

SOMERSET COUNTY COUNCIL

POLICY

on

**the use of force to
control or restrain pupils**

including

A MODEL POLICY (at Annex A)

**Adopted by Chilthorne Domer Church
School**

February 2020

May 2016

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Introduction

1. 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. But everyone would agree that force should be used only as a last resort.
2. 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. This document provides guidance on how the power should be exercised, particularly to:
 - a) help school staff to understand what the law means for them in practical terms;
 - b) provide advice on good practice;
 - c) ensure that staff are in the best possible position to rebut any false allegations made about the inappropriate use of force; and
 - d) protect pupils by reducing the risks that force may be used inappropriately.
3. The term 'use of force' 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.
4. Staff will be aware of sensitivities associated with any form of physical contact with pupils. This guidance also offers advice on physical contact other than the direct use of force.
5. This guidance for schools in England, it applies to all schools (including Academies and Short Stay Schools – formerly Pupil Referral Units).
6. This guidance is aimed particularly at senior school leaders such as head teachers and staff who have strategic leadership in the school for pupil behaviour, but is also relevant to all staff and governors. Although some sections are non-statutory, school staff are strongly advised to follow all sections of this guidance.

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7. This guidance provides basic advice for school staff and governors.
8. There is separate legislation and guidance on the use of force by staff in further education colleges. This guidance is available on DfE website.
9. This guidance should not be treated as a complete and authoritative statement of the law. Interpreting the law is a matter for the courts.
10. In this guidance, references to parents cover all those with parental responsibility for pupils and references to governing bodies and head teachers also apply to management committees and teachers in charge of Short Stay Schools (formerly Pupil Referral Units) and to the proprietors and staff of Academies.

What the law says

11. Section 93 of the Education and Inspections Act 2006 enables school staff to use reasonable force to prevent a pupil from:
 - a) committing a criminal offence (or, for a pupil under the age of criminal responsibility, what would be an offence for an older pupil);
 - b) causing personal injury or damage to property; or
 - c) prejudicing the maintenance of good order and discipline at the school or among any pupils receiving education at the school, whether during a teaching session or otherwise.

Separate non statutory guidance is available on the DfE website 'Use of Reasonable force 2012'.

OfSTED also produced guidance for their inspectors.

The staff to which this power applies are:

- i) any member of staff at the school;
 - ii) any other person whom the head has authorised to have control or charge of pupils. This can also include people to whom the head has given temporary authorisation to have control or charge of pupils such as unpaid volunteers (for example parents accompanying pupils on school-organised visits); and
 - iii) does not include any pupils.
12. The power may be used where the pupil (including a pupil from another school) is on the school premises or elsewhere in the lawful control or charge of the staff member (for example on a school visit).
13. Section 246 of the Apprenticeships, Skills, Children and Learning Act 2009 requires that governing bodies must ensure that a procedure is in place for recording each significant incident in which a member of staff uses force on a pupil; and reporting each such incident to each parent of the pupil as soon as practicable after the incident. This is to ensure that parents are kept informed of serious events at school concerning their child. It also provides a level of transparency which means that a spurious or malicious allegation based on the incident would be less likely to succeed. The member of staff must not report the incident to a parent if it appears to that member of staff that doing so would be likely to result in significant harm to the pupil. If that is the case and there is no parent of the pupil to whom the incident could be reported, then the incident must be reported to the local authority where the pupil normally lives. Paragraphs 47–65 below covers this issue in more detail and

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governing bodies are required to have regard to that section of this guidance.

14. There is no statutory definition of 'reasonable force'. Whether the force used is reasonable will always depend on the circumstances of individual cases. Deciding on whether the use of force is justified will depend in part upon the context in which the misbehaviour takes place. The test is whether the force used is proportionate to the consequences it is intended to prevent. The degree of force used should be the minimum needed to achieve the desired result. Use of force could not be justified to prevent trivial misbehaviour. The circumstances where the use of force might be reasonable are further discussed at paragraphs 28-31 below.
15. The statutory power conferred by section 93 of the Education and Inspections Act 2006 is in addition to the common law power of any citizen in an emergency to use reasonable force in self-defence or to prevent another person from being injured or committing a criminal offence. On preventing injury or damage to property, the statutory power is similar in scope to the common law power, except that it is only available to people authorised to have control or charge of pupils. Section 93 makes it clear that authorised staff may use force to prevent behaviour that prejudices the maintenance of school discipline regardless of whether that behaviour would also constitute a criminal offence.
16. Reasonable force may also be used in exercising the statutory power, introduced under section 45 of the Violent Crime Reduction Act 2006 (and re-enacted by Section 242 of the ASCL Act 2009), to search pupils without their consent for weapons. This search power may be exercised by head teachers and staff authorised by them, where they have reasonable grounds for suspecting that a pupil has a weapon. Reasonable force may be used by the searcher. Where resistance is expected school staff may judge it more appropriate to call the police or if they have one, their Safer School Partnership (SSP) officer.
Confiscation of inappropriate items:
Members of staff are able to confiscate, retain or dispose of a pupils property as a punishment, so long as it is reasonable in the circumstances (section 89 (1) education and Inspection Act 2006). The law protects staff from the liability, for damage to, or loss of, any confiscated items provided they have acted lawfully (Section 94 of Education and Inspection Act 2006). Staff have powers to search without consent for 'prohibited items', -
 - knives and weapons
 - Illegal drugs
 - stolen items
 - tobacco and cigarette papers
 - fireworks
 - alcohol

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- pornographic images
- any article that has been or is likely to be used to commit an offence
- cause personal injury or damage property.
- Any item banned by school rules which has been identified in the rules as an item which may be searched for.

