

# HEXHAM MIDDLE SCHOOL AND QUEEN ELIZABETH HIGH SCHOOL HARD FEDERATION

## POLICY AND GUIDELINES FOR USE OF REASONABLE FORCE

(QEHS and HMS follow the guidance set out by the Department for Education)

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### 1 WHAT IS REASONABLE FORCE?

- 1) The term 'reasonable force' covers the broad range of actions used by most teachers at some point in their career that involve a degree of physical contact with students.
- 2) Force is usually used either to control or restrain. This can range from guiding a student to safety by the arm through to more extreme circumstances such as breaking up a fight or where a student needs to be restrained to prevent violence or injury.
- 3) 'Reasonable in the circumstances' means using no more force than is needed.
- 4) As mentioned above, schools generally use force to control students and to restrain them. Control means either passive physical contact, such as standing between students or blocking a student's path, or active physical contact such as leading a student by the arm out of a classroom.
- 5) Restraint means to hold back physically or to bring a student under control. It is typically used in more extreme circumstances, for example when two students are fighting and refuse to separate without physical intervention.
- 6) School staff should always try to avoid acting in a way that might cause injury, but in extreme cases it may not always be possible to avoid injuring the student.

### 2 WHO CAN USE REASONABLE FORCE?

- 1) All members of school staff have a legal power to use reasonable force<sup>2</sup>.
- 2) This power applies to any member of staff at the school. It can also apply to people whom the head teacher has temporarily put in charge of students such as unpaid volunteers or parents accompanying students on a school organised visit.

### 3 WHEN CAN REASONABLE FORCE BE USED?

- 1) Reasonable force can be used to prevent students from hurting themselves or others, from damaging property or from causing disorder.
- 2) In a school, force is used for two main purposes – to control students or to restrain them.
- 3) The decision on whether or not to physically intervene is down to the professional judgement of the staff member concerned and should always depend on the individual circumstances.
- 4) The following list is not exhaustive but provides some examples of situations where reasonable force can and cannot be used.

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<sup>2</sup> Section 93, Education and Inspections Act 2006

Schools can use reasonable force to:

- remove disruptive children from the classroom where they have refused to follow an instruction to do so;
- prevent a student behaving in a way that disrupts a school event or a school trip or visit;
- prevent a student leaving the classroom where allowing the student to leave would risk their safety or lead to behaviour that disrupts the behaviour of others;
- prevent a student from attacking a member of staff or another student, or to stop a fight in the playground; and
- restrain a student at risk of harming themselves through physical outbursts.

QEHS and HMS Federation follows this guidance.

Schools cannot:

use force as a punishment – **it is always unlawful to use force as a punishment.**

#### 4 POWER TO SEARCH STUDENTS WITHOUT CONSENT

1) In addition to the general power to use reasonable force described above, headteachers and authorised staff (Head of School, Senior Deputy Headteacher, Assistant Headteachers, Learning & Guidance Co-ordinators and Mentors at QEHS; Head of School, Assistant Headteacher, Head of KS2, Heads of Year 7 and 8 and the SENCO at HMS) can use such force as is reasonable given the circumstances to conduct a search for the following “prohibited items”<sup>3</sup>:

- knives and weapons
- alcohol
- illegal drugs
- stolen items
- tobacco and cigarette papers
- fireworks
- pornographic images
- any article that has been or is likely to be used to commit an offence, cause personal injury or damage to property.

Staff should never search students alone – always in a pair and the person searching should be the same sex as the student being searched. Staff should also decide the risk involved and should not hesitate to call the police if the risk is deemed too high. Advice can be sought from Di Harris, Senior Deputy Headteacher, if necessary. **Note:** *There is a limited exception to this rule. You can carry out a search of a student of the opposite sex to you and without a witness present, but **only** where you reasonably believe that there is a risk that **serious harm** will be caused to a person if you do not conduct the search immediately and where it is **not reasonably practicable** to summon another member of staff.*

Force **cannot** be used to search for other items banned under the school rules.

Separate guidance is available on the power to search without consent – see the Associated Resources section for a link to this document.

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<sup>3</sup> Section 550ZB(5) of the Education Act 1996

## 5 COMMUNICATING THE SCHOOL'S APPROACH TO THE USE OF FORCE

- 1) Every school is required by law to have a behaviour policy. QEHS/HMS makes this known to staff, parents and students. This policy/guidance on the use of force should be read in conjunction with the school's Behaviour Management Policy.
- 2) We acknowledge our legal duty to make reasonable adjustments for disabled children and children with special educational needs (SEN).
- 3) Schools do not require parental consent to use force on a student.
- 4) We do **not** have a 'no contact' policy. There is a real risk that such a policy might place a member of staff in breach of their duty of care towards a student, or prevent them taking action needed to prevent a student causing harm.
- 5) We hope this guidance makes it clear about when force might be used. We will use it properly and in line with the guidance. This should minimise any complaints.

## 6 USING FORCE

A panel of experts<sup>4</sup> identified that certain restraint techniques presented an **unacceptable risk** when used on children and young people. The techniques in question are:

- the 'seated double embrace' which involves two members of staff forcing a person into a sitting position and leaning them forward, while a third monitors breathing;
- the 'double basket-hold' which involves holding a person's arms across their chest; and
- the 'nose distraction technique' which involves a sharp upward jab under the nose.

These techniques would never be used at QEHS or HMS.

