

# CORSHAM PRIMARY SCHOOL

## Use of Reasonable Force, Restraint and Power to Search Policy



Reviewed: August 2021

Policy Ratified by the Board: September 2021

Next Review Date: September 2022

# **Corsham Primary School**

## **USE OF REASONABLE FORCE, RESTRAINT AND POWER TO SEARCH POLICY**

**This Policy should be read in conjunction with the DfE guidance published in April 2013, “Use of reasonable force” which has been shared with all staff.**

This policy must also be read in conjunction with other policies including the Health and Safety Policy, School Visits Policy and the Behaviour Policy.

### **1 Aims**

**The main aim of this policy is to ensure that all members of staff who may have to intervene physically with pupils clearly understand the options and strategies open to them. By doing this we will:**

- Create a learning environment, whether on or off school sites, in which young people and adults feel safe.
- Protect every person in the school community from harm.
- Protect all pupils against any form of physical intervention that is unnecessary, inappropriate, excessive or harmful.
- Put in place guidance for staff so that they are clear about the circumstances in which they might use reasonable force to restrain pupils and how such reasonable force might be applied.

Staff members can sometimes be worried that using force will lead to false allegations of unreasonable or unlawful conduct in the form of a complaint or legal action. But if the force used is reasonable all staff will have a robust defence against any accusations. This policy and related use of force guidance is intended to help staff feel more confident about using force when they think it is right and necessary

### **2 Legal Framework**

All school staff members have a legal power to use reasonable force to prevent pupils committing a criminal offence, injuring themselves or others or damaging property, and to maintain good order and discipline.

Section 93 of the Education and Inspections Act 2006 enables school staff to use reasonable force to prevent a pupil from:

- a) committing a criminal offence (or, for a pupil under the age of criminal responsibility, what would be an offence for an older pupil); or
- b) causing personal injury or damage to property; or
- c) prejudicing the maintenance of good order and discipline at the school or among any pupils receiving education at the school, whether during a teaching session or otherwise.

However, the school advocates preventing the need to use reasonable force and measures will be in place to enable this approach.

**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.

**Prevention should be the primary consideration.**

Steps to avoid these situations should be taken and the adult should be able to demonstrate that those steps were taken. Physical restraint should always be the last resort.

Staff have a responsibility to ensure the safety and welfare of their pupils. They are in a particular position of trust (in loco parentis). The following should be applied in all cases:

- Staff should delay if at all possible. (However, in some circumstances e.g. a child running out onto the road, you might be deemed negligible if you do not intervene.)
- An 'on the spot' risk assessment for each occasion that you feel reasonable force or restraint may be necessary should be made.
- Consideration should be given to the environment, the medical circumstances and the clothing.
- Action being taken should always be for the good of the child, trying to keep them safe.
- Assure the child that the restraint is not a punishment.
- Never use other children in the restraint.

Restraint or reasonable force should be witnessed by another responsible adult. Staff should use the *red card* system to call for another adult if restraint or reasonable force is needed and another adult is not available in the area

### **General principle of behaviour management**

Because the use of force should only be a last resort, staff and volunteers at Corsham Primary School recognise that they should minimise the possibility of force being needed by creating a calm, orderly and supportive school climate that lessens the risk and threat of violence of any kind.

## **3 Roles and Responsibilities**

Head Teachers is a term used to describe the senior leadership team in the organisation. It will include but may not be limited to the Senior Head, Heads of School and their deputies. Headteachers will ensure that the requirements of this policy are implemented across the school.

The school will ensure that all staff know and understand their roles and responsibilities in relation to the management of pupils. Legislation allows 'members of staff' to use 'reasonable force' and defines a member of staff as 'any teacher who works at the school and any person who, with the authority of the Headteacher, has lawful control or charge of pupils at the school'. The Headteacher will confirm with all personnel whether they meet the terms of this definition.

Regular training will be given to staff and new staff should be given a copy of the policy as part of their induction and asked to confirm understanding.

Personnel have a responsibility to undertake training, take proactive steps to prevent the need for use of reasonable force, employ general principles of good, behaviour management, use

considered judgement when determining whether to use reasonable force and the power to search, and report incidents.

Personnel should be made aware of individual pupils who are considered likely to pose serious behavioural problems or violence.

