



# **Reasonable Force and Restraint Policy**

**Review date: June 2016**

**Next review date: June 2017**

**Staff resp. for review: CE**

# Norbury Manor Business and Enterprise College

## REASONABLE FORCE AND RESTRAINT POLICY 2016-17

**This Policy should be read in conjunction with the DCSF guidance published in April 2010, “The use of force to control or restrain students” and the DFE guidance published 2012, “Use of reasonable force; advice for headteachers, staff and governing bodies.**

### **Aims**

- To create a learning environment in which young people and adults feel safe
- To protect every person in the college community from harm
- To protect all students against any form of physical intervention that is unnecessary, inappropriate, excessive or harmful
- To put in place guidance for staff so that they are clear about the circumstances in which they might use reasonable force to restrain students and how such reasonable force might be applied

### **Legal framework**

All college staff members have a legal power to use reasonable force to prevent students 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 college staff to use reasonable force to prevent a student from:

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

The staff to which this power applies are:

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

The power may be used where the student (including a student from another school) is on the college premises or elsewhere in the lawful control or charge of the staff member (for example on a college visit.)

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.

**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.

### **Reasonable force**

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 students and to restrain them.

- Control can mean either passive physical contact (e.g. standing between students or blocking a student's path) or active physical contact (e.g. leading a student by the hand or arm, or ushering a student away by placing a hand in the centre of the back)
- When members of staff use "restraint" they physically prevent a student 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 students are involved in a fight and physical intervention is needed to separate them

### **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 students with SEN or disabilities – information about the individual concerned.

The college will develop an individual risk assessment where it is known that force is more likely to be necessary to restrain a particular student, such as a student whose SEN and/or disability is associated with extreme behaviour.

Based on this legal framework, our 'working' definition of 'reasonable force' is the minimum force necessary to prevent a student from physically harming herself/himself 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 student
- 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 student 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 defuse the situation

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

- to prevent a student from attacking a member of staff, or another student, or to stop a fight between two or more students
- to prevent a student causing deliberate damage to property
- to prevent a student causing injury or damage by accident, by rough play, or by misuse of dangerous materials or object
- to ensure that a student leaves a classroom where the student persistently refuses to follow an instruction to do so
- to prevent a student behaving in a way that seriously disrupts a lesson
- to prevent a student behaving in a way that seriously disrupts a college sporting event or college visit

**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 students. 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 negligent 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 call for another adult if restraint or reasonable force is needed and another adult is not available in the area.

**Reasonable force might be used:**

- 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

SLT, or other college staff instructed by them and in their presence, can use such force as is reasonable given the circumstances when conducting a search for knives and weapons, alcohol, illegal drugs, stolen items, tobacco and cigarette papers, fireworks, pornographic images or articles that have been or could be used to commit an offence or cause harm. Such force **cannot** be used to search for items banned under the college rules.

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

- physically interposing between students
- blocking a student's path
- holding
- leading a student by the hand or arm

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

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, (which are not exhaustive) 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
- holding the student face down on the ground

Physical intervention may involve staff in:

- holding
- pushing
- pulling

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

Where a student has caused actual harm or injury details will need to be recorded in the college accident book.

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

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

### **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 student, and for reporting these incidents to the student's parents/carers as soon as practicable after the incident. Our staff will use the Incident Report form set out in Appendix A. The Governing Body will take all reasonable steps to ensure that staff follow the procedure. This is to ensure that parents/carers are kept informed of serious events at college concerning their child. If reporting the incident to a parent/carer would be likely to result in significant harm to the student, then the incident must be reported to the local authority where the student 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 student'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 student or member of staff. 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.

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 and the incident explained to them. This action will also be recorded in the incident log. Staff should keep their own copy of any written report.

### **Roles and responsibilities**

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

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

The Head Of Learning Support will keep staff informed about students with special educational needs who may require special attention with regard to their physical management. Staff will consult with the Head of Learning Support regarding any concerns that they have about the physical management of students with special educational needs.

### **Preventative strategies**

All staff in college need to be aware of strategies and techniques for dealing with difficult students and steps which they can take to defuse and calm a situation. The strategies listed below as examples will be influenced by the age of the student(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.

### **ACTION STEPS**

- 1) Tell the student who is misbehaving to stop and tell her/him 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.) Phone the office or send another student / message to alert a member of the senior leadership team.
- 3) Continue to communicate with the student 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.

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

Parents/carers and students have a right to complain about actions taken by college staff, including any use of force.

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

- the college's Complaints Policy
- the college's Behaviour and Anti-Bullying Policy ('Allegations against staff' section)

with reference to the following DCSF Guidance:

- The use of force to control or restrain students April 2010
- Keeping Children Safe in Education 2014 updated version

### RELATED POLICIES

This policy needs to be read in conjunction with:

- The Behaviour and Anti-Bullying Policy
- The Equality, Race Equality and Cultural Diversity Policy
- The Child Protection Policy
- Policy for Children with Medical Needs.

### Equality Impact Assessment

An Equality Impact assessment has been carried out with regard to this policy. There was found to be no significant impact on any group with protected characteristics i.e. this policy does not discriminate against anyone on the basis of disability, gender re-assignment, pregnancy and maternity, race, religion or belief, gender or sexual orientation.

Updated June 2016.

**APPENDIX A: INCIDENT RECORD FORM**

Details of student on whom force was used – name, class and any Special Educational Needs, disability or other vulnerability

Date, time and location of incident

Names of staff (or volunteers) involved (directly and as witnesses)

Details of other students involved (directly or as witnesses), including whether any of the students involved were vulnerable for SEN, disability, medical or social reasons

Description of incident by the staff involved including any attempts to de-escalate and warnings given that force might be used

Reason for using force and description of the force used

Any injury suffered by staff or students and any first aid and/or medical attention required

Reasons for making a record of this incident

Follow up, including post-incident support and any disciplinary action against students

Any information about incident shared with staff not involved in it and external agencies

When and how those with parental responsibility were informed about the incident and any views they have expressed

Has any complaint been lodged (details should not be recorded here)?

Report compiled by:	
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Name and role:	
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Date	
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Report countersigned by:	
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Name and role:	
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Date	
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Please note: the names of other students should be removed before the completed form is sent to parents and the names of members of staff should only be included with their consent.

The member of staff involved in the incident compiles the incident report. The member of staff with lead responsibility for safeguarding checks the record and that the college provides the member of staff involved in the incident with a copy of the final version. It is important that this information is treated in confidence.

All accounts of the same incident should be recorded, including those of the student or students involved. Parents should not be given a copy of the incident record as a matter of course, but they should be told when and where the incident took place, why it was decided that force had to be used,

the strategies used to try to avoid having to use force, what force was used, whether there were any injuries and what follow-up action (supportive and/or disciplinary) was being taken in relation to their child. Ordinarily the names of those involved in the incident should not be disclosed in the report. However, the student may give this information to the parent or the parent can request the information from the college. The college should deal with these requests in accordance with the Data Protection Act 1998.