

## Newton Tony CE VC Primary School

### Use of Reasonable Force Policy

Policy agreed	April 2020
Policy review	April 2021 (or as required)

At Newton Tony CE VC Primary School, the use of reasonable force is extremely rare, our ethos is to support children's emotional needs to ensure that the guidance in this policy is hardly ever employed.

This document provides a guide for adults working and volunteering in Newton Tony CE VC Primary School regarding acceptable and desirable conduct to **safeguard both adults and pupils**. All adults working and volunteering at our school should also read and follow the guidance in:

HM Government document 'Reducing the Need for Restraint and Restrictive Intervention' (Children and young people with learning disabilities, autistic spectrum conditions and mental health difficulties in health and social care services and special education settings) 27<sup>th</sup> June 2019.

<https://www.gov.uk/government/publications/reducing-the-need-for-restraint-and-restrictive-intervention>.

#### Summary

This policy is based on the departmental advice stated in: Use of reasonable force Advice for headteachers, staff and governing bodies July 2013. <https://www.gov.uk/government/publications/use-of-reasonable-force-in-schools> This is non-statutory advice from the Department for Education. It is intended to provide clarification on the use of force to help school staff feel more confident about using this power when they feel it is necessary and to make clear the responsibilities of headteachers and governing bodies in respect of this power.

#### Review date

This advice will be kept under review and updated as necessary.

#### Key points

- School staff at Newton Tony CE VC Primary School 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.
- Suspension should not be an automatic response when a member of our staff has been accused of using excessive force.
- The Head Teacher will support their staff when they use this power

#### 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 pupils.
2. 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.
3. 'Reasonable in the circumstances' means using no more force than is needed.
4. As mentioned above, schools generally use force to control pupils and to 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.

5. Restraint means to hold back physically or to bring a pupil under control. It is typically used in more extreme circumstances, for example when two pupils 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 pupil.

### **Who can use reasonable force**

- All members of our school staff have a legal power to use reasonable force
- This power applies to any member of staff at our school. 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 a school organised visit.

### **When can reasonable force be used**

- At Newton Tony CE VE Primary School, reasonable force can be used to prevent pupils from hurting themselves or others, from damaging property, or from causing disorder.
- In our school, force is 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 at Newton Tony CE VC Primary School.

### **Newton Tony CE VC Primary School 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 in the playground;
- restrain a pupil at risk of harming themselves through physical outbursts.

### **Newton Tony CE VC Primary School cannot:**

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

### **Power to search pupils without consent**

In addition to the general power to use reasonable force described above, the headteacher can use such force as is reasonable given the circumstances to conduct a search for the following “prohibited items”

- 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.

Separate guidance is available on the power to search without consent – see the ‘Further sources of information’ section for a link to this document.

### **Communicating the school’s approach to the use of force**

- Newton Tony CE VC Primary School has a Positive Behaviour policy, which is published on our school website (hard copy available on request) and 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.
- Our school acknowledges our legal duty to make reasonable adjustments for disabled children and children with special educational needs (SEN).
- Our school does not require parental consent to use force on a student.
- Our school does 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, Newton Tony CE VC Primary School will reduce the likelihood of complaints being made when force has been used properly.

### **Using force**

A panel of experts identified that certain restraint techniques presented an unacceptable risk when used on children and young people. Newton Tony CE VC Primary school does not allow the following techniques:

- 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;
- the ‘nose distraction technique’ which involves a sharp upward jab under the nose.

### **Staff training**

- The headteacher should consider whether members of staff require any additional training to enable them to carry out their responsibilities and should consider the needs of the pupils when doing so.
- Some local authorities provide advice and guidance to help schools to develop an appropriate training programme. Where necessary the Head teacher will seek advice from the Behaviour Support Service.

### **Telling parents when force has been used on their child**

The Head teacher will speak to parents about serious incidents involving the use of force. In deciding what is a serious incident, the Head teacher should use her professional judgement and consider the:

- pupil’s behaviour and level of risk presented at the time of the incident;
- degree of force used;
- effect on the pupil or member of staff; and
- the child’s age.

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

- All complaints about the use of force should be thoroughly, speedily and appropriately investigated by the Head teacher and/or the Chair of governors (if appropriate).
- 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 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 the ‘Further sources of information’ 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.
- 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 a use of force incident.

### **What about other physical contact with pupils**

- It is not illegal to touch a pupil. There are occasions when physical contact, other than reasonable force, with a pupil is proper and necessary.

### **Examples of where touching a pupil might be proper or necessary at Newton Tony CE VC Primary School:**

- 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 pupil;
- When a pupil is being congratulated or praised;
- To demonstrate how to use a musical instrument;
- To demonstrate exercises or techniques during PE lessons or sports coaching;
- To give first aid.

### **Frequently Asked Questions**

#### **Q: I’m worried that if I use force a pupil or parent could make a complaint against me. Am I protected?**

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

#### **Q: How do I know whether using a physical intervention is ‘reasonable’?**

A: 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.

#### **Q: What about school trips?**

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

#### **Q: Can force be used on pupils with SEN or disabilities?**

A: 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 pupil concerned.

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

A: 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.

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

A: 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.

### **Further sources of information**

Other departmental advice and guidance you may be interested in

- 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 Pupils with Severe Behavioural Difficulties (2003)
- Screening, searching and confiscation – advice for headteachers, staff and governing bodies.
- Dealing with allegations of abuse against teachers and other staff – guidance for local authorities, headteachers, school staff, governing bodies and proprietors of independent schools

### **Associated resources (external links)**

- Police and Criminal Evidence Act 1984 (PACE) Code G: Revised Code of Practice for the Statutory Power of Arrest by Police Officers