The Inclusion Manager will keep staff informed about pupils with special educational needs who may require special attention with regard to their physical management. Staff will consult with the Inclusion Manager regarding any concerns that they have about the physical management of pupils with special educational needs.

#### **4 Types of appropriate 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 and
- To give first aid

#### **5 Use of Reasonable Force for Restraint**

Whether the force used is reasonable will always depend on the particular circumstances of the case and the test is whether the force used is proportionate to the consequences it is intended to prevent.

This means the degree of force used should be the minimum needed to achieve the desired result. In schools force is generally used for two different purposes – to control pupils and to restrain them.

- Control can mean either passive physical contact (e.g. standing between pupils or blocking a pupil's path) or active physical contact (e.g. leading a pupil by the hand or arm, or ushering a pupil away by placing a hand in the centre of the back).
- When members of staff use "restraint" they physically prevent a pupil from continuing what they were doing after they have been told to stop. The use of restraint techniques is usually used in more extreme circumstances, such as when two pupils are involved in a fight and physical intervention is needed to separate them.

##### **5.1 Judging whether to use force and what force to use**

The judgement on whether to use force and what force to use will always depend on the circumstances of each case and – crucially in the case of pupils with SEN or disabilities – information about the individual concerned.

The school will develop an individual risk assessment where it is known that force is more likely to be necessary to restrain a particular pupil, such as a pupil who's SEN and/or disability is associated with extreme behaviour. Members of staff should not put themselves at risk. An individual would not be seen to be failing in their duty of care by not using force to prevent injury, if doing so threatened their own safety

Based on this legal framework, our 'working' definition of 'reasonable force' is the minimum force necessary to prevent a pupil from physically harming him/herself or others or seriously damaging property, but used in a manner which attempts to preserve the dignity of all concerned. The use of reasonable force will always depend on the circumstances of the case and staff should take the following into consideration:

- Whether it is reasonable to use force, and the degree of force that could reasonably be employed, given the age, sex, physical strength, size, understanding, medical conditions and any special educational needs of the pupil.
- The use of force can be regarded as reasonable only if the circumstances of the particular incident warrant it. The use of any degree of force is unlawful if the particular circumstances do not warrant the use of physical force. Therefore physical force could not be justified to prevent a pupil from committing a trivial misdemeanour, or in a situation that clearly could be resolved without force.
- The degree of force employed should 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 always be the minimum needed to diffuse the situation.

#### **5.1.1 Some examples of situations where reasonable force might be used are to:**

- Prevent a pupil from attacking a member of staff, or another pupil, or to stop a fight between two or more pupils;
- Prevent a pupil causing deliberate damage to property;
- Prevent a pupil causing injury or damage by accident, by rough play, or by misuse of dangerous materials or object;
- Ensure that a pupil leaves a classroom where the pupil persistently refuses to follow an instruction to do so;
- Prevent a pupil behaving in a way that seriously disrupts a lesson; or
- Prevent a pupil behaving in a way that seriously disrupts a school sporting event or school visit.
- In self-defence, where risk of injury is imminent;
- When there is developing risk of injury to the person deemed in need of restraint or others.

## **5.2 Types of Physical Intervention**

### **5.2.1 Permissible Physical Intervention**

Physical intervention in these circumstances may take several forms, e.g.:

- physically interposing between pupils;
- blocking a pupil's path;
- holding;
- leading a pupil by the hand or arm;

- shepherding a pupil away by placing a hand in the centre of the back; or (in extreme circumstances) using more restrictive holds.

### **5.2.2 Unlawful Physical Intervention**

The law strictly prohibits the use of force, which constitutes the giving of corporal punishment. The use of force as a punishment or to intentionally cause pain, injury or humiliation, such as the examples below, should not be permitted under any circumstances:

- holding around the neck;
- any hold that might restrict breathing;
- kicking, slapping or punching;
- forcing limbs against joints;
- tripping;
- holding by the hair; and
- holding the pupil face down on the ground.

Physical intervention may involve staff in:

- holding
- pushing
- pulling

Staff must always avoid touching or holding a pupil in a way that might be considered indecent.

### **5.3 Dealing with situations involving use of reasonable force**

In line with the contents of this policy the two sections below indicate steps to be taken to manage situations which are escalating and then require reasonable force to be used.

