

Maiden Erlegh Trust

PHYSICAL INTERVENTION GOOD PRACTICE DOCUMENT

*(TO BE READ ALONGSIDE SAFEGUARDING &
BEHAVIOUR POLICIES)*



MAIDEN ERLEGH
TRUST

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Introduction

Maiden Erlegh Trust is committed to providing a safe, calm and purposeful working environment for staff and pupils/students, where the focus is on teaching and learning. We all work very hard to maintain these standards and to pre-empt issues wherever possible or deal with them at an early stage.

We recognise, however, that on extremely rare occasions, there may be situations where reasonable force may be considered. The aim of this guidance is to clarify our strategy for managing pupils/students with extremely challenging behaviour which is consistent both with common law and the requirements and recommendations of the DfE.

Section 93 of the Education and Inspections Act (2006) and the DfE Guidance "Use of Reasonable Force - Advice for Headteachers, Staff and Governing Bodies" (July 2013) gives all members of staff (including volunteers and parents attending school trips) the power to use reasonable force to prevent pupils/students from:

- committing a criminal offence;
- injuring themselves;
- injuring other people (including pupils/students and members of staff);
- damaging property;
- causing disruption in the classroom where they have refused an instruction to leave;
- causing disruption at a school event or on a school trip;
- leaving the classroom where doing so would risk their safety, disrupt the behaviour of others or put others at risk;

NB: The above list contains examples, but is not exhaustive, and there may be other circumstances in which the use of reasonable force is justified.

The decision on whether or not to physically intervene is down to the professional judgement of the staff member concerned and always depends on the individual circumstances. Staff will always act to provide the necessary duty of care and in a proportionate and reasonable way.

Reasonable force covers a range of actions which may be used by members of staff involving a degree of physical contact with pupils/students. The force used must be proportionate, reasonable and necessary in the circumstances in which it was used, using no more force than is needed.

The Headteacher and authorised members of staff may also use such force as is reasonable in the circumstances when conducting a search of a pupil/student without their consent for

certain prohibited items (see the Behaviour Policy).

In the case of a pupil/student with a statement of educational needs or a disability (as defined by the Equality Act 2010), all members of staff will bear in mind their duty to make a reasonable adjustment for those needs or disability before using reasonable force. This does **not**, however, mean that reasonable force will not be used on a pupil/student with a statement of special educational needs or a disability.

Parental consent is **not** required for members of staff to use reasonable force on pupils/students. Where reasonable force has been used, the Academy will notify the parents of that fact and the reasons why such force was reasonable in the circumstances. Parents who are unhappy with reasonable force being used on their children are able to submit a formal complaint to the Academy under its published Complaints Policy, however it will be the responsibility of the parents to prove that the force used was not reasonable, it will not be for the member of staff to prove that it was reasonable, and the member of staff will not necessarily be suspended when a complaint is received.

It is not illegal for members of staff to touch a pupil/student. In addition to being able to use reasonable force, in the course of normal day to day activities and in proper and necessary circumstances, for example when comforting, congratulating or praising a pupil/student, or demonstrating techniques in music or physical education, it may be appropriate for staff to touch a pupil/student.

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 pupils and it might be argued that failing to take action (including a failure to use reasonable force) may in some circumstances breach that duty.

Principles

Under no circumstances whatsoever is the use of corporal punishment permitted.

If reasonable force is necessary staff will not deliberately cause pain/injury or humiliation nor will they include the use of threats or intimidating language.

The use of reasonable force is always a safeguard, never a sanction. When it is used, the least amount of force will be applied for the minimum time required to restore self-control to the pupil/student.

Reasonable force will not be used routinely, but rather as a last resort in the context of a wider behaviour management strategy based on mutual respect, fairness and equality. It will always be a considered response in the best interests of the child.

Reasonable force should take account of age, size, gender, stage of development, health, fears and phobias, state of mind (drug/alcohol) and any previous experience of abuse.

Reasonable force is to be only used in line with the duty of care. i.e. when the child is causing harm to themselves or others, causing significant damage to property or needs to be prevented from carrying out a criminal act.

The use of reasonable force should not put other staff or pupils/students at risk of harm.

Proactive strategies for managing pupils/students with challenging behaviour are likely to achieve the best outcomes when staff, parents/carers, school staff and outside agencies share responsibility and work in partnership on the issue.

It is expected that staff will exhibit resilience and consistency in their endeavours to help pupil/student with persistently difficult /challenging behaviours.

When pupils/students begin to display challenging behaviours this will be dealt with initially using techniques of diffusion and de-escalation and resorting to reasonable force only when it is considered the most appropriate alternative.

Before using reasonable force, staff should:

- (a) communicate to the pupil/student in a calm and measured way and tell them to stop behaving unacceptably.
- (b) make it clear that a physical intervention may be necessary

When reasonable force has been used, pupils/students will be given the opportunity to learn from their experiences – to improve their self-control and avoid similar situations in the future. Staff will have the opportunity to feedback on concerns.

For some SEND pupils/students their learning and development may be supported and promoted through reasonable force. When this is the case, the school and other agencies will draw up appropriate plans (care plan / Education Health and Care Plan / behaviour management plan) which will be shared with and followed by the pupil/student's parents/carers and staff.

Where a reasonable plan cannot be drawn up and school considered the risk of harm to pupils/students and/or staff to be high, we will seek support from outside agencies.

It is important to note that this duty of care may require reasonable force to ensure that the pupil/student remains safe and DfE guidance states that in some instances a member of staff may breach that duty if they fail to take action in certain scenarios that may require physical intervention.

Reasonable force – Definitions

Restraint The use of force to control another's behaviour.