Weapons, knives and extreme pornography **MUST** be handed to police.

17. **It is always unlawful to use force as a punishment.** This is because it would fall within the definition of corporal punishment, abolished by section 548 of the Education Act 1996.

Effective practice for schools

Policy and procedures

18. All schools should incorporate an explicit policy on the use of reasonable force to control or restrain pupils within their overall school behaviour policy. It is also good practice for governors, staff, recognised trade unions, pupils, those with parental responsibility and other partners within the school community to be consulted about the policy. However, even if the outcome of the consultation is that parents and pupils are not in favour of force being used, this would not prevent staff from using the power in any given situation. Neither would it prevent the school from adopting a policy that envisaged staff using reasonable force. Once the policy has been approved formally by the governing body it should be communicated to staff, pupils and parents. Where the local authority provides a model policy on the use of force, maintained schools in particular may wish to take account of this in formulating and reviewing their own policies.
19. Schools cannot achieve consistently good standards of behaviour without the active support of parents. For this reason it is recommended that when applying for a school place parents sign to indicate that they accept each school's behaviour policy as it will be outlined in the home-school agreement (HSA). When the child joins the school, and every year subsequently, parents will sign the school's home-school agreement accepting its behaviour rules. Where a policy on use of force is included in the school behaviour policy it should be made clear to parents that, in signing the HSA, they are acknowledging the school's power to use reasonable force on their child in the circumstances described in the policy.
20. **Schools should never seek to inhibit the ability of staff to use this power by adopting a 'no contact' policy.** The power to use

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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 the member of staff taking the action he or she needs to take in order to avoid a pupil causing injury to the member of staff or to other pupils. The potential consequences of not using this power are covered in paragraph 78.

21. A school's policy on the use of force should describe examples of:
 - a) the different approaches which should be used prior to force being used;
 - b) the circumstances which the school sees the use of force to restrain a pupil as reasonable (for example, to prevent them injuring somebody); and
 - c) the circumstances the school regards as justifying the use of force to require a pupil to comply with a reasonable instruction (for example, to leave the classroom).

All staff need to understand their powers and the options open to them. They must know what they are allowed to do under the school's behaviour policy.

22. DfE guidance on school behaviour policies is available on DfE website.
A school's policy on use of force should be consistent with its policies on child protection and health and safety.
23. Annex A suggests a framework for a model policy on the use of force to control or restrain pupils.

Staff authorised to use force

24. All members of school staff are authorised by law to use force. Headteachers can also decide whether to authorise for a limited time volunteers at the school although this should be in exceptional cases only. Such individuals should be given clear instruction on when the power can be used and on the school's policy and practice.
25. The head teacher or delegated senior member of staff is advised to do the following:
 - a) as part of a staff induction process, set out staff members' responsibilities in relation to the school policy on use of force; and
 - b) ensure that all authorised staff know that they have the power to use force.

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Pupils with Special Educational Needs and/or Disabilities

26. Schools should:

- a) Involve all staff members with responsibility for supporting pupils with SEN, as well as the pupils' parents, in developing the school's policy and practice on the use of force. This will help ensure that appropriate account is taken of the needs of individual pupils with SEN or Disabilities including 'fragile' pupils.
- b) Develop **positive handling plans** for individual pupils who, through a special need or disability, are assessed as being at greatest risk of needing restrictive physical interventions in consultation with the pupil and parents. Further advice on risk assessments is provided in paragraphs 32-34. Positive handling plans set out the techniques that should be used and those that should normally not. These plans should be compatible with a pupil's statement and properly documented in school records. Further advice on positive handling plans and managing risks for pupils who present particularly challenging behaviours can be found at <http://www.teachernet.gov.uk/wholeschool/sen/piguide/>
- c) As far as practically possible, staff who come into contact with such pupils should be made aware of the relevant Pupil Profile of those individuals, particularly:
 - i) situations that may provoke difficult behaviour, preventive strategies and what de-escalation techniques are most likely to work (see further paragraph 27);
 - ii) what is most likely to trigger a violent reaction, including relevant information relating to any previous incident requiring use of force;
 - iii) if physical intervention is likely to be needed, any specific strategies and techniques that have been agreed by staff, parents and the pupil concerned; and
 - iv) the agreed ways to support the pupil and member of staff following an incident.
- d) Information from parents may be as valuable as information held by the school. Some of this information may be sensitive. Schools should seek express (preferably written) consent from the parent to inform appropriate staff. However, where consent is unreasonably withheld the information may still be made available to staff who need it if it is in the best interests of the pupil concerned. The importance of providing such information will be a factor in decisions about giving temporary authorisation to parent volunteers and others to supervise pupils.

