

Ysgol Hafan y Mor



Physical Restraint of Pupils Policy

A Policy for the Physical Restraint of Pupils who are misbehaving

(See WAG Circular 041/2010)

Updated, Autumn Term, 2016

Introduction

The legal position

This document contains guidance on two powers available to schools to help manage pupils' behaviour. The powers were commenced in October 2010 and are as follows:

- Section 1: The Use of Force to Control or Restrain Pupils, the powers of which are contained in Section 93 of the Education and Inspections Act 2006, which replaced Section 550A of the Education Act 1996, with minor changes. The guidance replaces that currently contained in Welsh Office Circular 37/98.
- Section 2: Screening and Searching Pupils for Weapons, new powers contained in Section 45 of the Violent Crime Reduction Act, 2006).

There have been a number of high profile cases in the media recently about these issues. As a School Community, we all need to be aware of what it is that a member of Staff is able to do to restrain disruptive pupils in a situation where that pupil's safety and welfare, or the safety and welfare of other pupils, visitors, or members of Staff are at risk.

Objectives.

It is the policy of the school and the Governing Body that:

- every child has the right to come to School and to be SAFE. Occasionally, a child may come under attack from another pupil. Teachers/Staff have to make instant decisions in highly charged emotional situations - to intervene or not to intervene.
- every child has the right to be educated according to their ability level - this means that in cases where a pupil is disrupting the Education of others he/she should be removed from the Classroom.

The Headteacher and Governing Body, therefore, have to make crucial decisions within this process - when should a child be excluded from School? Other questions that need to be asked :

- What is the LA role within this process?
- What guidance is there from both the LA and the Welsh Assembly?
- What about Union involvement?
- What do our Parents and Guardians feel about this issue?

What are the current rules/regulations about the use of reasonable force?

Welsh Office Circular 041/2010 covers this issue. It provides the following guidance:

This guidance replaces that currently contained in Welsh Office Circular 37/98 and provides direction on the powers of school staff to use force set out in Section 93 of the Education and Inspections Act 2006. These powers commenced in October 2010 and replaced Section 550A of the Education Act 1996, with minor changes.

1.2. All school staff members have a legal power to use reasonable force to prevent pupils committing a criminal offence, injuring themselves or others, or damaging property; and to maintain good order and discipline amongst pupils.

1.3. The focus should be on preventing, as far as possible, the need for the use of force on pupils, by creating a calm, orderly and supportive school climate that lessens the risk and threat of violence of any kind. The use of force should only be a last resort and at Ysgol Hafan y Môr , we seek to minimise the possibility of force being needed. However, this may not always be possible and in such circumstances staff need to be aware of sensitivities associated with any form of physical contact with pupils.

1.4. Schools should never seek to inhibit the ability of staff to use force by adopting a 'no contact' policy. The power to use force helps ensure pupil and school safety and the risk with a no-contact policy is that it might place a member of staff in breach of their duty of care towards a pupil, or prevent them taking an action needed to prevent a pupil causing injury to others.

1.5. The purpose of legislating on the use of force was to provide a clear and transparent power which enables staff to use reasonable force on pupils in specified circumstances, whilst at the same time also protects children and young people from physical violence, injury or abuse, as set out in Article 19 of the United Nations Convention on the Rights of the Child. This document provides guidance on how the power should be exercised, particularly to:

- help school staff to understand what the law means for them in practical terms;
- protect pupils by reducing the risks that force may be used inappropriately; and
- provide advice on good practice

1.6. Although the Education and Inspections Act 2006 specifically refers to "force" this covers the broad range of strategies that involve a degree of physical power to prevent pupils from hurting themselves or others, damaging property or causing disorder. The range stretches from leading a pupil to safety by the hand or arm, through to extreme circumstances where a pupil needs to be restrained to prevent violence or injury to themselves

1.7. In schools, force is generally used for two different purposes – to control pupils and to restrain them:

Control can mean either passive physical contact (e.g. standing between pupils or blocking a pupil's path) or active physical contact (e.g. leading a pupil by the hand or arm, or ushering a pupil away by placing a hand in the centre of the back).

- When members of staff use “restraint” they physically prevent a pupil from continuing what they were doing after they have been told to stop.
- Restraint techniques are usually used in more extreme circumstances, such as when two pupils are involved in a fight and physical intervention is needed to separate them.

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

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

Corporal Punishment

Corporal punishment is forbidden in all maintained Schools. When the amendments to Section 548 of the Education Act 1996 were introduced, ie in Section 131 of the School Standards and Framework Act, 1998, it became unlawful for a Teacher to use any degree of physical contact which is deliberately intended to punish a pupil or which is primarily intended to cause pain or injury or humiliation. This ban is absolute and the Governing Body of Ysgol Hafan y Môr endorse fully, the above legislation.

