

# Hatherley Infant School and Nursery



## Positive Handling (Physical Contact and Physical Intervention Policy)

'Learn and Grow Together'

Agreed: September 2018  
Review: September 2020

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## Statement of intent

At Hatherley Infant School we recognise that the welfare of each child is paramount and take seriously the responsibility to safeguard and promote the welfare of children in our care. Consideration is always given to what is in children's best interests and what the average child of their age would recognise themselves, as in their own interests. We recognise that there is a need, reflected in common law, to intervene when there is an obvious risk of safety to pupils, staff and property. School is committed to ensuring that all staff and adults with responsibility for children's safety and welfare will deal professionally with all incidents involving aggressive or dangerous behaviour, and only use physical intervention as a last resort in line with DFE guidance (July 2013). If used at all, it will be in the context of a respectful, supportive relationship with the pupil. We will always aim to ensure minimal risk of injury to pupils and staff.

## Introduction – What the law says

There are circumstances when it is appropriate for staff in schools and colleges to use reasonable force to safeguard children and young people. The term 'reasonable force' covers the broad range of actions used by staff that involve a degree of physical contact to control or restrain children. This can range from guiding a child to safety by the arm, to more extreme circumstances such as breaking up a fight or where a young person needs to be restrained to prevent violence or injury. 'Reasonable' in these circumstances means 'using no more force than is needed'. The use of force may involve 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 the classroom. (Keeping Children Safe in Education 2018)

This policy has been developed in accordance with the principles established by Section 93 of the Education and Inspections Act 2006 which 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;

- a. committing any offence (or for a pupil under the age of criminal responsibility, what would be an offence for an older pupil);
- b. causing personal injury to, or damage to the property of, any person (including the pupil himself); 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.

The staff to which this power applies are defined in section 85 of the Act. They are:

- a. any teacher who works in the school and
- b. any other person whom the head has authorised to have control or charge of the pupils. This:
  - i) includes support staff whose job normally includes supervising pupils such as teaching assistants, learning support assistants and lunchtime supervisors.
  - ii) can also include people whom the head has given temporary authorisation to have control or charge of pupils such as paid members of staff whose job does not normally involve supervising pupils (for example catering or premises-related staff) and unpaid volunteers (for example parents accompanying pupils on school-organised visits.
  - iii) Does not include prefects.

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

There is no legal definition of when it is reasonable to use force. That will always depend on the precise circumstances of individual cases. To be judged lawful, the force used would need to be in proportion to the consequences it is intended to prevent. The degree of force used should be the minimum needed to achieve the desired result. Reasonable in the circumstances, means no more force than is needed. However, in deciding whether misbehaviour is trivial also depends on circumstances. For example, running in a corridor crowded with small children may be dangerous enough not to be regarded as trivial.

Those exercising the power to use force must also take proper account of any particular special educational need (SEN) and/or disability that a pupil might have. Under the Disability Discrimination Act 1995 schools have two key duties:

- not to treat a disabled child less favourably, for a reason relating to his or her disability, than someone to whom that reason does not apply, without justification; and
- to take reasonable steps to avoid putting disabled pupils at a substantial disadvantage to pupils who are not disabled (known as the reasonable adjustments duty).

The statutory power conferred by section 93 of the Education and Inspections Act 2006 is in addition to the common law power of any citizen in an emergency to use reasonable force in self-defence, to prevent another person from being injured or committing a criminal offence. On preventing injury or damage to property, the statutory power is similar in scope to the common law power, except that it is only available to people to have control or charge of pupils. On preventing other types of criminal offence, section 93 provides essential clarification. It is by no means clear that all the behaviours that prejudice school discipline are also criminal offences and most primary schools are below the age of criminal responsibility. So section 93 makes it clear that authorised staff may use force to prevent behaviour that prejudices the maintenance of school discipline regardless of whether that behaviour would also constitute a criminal offence.

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 the 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 call the police.

It is always unlawful to use force as a punishment. This is because it would fall within the definition of corporal punishment, abolished by section 548 of the Education Act 1996.

## Context and aims

This policy applies to all staff. It does not differentiate between managers, teachers, support and admin staff.

### **At Hatherley we will ensure that we:**

- maintain the safety of pupils and staff;
- prevent serious breaches of school discipline;
- prevent serious damage to property.