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- e) Designate which members of staff should be called if an incident involving a particular pupil occurs. This does not necessarily mean waiting for them to arrive before taking action if the need for action is urgent. However they should always be involved in post-incident follow-up.
- f) Teach pupils who are at risk how to communicate in times of crisis and strategies to use in a crisis (such as using personal communication passports and non-verbal signals to indicate the need to use a quiet area or cool-off base) and ensure staff are familiar with these strategies.

Reducing the likelihood of situations arising where use of force may be required

27. There are a number of ways for schools to help reduce the possibility of force being needed:
- a) creating a calm, orderly and supportive school climate that minimises the risk and threat of violence of any kind.
 - b) developing positive relationships between pupils and staff;
 - c) adopting a whole-school approach to developing social and emotional skills.
 - d) taking a structured approach to professional development that helps staff to acquire the skills of positive behaviour management and managing conflict, as well as supporting each other during and after an incident (for example, Team Teach Training).
 - e) recognising that situations which trigger challenging behaviours are often foreseeable;
 - f) effectively managing individual incidents. It is important to communicate calmly with the pupil, using non-threatening verbal and body language and ensuring the pupil can see a way out of a situation. Strategies might include, for example, going to a quiet room, away from bystanders or other pupils, so that the staff member can listen to concerns; or being joined by a particular member of staff well known to the pupil; and
 - g) wherever practicable, warning a pupil that force may have to be used before using it.

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Deciding if use of force would be appropriate

28. Force should be used as a protective measure and never as a disciplinary penalty. The judgement on whether to use force and what force to use should always depend on the circumstances of each case and – crucially in the case of pupils with SEN and/or disabilities – information about the individual concerned.
29. Decisions on whether the precise circumstances of an incident justify the use of force must be reasonable. Typically such decisions have to be made quickly, with little time for reflection. Nevertheless, staff need to make the clearest possible judgement about:
- the chances of achieving the desired result by other means. The lower the probability of achieving the desired result by other means, the more likely it is that using force may be justified;
 - the seriousness of the incident, assessed by the effect of the injury, damage or disorder which is likely to result if force is not used. The greater the potential for injury, damage or serious disorder, the more likely it is that using force may be justified; and
 - the relative risks associated with physical intervention compared with using other strategies. The smaller the risks associated with physical intervention compared with other strategies, the more likely it is that using force may be justified.

Examples of situations

30. Examples of situations that particularly call for judgments of this kind include:
- a pupil attacks a member of staff, or another pupil;
 - pupils are fighting, causing risk of injury to themselves or others;
 - a pupil is committing, or on the verge of committing, deliberate damage to property;
 - a pupil is causing, or at risk of causing, injury or damage by accident, by rough play, or by misuse of dangerous materials or objects;
 - a pupil absconds from a class (or detention) or tries to leave school other than at an authorised time. Refusal of a pupil to remain in a particular place is not enough on its own to justify use of force. It would only be justifiable where allowing a pupil to leave would:

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- i) entail serious risks to the pupil's safety (taking into account age and understanding), to the safety of other pupils or staff, or of damage to property; or
 - ii) lead to behaviour that prejudices good order and discipline, such as disrupting other classes;
- f) a pupil persistently refuses to follow an instruction to leave a classroom;
- g) a pupil is behaving in a way that seriously disrupts a lesson; or
- h) a pupil is behaving in a way that seriously disrupts a school sporting event or school visit.
31. In these examples use of force is likely to be construed as reasonable (and therefore lawful) if it was clear that the behaviour was sufficiently dangerous or disruptive to warrant physical intervention of the degree applied and could not realistically be dealt with by any other means.

Risk assessments

32. Leadership teams should regularly assess the frequency and severity of incidents requiring use of force that are likely to occur in their school. Historical patterns usually provide a good starting point. Schools may also wish to take account of the outcomes of multi-agency assessments carried out for particular pupils. These assessments will help to inform decisions about staff training (see paragraphs 42-46 below).
33. Schools may also need to make individual risk assessments where it is known that force is more likely to be necessary to restrain a particular pupil, such as a pupil whose SEN and/or disability is associated with extreme behaviour. An individual risk assessment is also essential for pupils whose SEN and/or disabilities are associated with:
- a) communication impairments that make them less responsive to verbal communication;
 - b) physical disabilities and/or sensory impairments;
 - c) conditions that makes them fragile, such as haemophilia, brittle bone syndrome or epilepsy; or
 - d) dependence on equipment such as wheelchairs, breathing or feeding tubes.
34. A model risk assessment form to use with such pupils is available on EEC website: <https://www.eeclive.co.uk/public/plogon.asp>

Situations where staff should not normally intervene without help

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35. It may not always be appropriate for a member of staff to intervene in an incident covered by paragraph 11 a–c above without help, unless it is an emergency. Schools should have communication systems that enable a member of staff to summon rapid assistance when necessary. Help may be needed in dealing with a situation involving an older pupil, a large pupil, more than one pupil or if the member of staff believes he or she (or other pupils) may be at risk of injury. In these circumstances he or she should take steps to remove other pupils who might be at risk and summon assistance from other staff who are authorised to use force, or where necessary phone the police or (where one exists) ask for assistance from the on-site Safer School Partnership officer.