Holding Physical contact which means holding a pupil/student without an overwhelming use of force.

Escorting Accompanying a pupil/student for protection or guidance. Escorting may include physical touch.

Breakaway The reasonable use of minimum force required to disengage from dangerous or potentially harmful physical contact with a pupil/student.

Reasonable force

There is no legal definition of 'reasonable'. The use of force can only be regarded as reasonable if the circumstances of the particular incident warrant it (see Scope) and the degree of force employed is proportionate to the level of challenging behaviour presented or the consequences it is intended to prevent.

Scope

The law allows the use of reasonable force in the following circumstances:

- to prevent crime (including behaviour which would be a crime if the child were not under the age of criminal responsibility)
- to prevent pupil/student from harming themselves or others
- to prevent damage to property

Self Defence

Everyone has a right to defend themselves. In the course of their work staff will on occasions be confronted with aggressive, agitated, angry and possibly assaultive pupil/student. It is expected that they will moderate their own behaviour and exercise proper self-control when confronted with such challenging behaviour.

However, in law, every person has the right to take action, to use reasonable force to protect themselves from harm (or the perceived threat of harm). For the use of force to be reasonable in these circumstances it has to be seen to be proportionate to the degree of threat posed (or perceived) and the actions of the individual demonstrably honest and instinctive.

The use of force by staff must be reasonable and limited to the extent needed to prevent harm, damage or disruption. Under no circumstances should there be any retaliatory physical action against children or young people who present challenging behaviour.

Prevention

Pupils/students who are constantly in conflict with themselves or others are less able to access learning and develop their potential. Pupils/students with difficult or challenging behaviour should be helped to manage themselves in ways that enable them to learn and develop. In order to do this, a stepped approach to the prevention of confrontational and challenging behaviour will be adopted including:

1. Ensuring the best possible match between the pupil/student's needs and aspirations and the school's curriculum offer.

2. Ensuring the best possible match between the pupil/student's needs and the staff's ability to meet those needs.
3. Developing an ethos in which there is the expectation that pupils/students will be well behaved (through positive reinforcement as well as appropriate sanction).
4. Developing positive, respectful and professional relationships between staff and pupils/students and between pupils/students
5. Adopting a non-confrontational, pragmatic, problem-solving and restorative approach to signs of mounting anger in pupils/students. When pupils/students begin to lose control staff will explain clearly what is expected and will tell and model to the pupil/student how to behave in an acceptable manner. Boundaries will be outlined along with consequences and take up time will be given to the pupil/student to make a choice.

Early intervention

The best prevention is based on a full and proper understanding of a pupil/student's needs. The better they are understood and met, the less likelihood there is of confrontation. Where pupils/students are known to have challenging behaviours then a proper risk assessment followed by shared planning is the basis for appropriate management.

As appropriate, professionals and parents/carers will be involved in developing a behaviour management strategy eg: a Pastoral Support Plan (PSP). The strategy will include agreement with all parties on reasonable expectations in relation to the pupil/student's behaviour and on the strategies to be adopted to manage future difficulties. They will also indicate what rewards are available for improved behaviour and what sanctions will be imposed for further incidents of unacceptable behaviour.

Should a pupil/student be known to leave site then physical intervention may be required to stop this happening.

Risk Assessment

In any school there may be a pupil/student whose behaviour in some circumstances may need to be managed by the use of planned physical intervention.

Where this behaviour has the potential to cause harm, injury or serious damage, early identification and appropriate intervention through a planned risk assessment is necessary in order to minimise potential difficulties and ensure the safety of all involved.

The risk assessment should not only focus on the potential for aggressive / challenging behaviour but for those pupils/students who are deemed to be vulnerable through emotional and traumatic experiences. The risk assessment should result in an appropriate plan which identifies the steps and support necessary to put it into place.

We reserve the right to call the police to support us where pupils/students' behaviour presents a risk to themselves or others and where they are not able or willing to respond to staff.

Partnership

Experience shows that the best outcomes for pupils/students who have enduring problems with challenging behaviours are achieved through staff, parents/carers and other professionals working in partnership:

- Parents/carers will be kept informed of concerns about their child's difficult/challenging behaviour.
- There will be regular meetings to plan, agree and review strategies (including sanctions) to deter inappropriate behaviour and encourage the development of more appropriate behaviour.
- Other professionals will be called on to collaborate on and support PSPs and other plans as appropriate

Recording and Monitoring

The school will keep a separate, detailed written report of every incident of physical intervention.

These reports will be reviewed by a member of the school leadership group who will address any issues which arise. Reports will be kept on file.

Records of physical intervention over time will be regularly reviewed to monitor the use of reasonable force generally and identify any issues or trends (whether particular pupils/students or staff are more frequently involved in incidents or whether particular situations trigger incidents, etc.). They will consider whether any action is necessary and refer to the Headteacher.

Complaints

When pupils/students are out of control physical intervention may be unavoidable and may result inadvertently in the child being harmed/injured. In these circumstances it is the behaviour of the child or young person which determines the degree of force required to bring them under control which may lead to injury rather than the intention of the member of staff or carer to cause harm.

Pupils/students should write a version of the situation and sign it when they are in a right frame of mind to do so.

If a child or young person is harmed in the course of a physical intervention and he/she or his or her parents wish to make a complaint then this will be taken seriously and investigated thoroughly.

School staff have a power to use force and lawful use of the power will provide a defence to any related criminal prosecution or other legal action.

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.

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.

Suspension will not be an automatic response when a member of staff has been accused of using excessive force.

Under no circumstances whatsoever should a parent take direct action against a member of staff. If this should happen, staff within schools would be fully supported in whatever action they may wish to take in terms of legal redress in respect of the parent.