## Our Approach to Best Practice

The best practice regarding physical contact and physical intervention outlined below should be considered alongside other relevant policies in the school, specifically those policies involving behaviour, anti-bullying and health and safety. It should also be read alongside DFE Non-Statutory Guidance on 'The Use of Reasonable Force' (2013) and Gloucestershire 'Guidance on the Use of Physical Interventions (Support Pack for Schools)'.

There are occasions when physical contact with a pupil may be proper or necessary. To demonstrate exercises or techniques during PE lessons, sports coaching or DT, or if a member of staff has to administer first aid. Young children and children with Special Educational or medical needs may need staff to provide physical prompts or help.

There may be occasions where a distressed pupil needs comfort and reassurance which may include physical comforting such as a caring parent would give. Staff should use their discretion in such cases.

Schools should not have a 'no contact' policy, however, physical contact can be misconstrued by pupil, parent or observers. Touching pupils, including well intentioned gestures such as putting a hand on a shoulder, can, if repeated regularly, lead to questions being raised. Teacher and support staff will need to use their professional judgement as to when they feel a pupil needs this kind of support. Teachers and other staff do have the right to use reasonable force to restrain pupils in certain circumstances.

In the following situations staff must judge whether or not physical intervention would be reasonable or appropriate;

- risk to the safety of staff, pupils or visitors or
- where there is a risk of serious damage to property or
- where a pupil's behaviour is seriously prejudicial to good order and discipline or
- where a pupil is committing a criminal offence.

## Minimising the Need to Use Force

- We strive to create a calm and generally supportive environment that minimises the risk of incidents that might require using force arising.
- Social and Emotional Aspects of Learning (SEAL) and the PINK Safeguarding Curriculum have been implemented to support the PSHE curriculum in teaching pupils how to manage conflict and strong feelings.
- Staff attempt to swiftly de-escalate incidents if they do arise.
- Force will only be used when the risks involved in doing so are outweighed by the risks involved in not using force.
- Risk assessments and positive handling plans/Pastoral Support Plans/My Plans will be put in place if deemed necessary.

## Staff Authorised to Use Force

Any teacher who works at Hatherley Infant School and any other support staff including teaching assistants, learning support assistants and lunchbreak supervisors who have control or charge of pupils automatically have the permanent statutory power to use force at Hatherley Infant School. In addition the School Office staff will have temporary authorisation when approached to do so by any member of permanently authorised staff. All staff have received Team Teach training and use Team Teach strategies to de-escalate an incident or restrain pupils.

## Deciding whether to use Force

Before intervening physically a teacher/teaching assistant should, wherever practicable, tell the pupil who is misbehaving to stop, and what will happen if he or she does not. The teacher should continue attempting to communicate with the pupil throughout the incident, and should make it clear that physical contact or restraint will stop as soon as it ceases to be necessary. A calm and measured approach to a situation is needed and teachers should never give the impression that they have lost their temper, or are acting out of anger or frustration, or to punish the pupil.

This judgement will take into account the circumstances of the incident. All staff should be aware that the use of physical intervention in response to a clear or developing danger of injury will always be more justifiable than the use of force to prevent damage or misbehaviour.

Staff will view physical intervention or restraint of pupils using Team Teach strategies, as a last resort to maintain a safe environment. If pupils are behaving disruptively or anti-socially, every effort will be made to manage behaviour positively to prevent a deterioration of the situation.

Staff will understand the importance of listening to and respecting children especially when dealing with pupils who may have emotional and behavioural needs which may increase their despair and aggression.

All staff will understand the importance of responding to the feelings of the child, which lie beneath the behaviour as well as to the behaviour itself.

**There will be occasions when a teacher should not intervene in an incident without help** (unless it is an emergency). For example, when dealing with an older pupil, or a physically large pupil, or more than one pupil, or if the teacher believes he or she may be at risk of injury. In those circumstances the teacher should remove other pupils who might be at risk, and summon assistance from a colleague or colleagues, or where necessary phone the Police. The teacher should inform the pupil(s) that he or she has sent for help. Until assistance arrives the teacher should form a professional judgement as to how to manage the situation. This may include trying to prevent the incident from escalating and attempting to diffuse the situation orally.