Using force

36. Before using force staff should engage the pupil in a calm and measured tone, making clear that their behaviour is unacceptable and setting out how the pupil could choose to change their behaviour. Staff should not give the impression of acting out of anger or frustration, or to punish a pupil, and should make it clear that they only intend to use physical intervention as a last resort to ensure that the situation is addressed as safely as possible. The use of force must always be proportionate to the level of risk and should always be reduced at the earliest possible time.
37. In schools force is generally used for two different purposes – to control pupils and to restrain them. By control we mean 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). Control can also mean more forceful action. Restraint means the use of restraint techniques and is usually used in more extreme circumstances, such as when two pupils are involved in a fight and refuse to separate without physical intervention. This can involve using appropriate restrictive holds, which may require specific expertise or training. **Parental consent is not required to restrain a pupil.**
38. Consideration by a panel of experts identified that **certain restraint techniques presented unacceptable risk when used on children and young people.**
39. Where a pupil is engaged in an activity that presents a high and immediate risk of death or serious injury to the pupil, or to others, any member of staff would be justified in taking any action, including the use of reasonable force that could reasonably be seen

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as necessary to alleviate or reduce those risks¹. Such situations could include preventing a pupil running off the pavement onto a busy road or preventing a pupil from hitting someone with a dangerous object such as a glass bottle or hammer. Staff should always consider their own safety and that of others in deciding how to act in such situations.

40. Staff should avoid acting in a way that might reasonably be expected to cause injury. However, in the most extreme circumstances it may not always be possible to avoid injuring a pupil. Where a pupil sustains injury as a result of use of force by a member of staff, the member of staff may be called upon to justify his/her actions. It may be necessary to demonstrate that steps were taken to reduce the need for physical intervention at every stage (or why it was not practicable to take such steps), and to show that the level of physical intervention used was necessary, proportionate and employed as a last resort.
41. Staff should always avoid touching or restraining a pupil in a way that could be interpreted as sexually inappropriate conduct.

Staff training

42. Schools should consider for their staff suitable accredited training where trainers can be expected to have achieved a given level of expertise. Team Teach training is available for all Somerset school staff. Please contact Kate Lee (Klee2@somerset.gov.uk) for further advice.
43. Like other forms of professional development, decisions about training in physical intervention are best made by individual schools in the light of their particular needs and circumstances. It is good practice for schools to set out their approach to relevant training in their policy on use of force. Most schools now consider that **all staff** have a responsibility for pupil behaviour.
44. Training should include ways of avoiding or defusing situations in which physical intervention might become necessary as well as methods of physical intervention. This is particularly important for staff who work closely with pupils with SEN and/or disabilities associated with extreme behaviour. Team Teach techniques seek to avoid injury to the service user, but it is possible that bruising or scratching may occur accidentally, and these are not to be seen necessarily as a failure of professional technique, but a regrettable and infrequent side effect of ensuring that the service user remains safe.

¹ Adults visiting the school, who are not members of staff, would be acting under common law and not section 93

45. **A school policy cannot lawfully prevent teachers or other staff whose job includes responsibility for pupils from using reasonable force.** The absence of accredited training does not preclude a member of staff from using reasonable force where needed.

Pupils with Special Educational Needs

46. There will be particular training needs for staff working closely with pupils with SEN or disabilities. Risk assessments (paragraphs 33-35 above) will help inform decisions about staff training. They will also inform the circumstances in which schools would temporarily authorise staff or volunteers to have control or charge of such pupils. Training decisions should take account of the needs of staff working with children who have particular difficulties with physical intervention, for example those with autistic spectrum conditions.

Guidance on recording and reporting significant incidents

47. It is recommended that the governing body ensure that a procedure is in place, and is followed by staff, for recording and reporting to parents, significant incidents where a member of staff has used force on a pupil. The record must be made as soon as practicable after the incident.
48. If it is likely that reporting an incident to a parent will result in significant harm to the pupil, then the incident should be reported to the local authority (Somerset Direct - Tel: 0845 3459122). The school's procedure for Recording and Reporting incidents should make clear who is responsible for deciding whether an incident is significant or not. The headteacher will normally be part of any such process. The procedure should also set out the timescale within which the report should be made, bearing in mind that the duty is to make the report as soon as is practicable. The person who makes the report to the parent need not be the person who compiled the report.
49. While ultimately only a court of law could decide what is 'significant' in a particular case, in deciding whether or not an incident must be reported, schools should take into account:
- a) An incident where unreasonable use of force is used on a pupil would always be a significant incident.
 - b) Any incident where substantial force has been used (e.g. physically pushing a pupil out of a room) would be significant.
 - c) The use of a restraint technique is significant.