## 7 STAFF TRAINING

- 1) The headteacher will consider whether members of staff require any additional training to enable them to carry out their responsibilities and should consider the needs of the students when doing so. Key staff will undertake training and train others as appropriate.
- 2) The Local Authority will provide support for training via the LIST team.

## 8 TELLING PARENTS WHEN FORCE HAS BEEN USED ON THEIR CHILD

- 1) We will speak to parents about serious incidents involving the use of force and will record such serious incidents on SERCO in the student's behaviour log in the case of QEHS students and on the student incident recording system at HMS.
- 2) In deciding what is a serious incident, teachers should use their professional judgement and consider the:
  - student's behaviour and level of risk presented at the time of the incident;
  - degree of force used;
  - effect on the student or member of staff; and
  - the student's age.

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<sup>4</sup> Physical Control in Care Medical Panel - 2008

## **9 WHAT HAPPENS IF A STUDENT COMPLAINS WHEN FORCE IS USED ON THEM?**

- 1) All complaints about the use of force will be thoroughly, speedily and appropriately investigated.
- 2) Where a member of staff has acted within the law – that is, they have used reasonable force in order to prevent injury, damage to property or disorder – this will provide a defence to any criminal prosecution or other civil or public law action.
- 3) When a complaint is made the onus is on the person making the complaint to prove that his/her allegations are true – it is **not** for the member of staff to show that he/she has acted reasonably.
- 4) Suspension must not be an automatic response when a member of staff has been accused of using excessive force. Schools should refer to the “Dealing with Allegations of Abuse against Teachers and Other Staff” guidance (see Associated Resources section below) where an allegation of using excessive force is made against a teacher. This guidance makes clear that a person must not be suspended automatically, or without careful thought.
- 5) We must consider carefully whether the circumstances of the case warrant a person being suspended until the allegation is resolved or whether alternative arrangements are more appropriate.
- 6) If a decision is taken to suspend a teacher, the school will ensure that the teacher has access to a named contact who can provide support.
- 7) Governing bodies should always consider whether a teacher has acted within the law when reaching a decision on whether or not to take disciplinary action against the teacher.
- 8) As employers, schools and local authorities have a duty of care towards their employees. It is important that schools provide appropriate pastoral care to any member of staff who is subject to a formal allegation following a use of force incident.

## **10 WHAT ABOUT OTHER PHYSICAL CONTACT WITH STUDENTS?**

- 1) It is not illegal to touch a student. There are occasions when physical contact, other than reasonable force, with a student is proper and necessary.
- 2) Examples of where touching a student 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 student;
  - When a student 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.

## **ASSOCIATED POLICIES**

This policy should be read in conjunction with the following school policies:

- Behaviour Management Policy
- Mobile Phone Policy
- Screening, Searching & Confiscation Policy & Guidelines
- Drugs and Substance Abuse Policy
- Anti-Bullying Policy
- Exclusions Policy

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## FREQUENTLY ASKED QUESTIONS

**I'm worried that if I use force a student or parent could make a complaint against me.**

**Am I protected?**

Yes, if you have acted lawfully. If the force used is reasonable all staff will have a robust defence against any accusations.

**How do I know whether using a physical intervention is 'reasonable'?**

The decision on whether to physically intervene is down to the professional judgement of the teacher concerned. Whether the force used is reasonable will always depend on the particular circumstances of the case. The use of force is reasonable if it is proportionate to the consequences it is intended to prevent. This means the degree of force used should be no more than is needed to achieve the desired result. School staff should expect the full backing of their senior leadership team when they have used force.

**What about school trips?**

The power may be used where the member of staff is lawfully in charge of the students, and this includes while on school trips.

**Can force be used on students with SEN or disabilities?**

Yes, but the judgement on whether to use force should not only depend on the circumstances of the case but also on information and understanding of the needs of the student concerned.

**I'm a female teacher with a Year 10 class - there's no way I'd want to restrain or try to control my students. Am I expected to do so?**

There is a power, not a duty, to use force so members of staff have discretion whether or not to use it. However, teachers and other school staff have a duty of care towards their students and it might be argued that failing to take action (including a failure to use reasonable force) may in some circumstances breach that duty.

**Are there any circumstances in which a teacher can use physical force to punish a student?**

No. 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.

## **ASSOCIATED RESOURCES**

*Guidance on the Use of Restrictive Physical Interventions for Staff Working with Children and Adults who display Extreme Behaviour in Association with Learning Disability and/or Autistic Spectrum Disorders (2002)*

*Guidance on the Use of Restrictive Physical Interventions for Students with Severe Behavioural Difficulties (2003)*

<http://www.education.gov.uk/childrenandyoungpeople/sen/sen/types/clneeds/a0013105/guidance-on-the-use-of-restrictive-physical-interventions>

Link to Searching Guidance

<http://www.education.gov.uk/schools/studentsupport/behaviour/f0076897/screening>

Link to Dealing with allegations of abuse against teachers and other staff – guidance for local authorities, head teachers, school staff, governing bodies and proprietors of independent schools

<http://www.education.gov.uk/aboutdfe/advice/f0076882/ensuring-good-behaviour-in-schools/allegations-of-abuse-against-staff>

Ministry of Justice advice on self defence (when published) and Home Office PACE codes

<http://www.homeoffice.gov.uk/publications/police/operational-policing/pace-codes/?view=Standard&pubID=810826>

## **LEGISLATIVE LINKS**

The Education Act 1996

<http://www.legislation.gov.uk/ukpga/1996/56/contents>

Education and Inspections Act 2006

<http://www.legislation.gov.uk/ukpga/2006/40/contents>