

Physical Restraint and Reasonable Force Policy

Document Detail	
Category:	Student Related
Authorised By:	Local Governing Board
Sponsor:	Mr James Loten
Author:	Mr James Loten
Version:	1
Status:	Approved
Issue Date:	June 2019
Review Date:	June 2020

Ownership and Control

History

Version	Author	Dated	Status	Details
1	J Loten	May 2019	Approved	Approved at LGB 13 June 2019.

Intended Audience

Intended Audience	Intended Method of Distribution
Governors, Staff, Students, Parents/Carers	Shared Google Drive, Website

Physical Restraint and Reasonable Force Policy

1. Introduction

- 1.1 This policy has been constructed to conform to the 1996 Education Act as it has been amended through the inclusion of Section 550A on 1st September 1998.
- 1.2 This policy presents guidelines for staff with regard to use of force to control or restrain all or any students and also identifies Harwich and Dovercourt High School's ("the Sigma Trust") response in situations where staff have used force.
- 1.3 This policy is written with the understanding that staff have always been able to use reasonable force when they defend themselves against an attack or when intervening in any emergency. DfEs circular 10/98 attempts to clarify when a member of staff may use force in order to restrain or control students.

2. Situations in which Staff may use Physical Intervention to Control or Restrain Pupils

- 2.1 In all circumstances involving the use of force it is only appropriate "for reasonable force" to be used. There exists no legal definition of "reasonable force", however, all staff should be aware that force should only be used in specific circumstances and that the degree to which force is used will always depend on the age of the students, the understanding of students and the sex of students and that the degree of force used must always be in proportion to the circumstances of the incidents.
- 2.2 In summary, force may be used ONLY where
 - 1 - There is a certain type of incident as defined in section 2.3 below
 - 2 - The use of force is reasonable in the circumstances
 - 3 - The degree of force is reasonable; that is, the force is proportionate
- 2.3 In the following situations it may be appropriate for a member of staff to use reasonable force when:
 - A student attacks a member or staff or another student (self-defence),
 - A student attacks a fellow student / students are fighting,
 - A student is engaged in or about to commit deliberate damage or vandalism to property,
 - A student is causing or is at risk of causing injury or damage by accident, by rough play, or by misuse of dangerous materials or objects,
 - A student is running on a corridor or stairway in a way that might cause an accident or injury to themselves or to others – particularly likely to be the case in crowded areas with smaller children,
 - A student absconds from a class or tries to leave the school at an unauthorised time (NB. This will only apply if the student's leaving might itself lead to a risk of injury, property damage or serious disruption),
 - A student is behaving in a way that is seriously disrupting a lesson, event or educational visit,
 - A student is behaving in a way that is seriously compromising good order and discipline,
 - A student persistently refuses to obey an order to leave the classroom,
 - A student is behaving in a way that is seriously disrupting the lesson, if they are kept there. Assistance should be sought in such circumstances.

2.4 In all situations staff should take a calm and measured approach. Initial intervention should always be without force. Any physical intervention must follow other appropriate actions.

3. The Use of Force is Reasonable

3.1 There is no legal definition of when it is reasonable to use force. It will always depend on all the circumstances of the case.

3.2 The use of force can be regarded as reasonable only if the circumstances of the particular incident warrant it. If the particular circumstances do not warrant the use of physical force, any use of force will be unlawful. Where a situation can be resolved without force, force should not be used. The use of force must normally be a last resort. Though decisions will often need to be made quickly, a number of considerations should be borne in mind when deciding whether the use of force is reasonable in a particular situation.

- The greater the potential for harm (ie. injury, property damage or disruption) without physical intervention, the more likely that force is justified
- The less likely that the situation can be resolved by means other than the use of force, the more likely that force is justified.
- The more risky the resolution of the situation by means other than physical intervention, the more likely that force is justified.

3.3 It follows that physical force could not be justified to prevent a student from committing a trivial misdemeanour (since the potential for harm is low). Where the aim is to maintain good order and discipline, and there is no direct risk to people or property, force will be necessary only very rarely.

3.4 However, it also follows from the above that, where there is an immediate risk of serious injury – for example a student is out of control and about to run onto a busy road, hit someone, or throw a heavy object in a crowded classroom – trying first to resolve the situation by non-physical intervention would clearly be inappropriate. In urgent situations, force may need to be used immediately.

3.5 In the most extreme circumstances, there may be no choice but to risk some injury to a student in order to avoid a greater harm.

4. IN PRACTICE

4.1 The Force Used is Proportionate

4.2 This is closely related to the considerations relating to whether the use of force is reasonable. If a member of staff decides that force is necessary, he or she must then ensure that, in all the circumstances of the case, the degree of force used is also reasonable.

4.3 The degree of force employed must be in proportion to the circumstances of the incident and the seriousness of the behaviour or the consequences it is intended to prevent. Any force used should be the minimum needed to achieve the desired result.