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- d) An incident where a child was very distressed (though clearly not over reacting) would be significant.
50. In determining whether incidents are significant, schools should consider:
- a) The pupil's behaviour and the level of risk presented at the time.
 - b) The degree of force used and whether it was proportionate in relation to the behaviour.
 - c) The effect on the pupil or member of staff.
51. School staff should also bear in mind the age of the child, any special education need or disability or other social factors which might be relevant.
52. Sometimes an incident might not be considered significant in itself, but it forms part of a pattern of repeated behaviour. In this case, although there is no legal requirement to record such incidents, schools are advised to let parents know about them.
53. Records are important in providing evidence of defensible decision-making in case of a subsequent complaint or investigation. It is possible that not all of the specifics of an incident can be recorded where it is not known on whom force was used, as for example where a member of staff has hastily had to part several pupils encircling a fight. The staff member may (understandably) focus on and recall the identities of the fighting pupils and not the individual spectators who were drawn aside to allow access. Staff may find it helpful to seek the advice of a senior colleague or a representative of their trade union when compiling a report.
54. Schools should record incidents on the EEC system.
<https://www.eeclive.co.uk/public/plogon.asp>.
55. The school's procedure for Recording and Reporting should provide that the member of staff involved in the incident compiles the record. The procedure should also ensure that the member of staff with lead responsibility for safeguarding checks the record and that the school provides the member of staff involved in the incident with a copy of the final version. It is important that this information is treated in confidence.
56. All accounts of the same incident should be recorded, including those of the pupil or pupils involved. Parents should not be given a copy of the incident record as a matter of course, but they should be told when and where the incident took place, why it was decided that force had to be used, the strategies used to try to avoid having to use force, what force was used, whether there were any injuries

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and what follow-up action (support and/or disciplinary) was being taken in relation to their child. Ordinarily the names of those involved in the incident should not be disclosed in the report. However, the pupil may give this information to the parent or the parent can request the information from the school. The school should deal with these requests in accordance with the Data Protection Act 1998. It is advisable that the school's procedure for making a record following such incidents is contained within its policy on the use of force.

57. The record is likely to form part of the pupil's educational record which is open to inspection by parents.
58. Advice on what data contained in educational records may be disclosed is contained in DfE guidance available from DfE website. When recording use of force incidents, staff should bear in mind that this information may be included in a Criminal Records Bureau disclosure if it is later passed to the police. Schools should retain records of such incidents until the member of staff involved has reached normal retirement age, or for 10 years from the date of any allegation if that is longer.

Reporting to parents

59. The law requires that each parent is informed of significant incidents where force has been used on their child. In this case 'parent' has the meaning given by section 576 of the Education Act 1996, and so will include people having day-to-day care of the child and the local authority where a child is the subject of a care order. Section 576 also deems the local authority as a 'parent' in the case of children who are looked after under section 20 of the Children Act 1989.
60. The requirement is to notify **each** parent. Where a child has a mother and father who both have parental responsibility and where the child is the subject of a Care Order under section 31 of the Children Act 1989, or being accommodated under section 20 of that Act, the requirement will be to report the incident to the child's mother, father and the relevant local authority (usually the Social Services Department).
61. Paragraph 48 above qualifies the requirement for a report to be made to parents by making an exception where to do so is likely to result in significant harm to the pupil. **The Secretary of State's view is that in this case, significant harm is where a child is chastised inappropriately and/or excessively.**
62. A school might already be aware that a particular parent is likely to respond inappropriately in response to an incident involving their child and the school may have already instigated safeguarding

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procedures. The risk of significant harm in these circumstances would be heightened for pupils who are vulnerable because of their special educational needs, disability or other medical reasons.

63. Ideally it is best to telephone parents as soon as possible after the incident before confirming details in writing. It is also good practice for parents to be given a copy of the school's policy on the use of force and information on post-incident support at the same time.
64. All injuries should be reported and recorded in accordance with school procedures. The school should take action to report relevant injuries to staff or pupils to the Health and Safety Executive's Incident Contact Centre at County Hall on EEC system.
65. It is good practice for governors to monitor incidents where force has been used. Head teachers have an important role in reporting such incidents to the governing body.