## Procedures and responsibilities for using Force

Where school is aware that a pupil is likely to behave in a way that may require physical control or restraint, planning will take place to address:

- Managing the pupil (e.g. My Plan, Pastoral Support or behaviour plan, reactive strategies to de-escalate a conflict, holds to be used);
- Involving parents to ensure they are clear about what specific action school might need to take;
- Briefing staff to ensure they know what action they may take;
- How additional support can be summoned if appropriate;
- The safest way to hold pupils with specific medical needs or disabilities.

Staff intervening with children will seek assistance from other members of staff at as early a stage as possible since single-handed intervention increases the risks of injury to both parties and does not provide a witness.

All staff who become aware that another member of staff is intervening physically with a pupil will have a responsibility to provide a presence, and to offer support and assistance should this be required.

Before intervening in a non-emergency, consideration will be given to whether or not other staff are available to assist.

Where possible, staff who have not been involved in the initial confrontation leading up to an incident may be in a better position to intervene or restrain the pupil if this proves necessary.

A pupil's behaviour may be adversely affected by the presence of an audience. Wherever possible, the audience will be removed, or if this is not possible the pupil will be removed from the audience. The pupil and member(s) of staff will withdraw to a quiet, but not completely private, place (e.g. two members of staff should be present or a door left open so that others are aware of the situation).

Staff will be aware of the need to tell the pupil being restrained, in a calm and gentle manner, that the reason for the intervention is to keep the pupil and others safe. Staff will explain that as soon as the pupil calms down, she/he will be released.

Staff should always avoid touching or holding a pupil in a way that might be considered indecent. If a pupil needs to be held the member of staff should try, wherever possible, to put their arms around the abdomen of the pupil and hold onto their own arms rather than hold the pupil with their hands.

Where an intervention is not urgent the teacher should consider carefully whether, and if so when, physical intervention is appropriate. Teachers should always try to deal with the situation through other strategies before intervening physically. All teachers need to develop strategies and techniques for dealing with difficult pupils and situations which they should use to defuse and calm a situation.

## Types of Incidents

The situations in which reasonable force might be appropriate or necessary to control or restrain a pupil will fall into three broad categories:

- **Where action is necessary in self defence or because there is an imminent risk of injury;**

- **Where there is a developing risk of injury, or significant damage to property;**
- **Where a pupil is behaving in a way that is compromising good order and discipline.**

**Examples of situations that fall within one of the first two categories are:**

- A pupil attacks a member of staff, or another pupil;
- Pupils are fighting;
- A pupil is causing or at risk of causing deliberate damage or vandalism to property;
- A pupil is causing, or at risk of causing, injury or damage by accident, by rough play, or by misuse of dangerous materials or objects;
- A pupil is running in a corridor or on a stairway in a way in which he or she might have, or cause an accident likely to injure him or herself or others;
- A pupil absconds from a class or tries to leave school (N.B. this will only apply if a pupil could be at risk if not kept in the classroom or at school).

**Examples of situations that fall into the third category are:**

- A pupil persistently refuses to obey an order to leave a classroom;
- A pupil is behaving in a way that is seriously disrupting a lesson.

## **Reporting and recording incidents**

Any incident requiring the use of force to control or restrain pupils must be recorded on the incident form (Appendix B) and reported to a senior member of staff. Any incidents where the use of force has been used to control or restrain a pupil must also be reported to parents.

## **Post Incident Support**

Follow up support will be offered to any staff involved in incidents. A meeting between the individuals involved will be held to facilitate any need for rebuilding relationships. A review of the incident will take place and will ensure any necessary lessons are learned.

## **Complaints and Allegations**

Any complaints or allegation will be dealt with by following the agreed school complaints procedure.

## **Summary**

**In particular staff should:**

- Ensure that minimum physical contact is used to secure the safety of the child;
- If possible, ensure that a second member of staff is present, or summoned;

- Ensure that the incident is reported immediately to a senior member of staff;
- If they find it helpful, 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;
- Ensure that the incident is recorded and reported to the LA within 3 working days, including:
  - The name(s) of the pupil(s) involved, and when and where the incident took place;
  - The names of any other staff or pupils who witnessed the incident;
  - The reason that force was necessary (e.g. to prevent injury to the pupil, another pupil, or member of staff);
  - How the incident began and progressed, including details of the pupil's behaviour, what was said by each of the parties, the steps taken to defuse or calm the situation, the degree of force used, how that was applied, and for how long;
  - The pupil's response, and the outcome of the incident;
  - Details of any injury suffered by the pupil, another pupil, or a member of staff and of any damage to property;
- Ensure that parents are informed.