Planning for Incidents

As in any School, we are aware that a tiny minority of pupils are likely to behave in a way in certain circumstances and on occasions, that may require physical control or restraint. It is therefore imperative that we all respond in a planned, unified way should such a situation arise.

We need to address:

- strategies for managing the pupil;
- ensuring that we maintain a calm and orderly environment, so that all of our children feel safe and know that if they are upset that they can confide in any member of staff at the school;

- involving the Parents or Guardians to ensure that the child sees that Home and School are working together, to keep the Parents and Guardians fully informed about the actions taken by the School;
- briefing all Staff so that they know exactly what action should be taken (this will require periodic Staff Training);
- ensuring that additional support for Staff can be summoned if required, via a member of the SLT;
- in some cases, Staff may require medical advice about the safest way to hold pupils with specific health needs.

Working within the legal framework

Teachers and other persons who are authorised by the Headteacher to have control or charge of pupils are able to use such force as is reasonable to prevent a pupil from doing or continuing to do the following:

- committing a criminal offence (including behaving in a way that would be an offence if the pupil were not under the age of criminal responsibility);
- injuring themselves or others;
- causing damage to property (including the pupil's own property);
- engaging in any behaviour prejudicial to maintaining good order and discipline at the school or among any of its pupils, whether that behaviour occurs in a Classroom during a Teaching session, or elsewhere.

'Authorised persons' other than Teaching Staff at Ysgol Hafan y Môr are:

- Teaching Assistants
- Midday Supervisors
- Home School Liaison Officer
- LA Advisory Staff
- Voluntary Helpers
- Caretaker
- Canteen Staff

This policy and the legal regulations apply any time a Teacher or 'Authorised Person' is on the School premises, or whenever he/she has lawful control or charge of the pupil concerned, eg on an Educational Visit or other authorised out of School activity.

The Meaning of 'Reasonable Force'

There is no legal definition of 'reasonable force'. When it is reasonable to use force, or the degree of force that may reasonably be used, will always depend on all of the particular circumstances in any given situation.

The Governing Body would suggest that there are 3 relevant considerations:

- the use of force can only be regarded as reasonable only if the circumstances of the particular incident warrant it. The use of any degree of force is unlawful if it is not warranted (eg dropping litter);
- the degree of force employed must be in proportion to the incident and the seriousness of the behaviour or the consequences it is intended to prevent. Any force should be kept to a minimum to achieve the desired result;
- the degree and use of force used should also take into account the age, understanding, physical maturity and gender of the pupil involved.

When should Staff and authorised personnel intervene physically

Having studied W.O Circular 040/2010, the Governing Body believe that the following situations would need some sort of intervention. However, they would point out that physical intervention should only be used as a final option, after all preventative steps have been taken. The following situations are examples :

- pupils fighting;
- a pupil engaged in, or on the verge of committing deliberate damage or vandalism to property;
- a pupil causing, or at risk of causing, injury or damage by accident, by rough play, or by misuse of dangerous materials or objects;
- a pupil running within the school building in a way which may cause injury to himself/herself or to others;
- a pupil persistently refusing to obey an order to leave a Classroom (in the first instance, a member of the SLT should be summoned if possible);
- a pupil behaving in a way that is seriously disrupting a lesson; and
- a pupil trying to abscond from School (again, a member of the SLT should be summoned if possible).

The Governing Body accepts that certain situations are difficult, and that individual responses to such incidents can also be difficult. All authorised personnel need to bear in mind the following:

- will the use of force exacerbate the situation and result in further injury to the Teacher, the pupil, or to other pupils?
- will it set a poor example for the other children?
- will it stress and/or distress the pupil or other pupils?
- if the child has previously suffered physical abuse outside of School, will physical intervention in School cause further distress?

The Governing Body's view on the application of force

The Governing Body accepts that physical intervention can take many forms. It might involve a member of Staff physically putting himself/herself between pupils or blocking one pupil's path to another. It might involve holding, pushing, pulling, leading by the arm, or shepherding a pupil away by placing a hand in the centre of the back, or it might involve using Classroom furniture to restrict movement.

However, the law is very clear on what must **not** be done. Authorised personnel must not:

- hold a pupil around the neck, or by the collar, or in any other manner that restricts the pupil's ability to breathe;
- slap, punch or kick a pupil, or hit a pupil with an object;
- twist or force limbs against a joint;
- hold or pull pupils by the hair;
- touch or hold pupils in a way that may be considered indecent.

Where there is a risk of injury or damage to property, a member of Staff should intervene physically straightaway. For example, to prevent a pupil running or stepping off a pavement into a busy road, or to prevent a pupil from hitting someone or throwing something, endangering another pupil or pupils.