Post-incident support

66. Members of staff who have been assaulted may want to report the incident to the police. They may also want to seek the advice and support of their trade union representative.
67. Serious incidents involving use of force may result in injuries to the pupil or to staff. Immediate action should be taken to provide first aid for any injuries and to access medical help for any injuries that go beyond first aid. These incidents can be upsetting to all concerned, so it is also important to ensure that staff and pupils are given emotional support.
68. The letter to parents informing them about the use of force can also be used to engage them in discussing the incident and for setting out a suggested future course of action. It is good practice for parents to be involved in agreeing appropriate support arrangements. It is advisable to agree an individual behaviour plan with parents of pupils whose behaviour is associated with SEN and/or disabilities. Such plans would include strategies to prevent and deal with any recurrence of behaviour that could lead to the use of force.
69. Schools should also:
 - a) ensure that relevant multi-agency partners are kept informed. This could include local authority children's services, Child and Adolescent Mental Health Services or the Youth Offending Team (if the pupil is already under their supervision or has been identified by the YOT as being at risk of becoming engaged in criminal or anti-social behaviour);

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- b) hold the pupil to account where their poor behaviour has resulted in force being used, so that he or she recognises and repairs the harm caused or which might have been caused. The consequences of this behaviour may involve the use of sanctions which need to be considered in accordance with the school's behaviour policy. As well as disciplining the pupil, this may involve giving them the opportunity to repair the relationships with staff and pupils involved in the incident as well as developing their social and emotional skills. In some cases, an incident might lead to a decision to exclude a pupil. In these circumstances head teachers must have regard to the DfE statutory guidance on exclusions, which is available on DfE website.
- c) help the pupil and staff develop strategies to avoid repeating crisis points in future and inform relevant staff about these plans and their roles;
- d) ensure that staff and pupils affected by an incident have continuing support for as long as necessary in respect of:
 - i) physical consequences;
 - ii) support to deal with any emotional stress or loss of confidence; and
 - iii) opportunity to analyse, reflect and learn from the incident.

Dealing with complaints and allegations regarding the use of force

70. Schools need to make clear that parents and pupils have a right to complain about actions taken by school staff, including any use of force. If a specific allegation is made against a member of staff then the school needs to follow the guidance set out in Safeguarding Children and Safer Recruitment in Education [DfE website](#). Other complaints should be dealt with under the school's complaints procedure, normally set out in the school's published prospectus or website. The DfE provides a toolkit to act as a guide to schools, providing suggestions on how to handle complaints. This is available on DfE website.
71. Where the DfE model has been adopted, it is usually the head teacher's responsibility to respond to the complaint in the light of school policy and procedure. If complainants are dissatisfied with this initial response, a panel of governors may be convened at this point.
72. Reporting an incident fully to those with parental responsibility following the incident should minimise the chances of a complaint about use of force but it cannot prevent all complaints or allegations

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that force has been used inappropriately. Allegations can be made by persons other than the parents or children involved.

73. Allegations that a member of staff has used force inappropriately or unlawfully on a pupil made to the school, other agencies or even the police should be dealt with in accordance with agreed policy and procedure for handling allegations against staff. Schools can find guidance on safeguarding children and on dealing with allegations of abuse against teachers and other staff in Safeguarding Children and Safer Recruitment in Education.
74. The degree to which the school's behaviour policy has been followed will be at the core of any investigation. Such complaints may also be investigated under the school's disciplinary procedure.

Individual members of staff and the law

75. If a member of staff uses reasonable force as defined in this guidance, they will have a robust defence against any false allegations of unreasonable or unlawful conduct which form the basis of a complaint or legal action.
76. In most Civil Court proceedings relating to actions of employees, it is the employer who is sued and not the individual staff member, under the principle of vicarious liability. So if a member of staff is sued individually in an action or jointly with the employer, that member of staff should be covered by the employer's public liability insurance. If the member of staff was acting properly in the course of his/her duties when the matters giving rise to the potential liability took place, then he/she should be indemnified by the employer in respect of legal costs and damages.
77. However, if a staff member uses unreasonable force they would not be acting within the scope of their employment duties and they may subsequently face civil or criminal proceedings and/or disciplinary action as a result.
78. Some members of staff may be concerned about the repercussions of failure on their part to use force; for example, if a complaint is brought against them on the grounds that they could have avoided a child suffering injury if they had used force to break up a fight. In a situation such as this, it is extremely unlikely that a teacher would be found to be negligent by a court, provided they had taken all reasonable steps to ensure the safety of pupils short of using force.
79. Teachers have a duty of care and, while a child is under their care are regarded as being in place of the parent ("in loco parentis"). It follows that the potential has always existed for a teacher to face an action for assault or negligence where his or her use of force or failure to use force has led to a child being injured or harmed. The

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introduction of a specific statutory power to use force has not created this situation, but does provide school staff with a more robust defence against unfounded allegations.

Physical contact with pupils in other circumstances

80. There are occasions when physical contact with a pupil may be proper or necessary other than those covered by section 93 of the Education and Inspections Act 2006. Some physical contact may be necessary to demonstrate exercises or techniques during PE lessons, sports coaching, or if a member of staff has to give first aid. Young children and those with SEN may need staff to provide physical prompts or help. Touching may also be appropriate where a pupil is being congratulated or praised, or where the pupil is in distress and needs comforting. School staff will use their own professional judgement when they feel a pupil needs this kind of support.
81. There may be some pupils for whom touching is particularly unwelcome. For example, some pupils may be particularly sensitive to physical contact because of sensory issues, their cultural background or because they have been abused. It is important that staff who may come into contact with these pupils or groups of pupils should have the relevant information and that the school has a system for informing them. In addition, the school will need to develop clear common practice towards particular groups of pupils and events. There should be a common approach where staff and pupils are of different sexes. Physical contact with pupils becomes increasingly open to question as pupils reach and go through adolescence, and staff should also bear in mind that even innocent and well-intentioned physical contact can sometimes be misconstrued.