## Conclusion

All staff have a crucial role to play in shaping the lives of children and young people. They have a unique opportunity to interact with them in ways that are both affirming and inspiring. This guidance has been produced to help staff establish the safest possible play, learning and working environments. The aims are to safeguard children and young people and keep staff safe as well as reducing the risk of staff being falsely accused of improper or unprofessional conduct.

The council accepts that physical contact will occur between staff and pupils in schools and that this does have positive benefits. Such contact does, however, need to be within a structured framework. This guidance will enable such a framework to be established in school.

## Appendix A

The following definitions and examples of physical contact It is not, however, possible to be comprehensive as circumstances vary considerably. The examples given should provide some reassurance to staff on appropriate and acceptable physical contact.

### 1. Approval/Reassurance/Comfort Touching:

To be used only with professionalism, in public, and with sensitivity to the child's wishes and its age, gender, understanding and developmental level.

- For a reception child it may be felt appropriate to put an arm around the child's shoulder whilst reading, this would not, however, be felt appropriate for a Junior aged pupil.

### 2. Holding/Leading:

Again, to be used with professionalism following discussion on boundaries between holding/leading and physical intervention to obtain compliance.

- This may involve encouraging a pupil to move with a supportive arm around a shoulder;
- May also involve holding an infant aged child's hand and walking with them. *NB. The child should not be resistant to this approach. If they are see point 4.*

### 3. Intimate Care:

This should only occur where a child has a statement for Educational Needs and requires a level of intimate care specified in an IEP.

- This may involve a child with problems with bladder/bowel control requiring assistance from a GA to attend to their needs.

### 4. Physical Intervention to Obtain Compliance:

It should only be used via an IEP where the child's age, level of understanding and particular educational need permits its use. It is entirely inappropriate for most pupils in most situations.

- For children in reception/nursery classes it may be felt appropriate to pick a child up and move them
- For older children you may persist with the holding/leading techniques against some resistance. This will depend to an extent on the pupil's educational needs, understanding and developmental level, and will normally be covered by an IEP for the child.

### 5. Physical Restraint:

To be used where the pupil's action is threatening to cause significant injury to themselves or others, or significant damage to property. The majority of allegations arise from this form of contact and the policy must be followed.

- Where one pupil is attacking another, or trying to damage property a restraining arm around the pupil's arms/trunk is acceptable, never restrain a child with an arm around the neck/head.
- Where two pupils are fighting a second person should always be summoned, where practical, to assist in separating them. You should, however, try blowing a whistle or using the voice to control the situation initially.

NB. The above are general comments and not all staff will be physically able to separate pupils. It is, as always, a case of using your professional judgement to assess the incident in order to decide whether you can deal with the situation or require assistance.

If a younger child is completely out of control, i.e. kicking, biting, punching anyone who comes into contact, you should try to restrain with an arm around the arms/trunk, whilst at the same time avoiding the head and feet. If the tantrum continues obtain assistance from senior management and remove the audience, i.e. clear the remainder of the class, if possible.

NB. Any incident involving physical restraint must be reported immediately to senior management and a detailed record made of the incident. A plan (IEP) may need to be drawn up on how to respond to further incidents.

## Appendix B

### USE OF FORCE TO CONTROL OR RESTRAIN PUPILS: INCIDENT RECORD

Details of pupil or pupils on whom force was used by a member of staff (name, class).	
Date, time and location of incident.	
Details of other pupils involved (directly or as witnesses), including whether any of the pupils involved were vulnerable for SEN, disability, medical or social reasons.	
Description of incident by the staff involved, including any attempts to de-escalate and warning given that force might be used.	
Reason for using force and description of force used.	
Any injury suffered by staff or pupils and any first aid and/or medical attention required.	
Reasons for making a record of the incident.	
Follow up, including post incident support and any disciplinary action against pupils.	
Any information about the 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:	Report counter signed by:
Name and role:	Name and role:
Signature:	Signature:
Date:	Date: