

ATL ADVICE



The Use of Force to Control or Restrain Pupils

In July 2011, the Department for Education introduced revised non-statutory guidance on the use of reasonable force to control or restrain pupils. This factsheet provides a summary of the guidance together with ATL's views and concerns.

The guidance is intended to 'help school staff feel more confident about using this power when they feel it is necessary and to make clear the responsibilities of school leaders and governing bodies'. The guidance replaces *The Use of Force to Control and Restrain Pupils – Guidance for Schools in England*.

What is reasonable force?

The guidance describes reasonable force as follows.

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 pupils.

Force is usually used either to control or restrain. This can range from guiding a pupil 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.

'Reasonable in the circumstances' means using no more force than is needed.

Schools generally use force to control pupils and restrain them. Control means 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 a classroom.

Restraint means to hold physically or to bring under control. It is typically used in more extreme

circumstances, for example when two pupils are fighting and refuse to separate without physical intervention.

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 pupil.

Who can use reasonable force?

All members of school staff have a legal power to use reasonable force. It can also apply to people whom the headteacher has temporarily put in charge of pupils, such as unpaid volunteers or parents accompanying students on school-organised visits.

ATL's view: In light of the guidance, it is essential that schools refresh their behaviour policies to ensure that:

- Staff are fully aware of the procedures on the use of restraint.
- Staff have received appropriate training in the use of restraint.
- Unpaid volunteers or parents accompanying students on school organised visits have received written confirmation that they are fully covered by the school's insurance policy.

When can reasonable force be used?

Reasonable force can be used to prevent pupils from hurting themselves or others, from damaging property, or from causing disorder. In a school, force can be used for two main purposes – to control pupils or to restrain them.

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.

The following list is not exhaustive but provides some examples of situations where reasonable force can and cannot be used.

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 pupil behaving in a way that disrupts a school event or a school trip or visit.
- Prevent a pupil leaving the classroom where allowing the pupil to leave would risk their safety or lead to behaviour that disrupts the behaviour of others.
- Prevent a pupil from attacking a member of staff or another pupil, or to stop a fight.

Schools cannot use force as a punishment – it is always unlawful to use force as a punishment.

ATL's view: Heads should meet with staff with a view to continually reviewing the above list of situations where reasonable force can be used. A clear, detailed behaviour policy should help reduce the likelihood of allegations against staff.

Communicating the school's approach to the use of force

The guidance lists the following five criteria:

- Every school is required by law to have a behaviour policy and to make this policy known to staff, parents and pupils. The governing body should notify the headteacher that it expects the school behaviour policy to include the power to use reasonable force.
- There is no legal requirement to have a policy on the use of force but is good practice to set out, in the behavioural policy, the circumstances in which force might be used. For example, it could say that teachers will physically separate pupils found fighting or that if

a pupil refuses to leave a room when instructed to do so, they will be physically removed.

- Schools do not require parental consent to use force on a student.
- Schools should 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 pupil, or prevent them taking action needed to prevent a pupil causing harm.
- By taking steps to ensure that staff, pupils and parents are clear about when force might be used, the school will reduce the likelihood of complaints being made when force has been used properly.

ATL's view: ATL believes that, as part of the induction process, both teachers and support staff must be made fully aware of the school's behaviour policy, including the use of reasonable force. No member of the education staff should be expected or directed to undertake their duties until they know their rights and responsibilities in relation to the behaviour policy.

Staff training

The guidance recommends that schools 'take their own decisions about which staff will require training in the use of force, and what the training should be'.

ATL's view: The provision of training in restraint is essential and should be compulsory. School managers must also consider training for all new members of staff and follow this up at reasonable intervals to ensure that staff refresh their knowledge and understanding of the legal issues, their powers and the school's powers.

Telling parents when force has been used on their child

The guidance states that it is good practice for schools to speak to parents about 'serious incidents' involving the use of force and to consider how best to record such serious incidents. It is up to the schools to decide whether it is appropriate to report the use of force to parents.

ATL's view: It is essential that the school behaviour policy makes it clear when and how parents should be informed of incidents that have required the use of reasonable force. A report of any such intervention should be made and we recommend that members retain a copy.

What happens if a pupil complains when force is used on them?

The guidance recommends that:

- All complaints about the use of force should be thoroughly, speedily and appropriately investigated.
- 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 she or he has acted reasonably.
- 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 where an allegation of using excessive force is made against a teacher. This guidance makes clear that a person should not be suspended automatically or without careful thought.
- Schools 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.
- If a decision is taken to suspend a teacher, the school should ensure that the teacher has access to a named contact who can provide support.
- 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.
- 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 an incident involving use of force.

ATL's view: A major concern for ATL in situations involving the use of reasonable force to control or restrain pupils is the possibility of an allegation being made. Such allegations can soon escalate, resulting in the involvement of agencies including social services and the police. ATL members have long been concerned that some heads have moved too quickly to suspend members of staff facing such allegations when the circumstances do not always make this either necessary or desirable. Members complain that they

feel isolated and unwanted during the period of suspension with little or no contact from the employer. We therefore welcome the guidance that suspension 'should not be an automatic response when a member of staff has been accused of using excessive force'. We also welcome the reminder to employers that they have a duty of care towards staff and should provide appropriate pastoral care to those staff subject to a formal allegation following an incident involving the use of force.

What if a member of staff is assaulted when restraining a pupil?

The guidance does not cover this.

ATL's view: All assaults on staff should be reported to the police. For further advice on assaults, see ATL's publication *Violence, Threatening Behaviour and Abuse*, which can be downloaded from our website at www.atl.org.uk.

Members in Northern Ireland

Members in Northern Ireland should see the publication *Regional Policy Framework on the Use of Reasonable Force and Safe Handling* produced by the five Education and Library Boards and the Council for Catholic Maintained Schools, which is available at www.deni.gov.uk/useofreasonableforce2004-2.pdf.

Members in Scotland

No equivalent guidance is issued by the Scottish Government. Instead policies relating to behaviour and discipline are decided upon by each local authority. Teachers employed in the maintained sector should refer to their local authority, and, where appropriate, their own school's policy on this matter.

Members in Wales

The Welsh Government's guidance covers two elements as follows:

Section 1

Revised guidance on the use of force to control or restrain pupils. This is more comprehensive guidance replacing that currently contained in Welsh Office Circular 37/98. The guidance has two main parts, one relevant for all schools and pupils and one relating to

pupils with severe behavioural difficulties, which will be particularly relevant for special schools.

Section 2

Guidance relating to the new power for schools to be able to search pupils for weapons without their consent, contained in the Violent Crime Reduction Act 2006. This is a new power rather than a duty and therefore does not create any new requirement on schools that choose not to use the power.

More details can be found at: <http://wales.gov.uk/topics/educationandskills/schoolshome/pupilsupport/searching/?lang=en>.



Need advice?

Your first point of contact is the ATL rep in your school/college. Your local ATL branch is also available to help, or you can contact ATL's member advisors on 020 7930 6441, email info@atl.org.uk. Don't forget there's lots more advice on ATL's website at www.atl.org.uk.

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