

St Marychurch C o E (VA) Primary & Nursery School

Policy for the Use of Reasonable Force and Other Physical Contact

October 2011

Introduction

The school's policy on the use of reasonable force and other physical contact follows the non-statutory departmental advice of the Department for Education. The advice relates to the Education and Inspections Act 2006 and is set out on the website of the Department for Education in the departmental advice section under the heading of 'Use of reasonable force'. The link to the website is as follows:

www.education.gov.uk/aboutdfe/advice/f0077153/use-of-reasonable-force-advice-for-school-leaders-staff-and-governing-bodies

Related Policies and Guidance

This policy should be read in conjunction with the school's Safeguarding Policy Statement, Child Protection Policy and Behaviour Policy.

The school also has an Intimate Care Policy which provides clear guidelines and procedures for providing personal care for children who may accidentally wet or soil themselves.

In the section of this policy relating to 'Other Physical Contact', the school has identified examples of occasions, where physical contact may be proper and necessary, which are in addition to those given by the DfE and which specifically relate to children with physical disabilities.

Review date

The DfE's advice will be reviewed in autumn 2011 after the Education Bill, currently before Parliament, receives Royal Assent. The school's policy will be reviewed following the DfE's review of its own advice in autumn 2011 and following any subsequent significant review by the Department of its advice.

Key points

1. School staff have a legal power to use force and lawful use of the power will provide a defence to any related criminal prosecution or other legal action.
2. Suspension should not be an automatic response when a member of staff has been accused of using excessive force.
3. 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.
- 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 the 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.

School staff 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.

School staff cannot:

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

Communicating the school's approach to the use of force

- This policy on the use of reasonable force supplements the school's behaviour policy.
- The school acknowledges its legal duty to make reasonable adjustments for disabled children and children with Special Educational Needs in the use of reasonable force.
- The school does not require parental consent to use force on a student.
- The school does not have a 'no contact' policy in view of the 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

The school does not advocate the use of certain restraint techniques identified by the Physical Control in Care Medical Panel (2008) as presenting 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 their chest
- the 'nose distraction technique' which involves a sharp upward jab under the nose.

Staff training

The Headteacher should regularly consider whether members of staff require any additional training to enable them to carry out their responsibilities and should consider the needs of the pupils when doing so. The school can make use of Team-Teach training in Positive Handling available through the Torbay Local Authority Outreach Service at Mayfield School. The school's SENCO and the Outdoor Visits Coordinator received Foundation level training in summer 2010.

Telling parents when force has been used on their child

The school will speak to parents about serious incidents involving the use of force and will keep a written report of the incident. The school acknowledges that the Department has referred for advice on the matter of reporting to parents about all instances of the use of force. The school's policy will be to follow the Department's final advice.

In deciding what a serious incident is, teachers should use their professional judgement and also consider the following:

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

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 will not be an automatic response when a member of staff has been accused of using excessive force. The school will refer to the "Dealing with Allegations of Abuse against Teachers and Other Staff" guidance 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.
- The school will 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 will ensure that the teacher has access to a named contact who can provide support.
- The governing body will 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 the school provides 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, identified by the DfE, of where touching a pupil might be proper or necessary are:

- 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.

In addition, the school has identified the following specific examples of occasions where physical contact may be proper and necessary when providing support for children with physical disabilities:

- holding the hand or arm of a child, as he/she moves around the school, up or down steps, or away from or towards a specialist chair
- providing lifting or stabilising support for a child, as he/she moves into or out of a specialist chair
- providing support for a child, as he/she moves into or out of transport provided by the Local Authority or by the school
- providing support for a child during specialist physical exercises recommended by occupational therapy or physiotherapy
- providing support for a child during personal and self-care activities such as toileting, changing clothes for PE, eating and washing.

Approved by the Governing body Personnel Committee 16th November 2011