

The use of Force to Control & Restrain Children

Black Firs School

School Statement on the use of Force to Control & Restrain Children

Introduction

Since the Children Act 1989, there has been a common misconception that any physical contact with a child is in some way unlawful. This is not true. First, everyone has the right to defend him or herself against attack, provided that a disproportionate degree of force is not used to do so. Secondly, any member of staff may intervene in an emergency if a child is at immediate risk of injury or on the point of inflicting injury on someone else. Thirdly, teachers have always had the power to use 'reasonable force' in order to control or restrain a child. It is concerning this third category, where circumstances may be less extreme, that teachers have become uncertain about what they are entitled to do. Therefore, to clarify the position, the 1996 Education Act has been amended by the inclusion of section 550A. This comes into force on 1 September 1998. The DfEE's guidance on section 550A is summarised below.

The Legal Framework

Section 550A of the 1996 Education Act makes it clear that teachers may use such force as is 'reasonable in all the circumstances' in order to prevent a child from doing - or continuing to do - any of the following:

- Committing a criminal offence (or, for children under the age of criminal responsibility, behaving in a way that would be an offence if they were older);
- injuring themselves or others;
- causing damage to property (including their own);
- engaging in behaviour prejudicial to maintaining good order and discipline at the school.

Section 550A applies at any time where a teacher is on the school premises or has lawful charge of the child elsewhere (e.g. on a field trip or other authorised out-of-school activity). Section 550A also applies to non-teaching staff who have been authorised by the Headteacher (on either a long or short-term basis) to have control or charge of children (e.g. classroom assistants, care workers, midday supervisors, caretakers, escorts and voluntary helpers). Those authorised should be explicitly informed of this and be aware of what the authorisation entails.

There is no legal definition of 'reasonable force' - it always depends on the circumstances of the case. There are two relevant considerations, which must be taken into account:

- the use of force can be regarded as 'reasonable' only if all the particular circumstances warrant it otherwise it is unlawful. Therefore, physical force must not be used to prevent a trivial misdemeanour or in a situation that could clearly be resolved without it;
- the degree of force used must be in proportion to the circumstances of the incident and the seriousness of the behaviour (or the consequences it is intended to prevent); it should always be the minimum needed to achieve the desired result.

Whether it is reasonable to use force, and in what degree, might also depend on the age, understanding and sex of the child. Section 550A does not in any way authorise the use of corporal punishment. For a child in maintained schools the law forbids a teacher to use any degree of physical contact, which is deliberately intended to punish, or primarily to cause pain, injury or humiliation.

Situations in which Physical Intervention may be necessary

Section 550A applies to a wide variety of situations in which the use of reasonable force might be appropriate, for example:

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- a child attacks a member of staff or another child;
- children are fighting;
- a child is engaged in, or about to commit, deliberate damage or vandalism to property;
- a child is causing, or at risk of causing, injury or damage by accident (e.g. by rough play or the misuse of dangerous materials / objects);
- a child is running on a corridor or stairway in a way which might cause an accident or injury;
- a child persistently refuses to obey an order to leave the classroom;
- a child is behaving in a way that is seriously disrupting a lesson;
- a child absconds from a class or tries to leave the school and *could be at risk if not kept there*.

Planning for incidents

We need to be aware if a child is likely to behave in a way that might require physical restraint, we should plan how to respond. Such planning should address:

- managing the child (e.g. re-active strategies to de-escalate a conflict, what holds might be used);
- involving the parents (so that they are clear about what action the school may need to take);
- briefing staff (to ensure they know what action they should be taking);
- ensuring that additional support can be summoned if appropriate; and
- the need to take medical advice about the safest way to hold a child with specific health needs (particularly in SEN settings).

Practical considerations

Before intervening physically, we should - where practicable - tell the child to stop misbehaving and what will happen if s/he does not. The teacher should attempt to communicate with the child throughout the incident and make it clear that physical restraint, if used, will stop as soon as it ceases to be necessary. Sometimes a teacher should not intervene without help (except in an emergency), for example when dealing with an older or physically large child, or more than one child, or if s/he might be at risk of injury. In these circumstances, s/he should remove other children who might be at risk and summon help from colleagues (or, where necessary, the police). The teacher should inform the child that s/he has sent for help and, until this arrives, attempt to defuse the situation orally or prevent it from escalating. Teachers should take a calm, measured approach to a situation, and never give the impression that they have lost their temper, or are acting out of anger, frustration or to punish the child.