Strategies Other than Physical Restraint

The Governing Body believe that where the risk is not so urgent, the member of Staff should consider carefully whether (and if so when) physical intervention is appropriate. They should always attempt to deal with a situation through other strategies before using physical force. Within the Behaviour and Discipline Policy of the School, we have a number of strategies and techniques for dealing with the tiny minority of difficult pupils, which are built around trying to avoid confrontation situations. The School operates a Positive Behaviour Management policy, which we feel will eradicate negative behaviour to a large extent.

However, the following advice should be heeded:

- before intervening physically a member of Staff should, wherever practicable, instruct the pupil who is misbehaving to stop and explain to him/her the consequences of failing to comply with a request or instruction.
- Where it is necessary to intervene physically, the member of Staff should continue talking to the pupil as calmly as possible, and make it clear that physical restraint will stop as soon as the pupil complies with the instruction to stop.
- Members of Staff should never give the impression that they have lost their temper and are acting out of anger or frustration.
- Occasionally, a member of Staff will need assistance and should not intervene in an incident without help. Even if a situation has to be dealt with as it happens, it is imperative that a member of the SLT is called for as soon as is possible.
- If possible, other pupils should be removed from the incident and the aggressor(s) should be taken to the HT's room.

Recording Incidents

It is the policy of the School that all incidents involving physical restraint should be reported as soon as possible to a member of the SLT. The member of Staff, or the SLT member should log clear details of the incident and any action taken.

The Governing Body would like an incident book kept which should include:

- the name(s) of the pupil(s) involved, when and where the incident took place;
- names of any Staff or pupils who witnessed the incident;
- the reason that physical restraint was necessary (eg to prevent injury to another pupil, member of Staff);
- how the incident began and progressed, including details of the pupil's behaviour and the steps taken to defuse/calm the situation;
- the pupil's response and the outcome of the incident;
- details of any injury suffered by any party, or any damage caused.

Any injuries suffered by an employee of the School, as a result of a deliberate assault arising out of, or in connection with their work, should be reported under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995(RIDDOR).

Complaints (See Complaints Policy)

Incidents involving the use of physical restraint can cause the Parents or Guardians of a pupil great concern. Parents/Guardians will be informed of an incident involving their child and they will be given the opportunity to come into School to discuss the incident. The member of the SLT who has dealt with the situation will inform either the Headteacher of how the incident was dealt with and they will speak to the Parents or Guardians.

Ensuring that this policy is adhered to by all Staff and ensuring that all Parents and Guardians are informed of this policy will ensure that Home and School work together for the benefit of all pupils. However, complaints can be made, either to Social Services or the Police under Child Protection Legislation. In such circumstances, the Governing Body of the School will seek the guidance given in WO Circular 47/06 which gives clear guidance about procedures for dealing with allegations made against Teachers.

There is also a possibility that a complaint may result in a disciplinary hearing, a criminal prosecution, or a civil action brought by the Parents or Guardians. It would be for the disciplinary panel, or court to decide if the degree of physical force was reasonable in the circumstances of that particular incident. The panel or court would have to have due regard to the provisions highlighted above, and take into account whether the authorised person had followed this policy on physical restraint and acted accordingly.

Physical Contact With Pupils in Other Circumstances

There are situations in which physical contact with a pupil may be necessary. One obvious example is support techniques needed in Physical Education, another is where a pupil requires first aid, or where a pupil is distressed and needs comforting. Staff need to use their professional judgement in such cases.

Some children may find that any form of physical contact is unwelcome and Staff should be informed about these children by Senior Management and act accordingly. Again, each member of Staff will need to use his/her professional judgement. Examples of this could be:

- some pupils from certain ethnic minority groups may be particularly sensitive to physical contact by Staff;
- Staff also need to be aware when dealing with pupils of the opposite gender to themselves. Staff need to be aware that even innocent and well-intentioned physical contact can sometimes be misconstrued.

Conclusion.

It is vital that all authorised personnel adopt a consistent approach to dealing with certain incidents. Whilst the Governing Body acknowledges that different incidents require different actions and that when trying to protect pupils, themselves or property, there is often little time in which to think before taking action, the Governing Body would urge all Staff to act in a competent professional manner and to adopt a common sense approach.

Our Behaviour and Discipline Policy should ensure that incidents are dealt with on a consistent basis. Children are taught throughout the School the importance of considering the safety of themselves and others and of having due regard for their own, other pupils' and the School's property. In order to maintain good order and discipline, the Governing Body maintain that the consistent implementation of this policy, coupled with our Behaviour and Discipline policy will ensure the safety of all pupils and personnel within our School.