#### **A. Reducing the need to use reasonable force - Preventative Strategies**

All staff in school need to be aware of strategies and techniques for dealing with difficult pupils and steps, which they can take to defuse and calm a situation and potentially reduce the need for reasonable force to be used. The strategies listed below as examples will be influenced by the age of the pupil(s) and the context in which they are applied.

- 1) Move calmly and confidently;
- 2) Make simple, clear statements;
- 3) Intervene early;
- 4) Try to maintain eye contact;
- 5) If necessary summon help before the problem escalates; and
- 6) If possible, remove the audience from the immediate location.

#### **B. Using reasonable force - ACTION STEPS**

- 1) Tell the pupil who is misbehaving to stop and tell him/her the possible consequences of failure to do so.
- 2) Summon another adult. (Another adult should be present if physical restraint of any kind needs to be applied.) Send another pupil / message to alert a member of the senior leadership team.
- 3) Continue to communicate with the pupil throughout the incident.
- 4) Make it clear that physical intervention will cease as soon as it is no longer necessary.
- 5) Appropriate follow-up action should be taken, which may include:

- a. providing medical support;
- b. providing respite for those involved; and
- c. accessing external advice/support.

A calm and measured approach to a situation is needed and staff should never give the impression that they have lost their temper or are acting out of anger or frustration when handling a problem. Whilst limiting damage to property and/or persons, it is advisable not to 'corner' or give the child a feeling of being 'trapped' in any way as this can often inflame reactions. Where possible, allow the child space to move.

## 6. Power to search pupils without consent

In addition to the general power to use reasonable force described above, head teachers and authorised personnel can use such force as is reasonable given the circumstances to conduct a search. A search will be conducted in the case that for the following "prohibited items" as defined by Section 550AA of Education Act 1996 are suspected:

- knives and weapons
- alcohol
- illegal drugs
- items suspected of being stolen tobacco and cigarette papers
- fireworks
- pornographic images on a variety of media
- 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 school rules.

The personnel to which this power applies are:

- i. any member of staff at the school;
- ii. any other person whom the head has authorised to have control or charge of pupils. This can also include people to whom the head has given temporary authorisation to have control or charge of pupils such as unpaid volunteers (for example parents accompanying pupils on school-organised visits); and
- iii. does **not** include any pupils.

The power may be used where the pupil (including a pupil from another school) is on the school premises or elsewhere in the lawful control or charge of the personnel identified above (for example on a school visit).

## 7 Reporting incidents involving force and use of power to search

### 7.1 Reporting Accidents

Where a pupil has caused actual harm or injury, details will need to be recorded in the school accident book.

### 7.2 Recording the use of significant incidents

From September 2010, governing bodies must ensure that a procedure is in place for recording each significant incident in which a member of staff uses force on a pupil, and for reporting these incidents to the pupil's parents as soon as practicable after the incident. Our staff will use the Record of Incident Involving Restrictive Physical Intervention Log. The Board of

Governors will take all reasonable steps to ensure that staff follow the procedure. This is to ensure that parents are kept informed of serious events at school concerning their child. If reporting the incident to a parent would be likely to result in significant harm to the pupil, then the incident must be reported to the local authority where the pupil normally lives.

Whether an incident is significant will vary on a case by case basis, but in determining whether it is, staff will need to consider factors such as the pupil's behaviour and the level of risk presented at the time, the degree of force used and whether it was proportionate in relation to the behaviour together with the effect on the pupil or member of staff..

Such records may be required for future reference. Immediately following any such incident the member of staff concerned should inform the Headteacher or a senior member of staff and provide a written report. Parents/carers should be contacted as soon as possible by Senior Staff and the incident explained to them. This action will also be recorded in the incident log.

## **8. Dealing with complaints and allegations regarding the use of force**

Parents and pupils have a right to complain about actions taken by school staff, including any use of force.

If a specific allegation is made against a member of staff then the school will follow procedures set out in

- the school's Complaints Policy;
- the school's Dealing with Allegations Against Staff Policy;

With reference to relevant guidance including the following DfE Guidance:

- The use of force to control or restrain pupils April 2013
- Keeping Children Safe in Education July 2015

## **9. Equal Opportunities**

When writing and reviewing this policy staff have completed an Equality and Diversity Impact Assessment in order to ensure it complies with equality obligations outlined in antidiscrimination legislation. We believe the policy positively reflects the aims and ambitions identified in Corsham Primary's Single Equality Scheme.