4.4 The member of staff must bear in mind what it is that the force is being used to try to prevent, and use no more force than is necessary to ensure that result.

4.5 If, for example, two students are fighting (and some physical intervention is deemed to be necessary) it may be sufficient to physically interpose between them. It would have to be a serious situation to require the pushing of one student away from another, and only in the most serious cases, where a student is out of control, might the use of a restrictive hold be necessary. Likewise, the degree of force needed to be effective will depend upon the age and other physical characteristics of the student (see the section below, "Considering the Individual Involved").

4.6 Management by Staff of Disruptive Behaviour

4.7 Avoiding the Use of Force

4.8 Physical intervention should never be used as a substitute for good behavioural management in accordance with the school's Behaviour for Learning Policy. All teachers need to develop strategies and techniques for dealing with difficult students and situations which they should use to diffuse and calm a situation.

4.9 In non-urgent situations, staff should always try and deal with a situation through other strategies before using force. Their actions should be aimed at reducing the likelihood of situations arising where force might be needed.

4.10 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.

4.11 Staff should always communicate with the student calmly, and in a non-threatening manner. Staff should never give the impression that they have lost their temper, or are acting out of anger and frustration, or to punish the student.

4.12 Managing the Use of Force

4.13 The member of staff should consider carefully whether, and if so when and in what form, physical intervention should be used. Before intervening physically a member of staff should, wherever practicable, tell the student who is misbehaving to stop, and what will happen if he or she does not. There should be a clear oral warning to the student that force may have to be used.

4.14 Once force is employed, the member of staff should continue attempting to communicate with the student throughout the incident and should make it clear that physical contact or restraint will stop as soon as it ceases to be necessary.

4.15 Application of force

4.16 Physical intervention should only be used according to the above considerations. The intervention can take several forms. It might involve:

- Physically interposing between students
- Blocking a student's path
- Holding
- Pushing
- Leading a student by the hand or arm
- Shepherding a student away by placing a hand in the centre of the back; or, (In extreme circumstances only) using more restrictive holds – specific expertise may be necessary.

4.17 Staff should always avoid touching or holding a student in a way that might be considered sexually inappropriate.

4.18 Seeking Assistance

4.19 In certain situations, a member of staff should not intervene in an incident without help. For example, when dealing with an older or physically large student, or more than one student, or if the member of staff believes he or she may be at risk of injury if he or she intervenes, the member of staff should – unless it is an emergency – avoid physical intervention without assistance. In such circumstances the member of staff should remove other students who may be at risk, and summon assistance from a colleague or colleagues. The member of staff should inform the offending student(s) that help has been sent for. Until assistance arrives the member of staff should continue to attempt to defuse the situation orally, and try and prevent the incident from escalating. In the event that police involvement is deemed necessary it must be a member of the senior leadership team who takes such responsibility.

4.20 Considering the Individual Involved

4.21 The “circumstances” to be considered in deciding whether the use of force is reasonable and what degree of force is reasonable will depend upon the individual student involved. Considerations will include the age, sex, level of understanding and character of the student. Physical intervention to enforce compliance with staff instructions is likely to be increasingly inappropriate with older students.

4.22 It is also particularly important for staff to be mindful of the needs of students with Special Educational Needs (SEN), behavioural conditions, medical conditions, disabilities, and other vulnerabilities.

4.23 Risk assessments are essential for individuals whose special needs are associated with:

- Being less responsive to verbal communication
- Physical disability
- Physical fragility caused by, for example, haemophilia, brittle bone syndrome or epilepsy
- Dependence on equipment, such as wheelchairs, breathing tubes or feeding tubes. These should be carried out by the Safeguarding Officer or Special Needs teams and communicated to staff.

4.24 The nature of the individual(s) involved will also be highly relevant in the context of physical contact in other situations (see section “Physical Contact with Students in Other Circumstances” below).

5. After the Event

5.1 After the event, the student involved may be subject to separate disciplinary procedures. Strategies should be developed to help avoid such incidents in future. It may also be necessary to involve external agencies; perhaps Local Authority children’s services, or the police if a crime may have been committed.

5.2 Recording Incidents

5.3 It is important that there is a detailed, contemporaneous, written report made of any occasion (except minor or trivial incidents) where force is used. It may help prevent any misunderstanding or misrepresentation of the incident, and it will be helpful

should there be a complaint. Immediately following any such incident, the member of staff concerned should tell the Headteacher and provide a written report as soon as possible afterwards. That report should include:

- ❑ The name(s) of the student(s) involved, and when and where the incident took place
 - ❑ Details of whether any of the students involved were vulnerable for SEN, medical or social reasons
 - ❑ The name(s) of the member of staff (s) directly involved
 - ❑ The name of any other staff or students who witnessed the incident
 - ❑ The reason that force was necessary (e.g. to prevent injury to a student or member of staff)
 - ❑ How the incident began and progressed, including details of the student's behaviour, what was said by each of the parties, the steps taken to defuse or calm the situation (including warnings that force might be used), the type of force used, the degree of force used, and for how long
 - ❑ The student's response and the outcome of the incident
 - ❑ Details of any injuries suffered and any medical attention sought
 - ❑ Details of any distress suffered by any party, and whether any post-incident support was provided
 - ❑ Details of further disciplinary action against students involved
 - ❑ Details of any damage to property
 - ❑ When parents were informed, and what views they expressed (see below)
 - ❑ Whether information about the incident has been shared with staff or external agencies (eg. the police)
 - ❑ Whether any complaints have been lodged
- 5.4 Staff may find it helpful to seek advice from a senior colleague or a representative of their professional association when compiling a report. They should also keep a copy of the report. Incidents involving the use of force can cause the parents of the student involved great concern. It is the school's policy to inform parents of an incident involving their child, and give them the opportunity to discuss it. The Headteacher or a member of the senior leadership team will need to consider whether that should be done straight away or at the end of the school day and whether parents should be told orally or in writing.
- 5.5 **Complaints**
- 5.6 Involving parents when an incident occurs with their child should help to avoid complaints. It may not prevent all complaints, however, and a dispute about the use of force by a member of staff could lead to an investigation, either under disciplinary procedures or by the Police and Social Services Department under Child Protection procedures.
- 5.7 The possibility that a complaint might result in a disciplinary hearing or criminal prosecution, or in a civil action brought by a student or parent, cannot be ruled out. In such circumstances, members of staff can expect appropriate support from the school's Governing Body and senior management but should contact their professional association.
- 5.8 In those circumstances it would be for the disciplinary panel or the court to decide whether the use and degree of force was reasonable in all the circumstances. The panel or court would have regard to the provisions of section 93 of the Education and Inspections Act 2006 (the 2006 Act), as detailed above. It would also be likely to take account of the school's Physical Restraint and Reasonable Force Policy, and whether the policy had been followed.

6. Training

- 6.1 Staff will be provided with training in the most effective use of force and restraint techniques. Normally, only those techniques in which staff have been trained should be used.

7. The Use of Force in Other Circumstances

7.1 Physical Contact with Students in Other Circumstances

- 7.2 There are occasions other than those covered by section 93 or the 2006 Act when physical contact with a student may be proper or necessary. Some physical contact may be necessary to demonstrate exercises or techniques during PE lessons, sports coaching or Technology lessons, or if a member of staff has to give first aid. Young children and children with special educational needs may need staff to provide physical prompts or help. Touching may also be appropriate where a student, particularly a younger child, is in distress and needs comforting. Staff will use their own professional judgement when they feel a student needs this kind of support, but should bear in mind the terms of this policy.

- 7.3 There may be some children for whom touching is particularly unwelcome. For example, some students may be particularly sensitive to physical contact because of their cultural background or because they have been abused. Staff will receive information about these children, usually from the Designated Safeguarding Lead, SENCO or Safeguarding Lead..

- 7.4 Physical contact with students becomes increasingly open to question as students reach and go through adolescence, therefore staff should bear in mind that innocent and well-intentioned physical contact can sometimes be misconstrued.

7.5 Physical Contact with Parents or Other Visitors to Harwich and Dovercourt High School

- 7.6 An adult visitor (whether the parent of a student or otherwise) may need to be removed from the school's premises in the event of sustained unreasonable behaviour, threats of physical violence or aggressive verbal abuse towards staff or students. Section 547 of the Education Act 1996 gives authority for the removal of any visitor "causing or permitting nuisance or disturbance to the annoyance of [those lawfully using Harwich and Dovercourt High School]".

- 7.7 In all but the most extreme and immediate circumstances it is the role of the police to remove such individuals (the police have the power to do so, despite the Harwich and Dovercourt High School being private property, thanks to Section 547). Where possible, the police should be called by a member of the Directorate in any circumstances where removal is deemed likely.

- 7.8 Section 547 does also give this same power to staff for these circumstances, though only to those authorised by the Governing Body. Generally, only members of the Directorate are so authorised. The actual physical removal by an employee of an adult visitor to the site should be the very last resort; when the employee is faced with an immediate threat to the safety of personnel or property. However, where that is the case, the points made in this policy about the circumstances in which force may be used and its proportional use apply.

- 7.9 The Harwich and Dovercourt High School and the police are united in shared values of crime prevention, crime detection and crime reduction. Continued co-operation

between the police and staff is vital in circumstances where an adult may need to be removed from the site.

8. Reporting to Parents/Carers

- 8.1 The Headteacher will decide whether it is appropriate or not to inform parents/carers of any specific incident. On making this decision any such report to parents/carers must be in writing and a copy of the communication will be given to the member of staff involved with the specific incident.

NB: The existence of this policy does not limit a parent/carer's right to complain about the use of physical force. All staff should be aware of the legal position under which they operate should physical force be used against a student. In extreme circumstances parents/carers may well wish to take civil action or pursue a criminal prosecution.