The application of force

Physical intervention can take many forms such as:

- physically interposing between children or blocking a child's path;
- touching, holding, pushing, pulling or leading a child by the arm;
- shepherding a child away by placing a hand in the centre of the back;
- (in extreme circumstances) using more restrictive holds.

We should always avoid touching or holding a child in a way that might be considered indecent. In exceptional circumstances, when there is an immediate risk of injury, (e.g. to prevent a child running onto a busy road, hitting someone or throwing something) staff may need to take any necessary action that is consistent with the concept of 'reasonable force'.

In other circumstances, staff should not act in a way that might reasonably be expected to cause injury, for example by:

- holding a child around the neck or in any way that might restrict breathing;
- slapping, punching, kicking, tripping or forcing limbs against a joint;
- holding or pulling a child by the hair; or
- holding a child face down on the ground.

Where the risk is not so urgent, we should..

- consider carefully whether - and if so when - physical intervention is right;
- always attempt to deal with the situation through strategies other than force;

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- use force only when other methods have failed.

The key issue is establishing good order, so any action, which could exacerbate the situation, should be avoided. The age and level of understanding of the child is very relevant in these circumstances. Physical intervention to enforce compliance with staff instructions is likely to be increasingly inappropriate with older children. It should never be used as a substitute for good behavioural management.

Recording incidents

Immediately following an incident where force is used (except for minor or trivial ones), the teacher should tell the head or senior member of staff, and then provide a written report as soon as possible afterwards. This may help to prevent any misunderstanding, and will be helpful should there be a complaint. Schools should record such incidents, preferably in an incident file.

The written report should include:

- the names of the children involved;
- when and where the incident took place;
- the names of any staff or child who witnessed the incident;
- the reason that force was necessary;
- how the incident began and progressed, including details of: the child's behaviour and what was said by each of the parties; the steps taken to calm/defuse the situation; the degree of force used, how it was applied and for how long.,
- the child's response and the outcome of the incident;
- details of any injury suffered by the child, another child or member of staff; and
- details of any damage to property.

When compiling the report, staff might find it helpful to seek advice from the headteacher or representative of their professional association. They should keep a copy of the report. Parents should be informed of the incident, and given the opportunity to discuss it. The headteacher will need to consider whether parents should be told immediately, or at the end of the school day, and whether they should be informed orally or in writing.

The possibility of complaint

Involving parents when an incident occurs, plus this policy regarding physical contact, should help to avoid complaints. However, it will not avoid them all - and so the use of force might lead to an investigation either under disciplinary procedures or child protection procedures (see Circular 10195) with the possibility of a disciplinary hearing, a criminal prosecution or a civil action. If this happens, it is for the disciplinary panel or court to decide if the use and degree of force was reasonable in all the circumstances of the case. In reaching their decision, they would have regard to the provisions of section 550A. Also, it is likely that they would take account of

- (i) the school's policy regarding restraint
- (ii) whether this had been followed, and
- (iii) the need to prevent injury, damage or disruption.

Physical contact with children in circumstances not covered by section 550A

There are situations, other than those covered by section 550A, where physical contact with a child may be appropriate or necessary - for example in PE lessons, sports coaching or technology, or if a member of staff has to administer first aid. Also, young children or those with SEN may need staff to provide physical prompts or help. Touching may be appropriate to comfort a child in distress. However, there may be some children for whom touching is particularly unwelcome perhaps because of their cultural background or because they have been abused, and all staff should receive information on these. We should bear in mind that physical contact between teachers and children of the opposite sex could sometimes be misconstrued, especially as a child reaches adolescence. Overall, we should include comments in individual policies to develop clear common practice regarding physical contact with particular groups of children and events not covered by section 550A.

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