical restraint has ceased or where the reason to restrain has diminished enough to allow, contact must end.

The 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.

SEND consideration

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.

'Reasonable adjustments' may be needed to meet the individual needs of specific special educational needs or disability (SEND) children. Where this is the case, specialized advice or guidance may be required or an individual plan may be provided.

When can reasonable force be used?

‘Reasonable force’ can be used to prevent pupils from hurting themselves or others, from damaging property, from causing significant disorder and where removal of other children at risk is not a practical or safe option. On occasion reasonable force to remove a child from a place of tension can defuse situations quickly and reduce further/enhanced risk.

In a school, force is used for two main purposes – to control / guide 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 physical intervention may be appropriate.

The Department for Education guidance for headteachers advise that schools can:

- restrain a pupil at risk of harming themselves or others through their physical outbursts;
- to remove a child from a source of distress or tension as an act of de-escalation and where leaving the child in situ is likely to cause continued stress;
- remove disruptive children from the classroom where they have refused to follow an instruction to do so and removal of other children is not safe or practical;
- 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; and

Schools do not require parental consent to use force on a student, but such force must fall within the criteria outlined in this policy.

Schools cannot:

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

Using force

The use of force is a power, not a ‘duty’, unless failure to act would place a child at risk of significant harm. Prior to any use of force, staff must be fully satisfied that physical

contact is necessary for the purpose of safeguarding and that all other options have been considered.

Under most circumstances advice and guidance issued in policy will provide the knowledge and inform skills required to manage pupil conduct, however, in extreme cases, the school may consider additional 'risk assessment' / 'Individual Education / Support Plan) and or training to enable staff to better manage pupils extreme violent or disruptive tendencies.

Best practice:

- Where safe, removal of those at risk from the locality should be a first consideration to avoid physical contact being required.

Where this is not suitable or appropriate:

- Direction away/shepherding away from the risk or spectators, with open arms or hands is best practice (this may require a reasonable degree of force if resistance is experienced).
- Children may be led by the arm from the side using only the minimum force required.
- Placing oneself between risk and a child (for example when separating a fight).
- Remain calm, explaining to the individual why you are intervening and what is required in order to stop.

Staff should be aware that lifting or carrying a child in distress or who is resisting movement may result in injury; therefore, only where the risk of not intervening in this way exceeds the risk of lifting or carrying, should this take place.

When physically intervening:

Staff should avoid

Restricting or directing movement of a child by contact:

- Below the waistline.
- Holding joints, such as wrists / elbows.
- Extremities such as fingers, ears and hair.
- Any contact with the face, neck or head.
- Any action that will restrict the chest or respiratory system (including holding a child's arms across the chest).

Staff cannot

A panel of experts identified that certain restrain techniques present an unacceptable risk when used on children and young people. The techniques in question are: **Even in circumstances where staff have received training related to use of such techniques, they must not be employed.**

- 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 their chest; and
- the 'nose distraction technique' which involves contact with the face

Staff should seek to:

- Use only the degree of force required **and** cease the action when the risk has dissipated.
- Stand to one side where possible to avoid the risk of being inadvertently or purposefully kicked or hit / headbutted or similar.
- Use open hands to avoid accusations of hitting / gripping / dragging a pupil.
- Where limbs are 'flaying', restrict movement by holding them to the side and **not** across the chest.
- Explain what you are doing and why and how the child should act to be compliant.
- Record the incident on CPOMS

Other notes on restraint / intervention

Absconders and Runners

Pupils absconding/running are **not to be chased.** Chasing is likely to result in increased tension and as a result place the child at increased risk. Best practice is to follow the child at a distance.

Whilst this may seem counter intuitive, the most recent training makes explicitly clear that the risks are significantly increased if a pursuit begins. The capacity to self risk assess near busy roads and traffic is likely impaired if their focus is on the pursuant. Staff who pursue individuals into an increased risk, may be deemed accountable for the consequence.

Important: Should a child abscond from the premises the police should be called immediately followed by the parent.
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Reporting physical restraint / intervention

Staff must report all serious incidents to the Headteacher, who may record the incident, actions and outcomes. In deciding what is a serious incident, teachers should use their professional judgement and consider the:

- pupil's behaviour and level of risk presented at the time of the incident;
- degree of force used;
- effect on the pupil or member of staff; and
- the child's age.

Staff may be required to complete accompanying records (or CPOMS the incident ensuring that 'Physical Restraint' is selected in the category box. This may be submitted as evidence at a higher level where this is appropriate (For example: Local Authority Designated Officer [LADO])

Power to search pupils without consent

In addition to the general power to use reasonable force described above, headteachers and authorised staff can use such force as is reasonable given the circumstances to conduct a search for prohibited items:

- knives and weapons
- alcohol
- illegal drugs
- stolen items
- tobacco and cigarette papers
- fireworks
- pornographic images
- any article that has been or is likely to be used to commit an offence, cause personal injury or damage to property.

Force cannot be used to search for items banned under the 'general school rules'.

What happens if a pupil complains when force is used on them?

- All complaints about the use of force should 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. Schools should refer to the "Dealing with Allegations of Abuse against Teachers and Other Staff" policy where

an allegation of using excessive force is made against a teacher. This guidance makes clear 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. Where this is a consideration the LADO may be consulted.
- 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.
- Governing bodies should always consider whether a teacher has acted within the law when reaching a decision on whether or not to take disciplinary action against the teacher.
- 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.

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 and within the guidance given. 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 within the guidance they have received..

- **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 SEN 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.