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Use of force to Control or Restrain Pupils

A Model Policy

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SOMERSET COUNTY COUNCIL

USE OF FORCE TO CONTROL OR RESTRAIN PUPILS

A Model School Policy

CONTEXT

Somerset schools and educational establishments are encouraged to use this framework, and to adapt it to their own situation.

It is advised that all schools should be familiar with the Somerset Policy on the use of force to control or restrain pupils
<http://www.six.somerset.gov.uk/>

The Policy is best placed within the Behaviour Policy, it will be part of a graded response, and needs to be agreed in consultation with staff, governors parents/carers, and pupils. It also connects to, and should be consistent with, policies on Health and Safety, Child Protection and Safeguarding, Equal Opportunities, Pastoral Care and Special Educational Needs.

1. OBJECTIVES

In school we believe that pupils and staff need to be safe, pupils know how to behave, and know that the adults around them are able to manage them safely and confidently. For a very small minority of pupils only will the use of force to control or restrain be needed, and, on such occasions, acceptable forms of intervention are used.

*[*Schools may wish to add their own statement here.]*

The majority of pupils behave well and conform to the expectations of our school. We have responsibility to operate an effective behaviour policy that encompasses preventative strategies for tackling inappropriate behaviour in relation to the whole school, each class, and individual pupils, thereby preventing serious breaches of school discipline and serious damage to property.

All the school staff need to feel able to manage inappropriate behaviour, and to have an understanding of what challenging behaviours might be communicating. They need to know what the options open to them are, and they need to be free of undue worries about the risks of legal action against them if they use

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appropriate physical intervention. Parents need to know that their children are safe with us, and they need to be properly informed if their child is the subject of the use of force to control or restrain them, including the nature of the intervention and the rationale for its use.

2. MINIMISING THE NEED TO USE FORCE

In our school we aim to:

- create a calm, ordered environment that minimises the risk of incidents arising that might require using force
- use Social and Emotional Aspects of Learning (SEAL) approaches to teach pupils how to manage conflict and strong feelings
- de-escalate incidents if they do arise
- only use force when the risks involved in doing so are outweighed by the risks involved in not using force
- use risk assessments and positive handling plans for individual pupils

3. STAFF AUTHORISED TO USE FORCE

- All teachers and staff whom the head teacher has authorised to have control or charge of pupils automatically have the statutory power to use force.
- In some circumstances, staff whose jobs do not normally involve supervising pupils and volunteers working with pupils will be authorised to be in control or charge of pupils and therefore have statutory power to use force. In these cases, the head teacher or senior member of staff will inform the teachers and other staff (with permanent authorisation) who has temporary authorisation.

4. DECIDING WHETHER TO USE FORCE

In our school, authorised staff will only use force when:

- the potential consequences of not intervening are sufficiently serious to justify considering use of force;
- the chances of achieving the desired result by other means are low; and
- the risks associated with not using force outweigh those of using force.

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School staff (including people with temporary authorisation to have charge or control of pupils) will be kept informed about and advised how to deal with pupils who present particular risks to themselves or others (as a result of SEN and/or disabilities and/or other personal circumstances, such as domestic violence) by appropriate handover and liaison.

School staff will minimise the highest risks, for example by calling the police if a pupil suspected of having a weapon seems likely to resist a search.

5. USING FORCE

Before using force at our school, staff will engage the pupil in a calm and measured tone, making clear that their behaviour is unacceptable and setting out how the pupil could choose to change their behaviour.

The use of force will only be proportionate to the level of risk and will be reduced at the earliest possible time.

Staff will only use methods they are trained to use unless there is an extreme emergency and where there is no viable alternative.

Staff are advised that, as far as possible, they should not use force unless or until another responsible adult is present to support, observe and call for assistance.

6. STAFF TRAINING

In our school, we have adopted the Team Teach approach to staff training. All staff are fully accredited and update their skills/re-accredit every two to three years. We consider all staff to have a responsibility for pupil behaviour.

The Team Teach training includes de-escalation techniques which introduce the use of force at an appropriate time, based on a range of other options.

Staff working closely with pupils with SEN or disabilities will undertake risk assessments to inform decisions regarding levels of staff training required. These staff will also inform the circumstances in which the school will temporarily authorise staff or volunteers to have control or charge of such pupils.

7. RECORDING INCIDENTS

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In our school we have a bound and numbered book for the logging of incidents. We also record **all cases** of the use of force to the Local Authority via **the EEC system**
<https://www.eeclive.co.uk/public/plogon.asp>

8. REPORTING INCIDENTS

The governing body of our school will ensure that “significant incidents” where a member of staff has used force on a pupil are recorded and reported to parents.

