



THE USE OF RESTRAINT

Detailed below is the current guidance issued to schools on the use of restraint.

Law on Restraint

Legal Provisions

Section 93 of the Education and Inspections Act 2006 enables school staff to use such force as is reasonable in the circumstances to prevent a pupil from doing, or continuing to do, any of the following:

"Power of members of staff to restrain pupils"

The wording of this provision states:

1) A member of the staff of a school may use, in relation to any pupil at the school **such force as is reasonable in the circumstances** For the purpose of preventing the pupil from doing (or continuing to do) any of the following, namely:

- committing any offence
- causing personal injury to, or damage to the property of, any person (including the pupil himself); or
- Engaging in any behaviour prejudicial to the maintenance of good order and discipline at the school or among any of its pupils, whether behaviour occurs during a teaching session or otherwise.

2) This applies where a member of the staff of a school is:

- on the premises of the school; or
- Elsewhere at a time when as a member of its staff, he has lawful control or charge of the pupil concerned.

The use of corporal punishment is, of course, excluded from these provisions.

Definitions

"Member of staff" in relation to a school, means any teacher who works at the school and any other person who, with the authority of the head teacher, has lawful control or charge of pupils at the school.

"Offence" includes anything which would be an offence but for "the operation of any presumption that a person under a particular age is incapable of committing an offence".

Guidelines

Guidance to date has tended to concentrate on the use of force in an emergency only, for example: where pupils place themselves at risk of physical injury and where damage to property can be limited by the use of restraint, without endangering the physical safety of pupils or staff. The new provisions make it clear that teachers and other authorised members of staff are entitled to intervene in other, less extreme situations.

"Reasonable force"

There is no definition in the Act of "reasonable force", only a description of the circumstances where it might be used in schools by teachers and authorised staff. It should be noted that **the use of any degree of force is unlawful if the particular circumstances do not warrant it**. The degree of force should be in proportion to the circumstances and seriousness of the behaviour or consequences it is intended to prevent. The level and duration of the force used should be **the minimum necessary to achieve the desired result**, such as to restore safety.

It is impossible to describe definitively when it is reasonable to use force and how much may be used, beyond stating that this will depend on the circumstances of the case. Relevant considerations as to whether it might be reasonable to use for and the degree of force to be used could include for example the age and sex of the child. In some circumstances. It will, of course, be inadvisable for a teacher to intervene without help, such as where a number of pupils are involved; where the pupil is older and physically mature, and where the teacher might be at risk of injury.

In all circumstances, if a teacher intervenes to restrain a child, **it is better to find a second responsible adult to assist or to witness**. However, a teacher could be held to be negligent if (s) he did not intervene to stop an injury, because there was no adult help nearby. All use of restraint should be reported immediately after the incident. Schools should have a separate log book for incidents of restraint. If there was any injury, the incident was in any way "hazardous", or put a teacher or other member of the school community at risk, an ordinary incident form should be completed as well.

The duty to act

Although the Act does not address the point, it is also relevant that failure to take action in circumstances which merit it can be as serious as over-reacting. In many circumstances **it is not a safer option for a teacher to do nothing** or to take very limited action when to take action could restore safety. So far as a teacher's duty of care is concerned, an omission can be significant if there were to be a subsequent claim for negligence. Again, the circumstances of the case are the deciding factor and a teacher would **not** be expected to intervene to restore safety, at all costs, or with risk to his or her personal safety.

Please bear in mind that violent behaviour is a criminal act and the police can be called where children are out of control and need restraining physically, or where a child is not obeying a lawful instruction (such as to leave the premises when excluded).

Reasonable force may also be used in exercising the statutory power introduced under section 45 of the Violent Crime Reduction Act 2006 to search pupils without their consent for weapons. This search power applies to head teachers and staff authorised by them where they have reasonable grounds for

suspecting that a pupil has a weapon. Reasonable force could be used by the searcher and / or second person required to be present at a search. However the Department strongly advises schools not to search pupils where resistance is expected but rather to call the police.

- *At CTC all incidents of restraint should be reported immediately to The Principal or Member of the SLT in his absence.*
- *A full record of the event should be recorded contemporaneously and handed to the Principal, or Member of the SLT in his absence.*
- *The report will be retained in the Restraints File in A42 by the Head of Student Welfare alongside the Incident Report file*
- *The report should contain sufficient detail to help with any later investigation or complaint*
- *Guidance on how to complete such a report is available in the Restraints file as well as the Health & Welfare Information file which is kept in the staffroom.*
- *Parents will be informed as soon as possible by a senior member of staff*
- *If the college is aware that a student is likely to behave in such a way that may require physical control or restraint, a plan of action will be formalised and circulated to necessary staff so they are aware of how to respond if such a situation arises.*
- *After any incident of restraint the college will undertake a review of the events to evaluate if any further action is necessary i.e. alternative ways of responding to student, exclusion, review of the procedures, assessment of risks*
- *The effect of any such incident on the student and staff involved should be monitored as such events can be stressful and some support to either party may be necessary*

When writing a report please ensure that the reason for using restraint is given, for example which one of the legitimate situations mentioned in the Act. Please avoid emotive language or words: "restrained by the lower arm" is better than "grabbed by the wrist"; "moved aside" is better than "pushed out of the way". etc. When describing the context, explain your concerns for the health and safety of pupils, or yourself. You should always be certain that your action was necessary to prevent further offence or disorder and to protect others and self.

A copy of the full DCSF non statutory guidance for schools, on the Use of Force to Control or Restrain pupils, which staff may find useful to refer to, is located in the Health and Welfare Information file in the staffroom. This guidance contains detailed information on the types of force used, examples of situations where restraint might be deemed necessary and a pro forma example of an incident record.

Reviewed: September 2019

Next due for review September 2020

Reference:

Department of Education: Use of reasonable force Advice for head teachers, staff and governing bodies July 2013