If it is likely that reporting the incident will result in significant harm to the pupil, then the incident will be reported to Somerset Direct (Tel: 0845 3459122) or to the police.

We will take into account:

- a) An incident where unreasonable use of force is used on a pupil would always be a significant incident.
- b) Any incident where substantial force has been used (e.g. physically pushing a pupil out of a room) would be significant.
- c) The use of a restraint technique is significant.
- d) An incident where a child was very distressed (though clearly not over reacting) would be significant.

Each parent or parents will be informed by the head teacher or senior member of staff of any significant incident when force has been used on their child, ideally by telephone as soon as practicable and then confirming the details in writing.

All incidents will be recorded and reported on the county EEC system <https://www.eeclive.co.uk/public/plogon.asp>

9. POST-INCIDENT SUPPORT

Members of staff who have been assaulted may wish to report the incident to the police and/or seek advice and support from their trade union representative.

If staff or pupils have been injured, immediate first aid will be provided and medical help accessed, if necessary. Staff and pupils will also receive emotional support.

Letters to parents informing them about the use of force may be used to engage in discussion regarding future course of action. An Individual Behaviour Plan may be necessary to prevent and

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deal with any further recurrence of behaviour that could lead to the use of force.

If necessary our school will also inform local authority children's services (Youth Offending Team; Educational Psychology Service; Child and Adolescent Mental Health Service; Social, Emotional and Behavioural Support Service).

Staff will aim to help the pupil to develop strategies to avoid repeating the difficult behaviour.

School will provide ongoing support for staff and pupils as long as necessary in respect of:

- a) physical consequences
- b) emotional stress/loss of confidence
- c) opportunity to analyse, reflect and learn from the incident

10. COMPLAINTS AND ALLEGATIONS

Parents and pupils have a right to complain about actions taken by school staff including use of force. If a specific allegation is made against a member of staff, then our school will follow the guidance set out in "Safeguarding Children and Safer Recruitment in Education"

<http://www.teachernet.gov.uk/wholeschool/familyandcommunity/childprotection/goodpractice/saferrecruitment/>

Other complaints will be dealt with via the school's complaints procedure.

For further guidance see county policy on the use of force to control or restrain pupils.

11. MONITORING AND REVIEW

This policy will be monitored and reviewed in
..... (date)

12. FURTHER INFORMATION

- DfE guidance on school behaviour policies is available at

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- Health and safety
- 5 steps to risk assessment
- DfE Behaviour and discipline in schools (February 2014)
- OfSTED guidance for HMI Inspectors (2013)
- BILD Physical Interventions Accredited Scheme.
- Somerset Direct Tel: 0845 3459122
- Somerset Support Services website

ANNEX B | Summary of the additional guidance relating to pupils with special education needs and/or disabilities

The general guidance on The Use of Force to Control or Restrain Pupils (2010) continues to be supplemented by two specialist guidance documents, namely:

1. *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* (Circ LEA/0242/2002); and
2. *Guidance on the Use of Restrictive Physical Interventions for Pupils with Severe Behavioural Difficulties* (Circ LEA/0264/2003).

These provide additional advice for staff working in certain special schools and the main principles of both Circulars are set out below.

The Circulars were issued in 2002 and 2003 respectively and while the information is still relevant some references may not be fully up to date.

The Circular entitled *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* applies to all special school settings 'catering for pupils with severe behavioural difficulties associated with learning difficulties and/ or autistic spectrum disorders'. Local authorities are also invited to bring the principles set out in the guidance to the attention of mainstream schools.

This Circular stresses the importance of all staff working in such special schools (NB – only those specified as above, not all special schools) having effective training and support in the use of 'restrictive physical interventions'.

The Circular stresses that people with learning disabilities have a right to be treated with respect, care and dignity, especially when they are behaving in ways which may be harmful to themselves or others and as a result may require physical intervention from staff.

The Circular was prepared in close consultation with a voluntary sector organisation, the British Institute of Learning Disability (BILD).

The Circular's underpinning principles are that:

- The use of force should, wherever possible, be avoided
- There are occasions when the use of force is appropriate
- When force is necessary, it must be used in ways that maintain the safety and dignity of all concerned

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The Circular stresses the importance of:

- Schools falling within the remit of the guidance having a written policy on the use of physical interventions, which describes the context in which it is appropriate to use restrictive physical interventions.
- Schools' policies being part of their more general behaviour management strategies.
- Specific strategies and techniques for specific pupils being outlined in each pupil's behaviour management plan.
- Schools' policies indicating how children and their families can participate in the planning, monitoring and review of the use of physical restrictive interventions.
- Schools' policies including reference to the following:
 - Strategies for preventing and de-escalating behaviours that precipitate the use of restrictive physical interventions
 - Descriptions of strategies staff are allowed to use when managing extreme behaviour
 - Procedures for post-incident support
 - How the concept of reasonable force will be determined
 - The approach to risk assessment and risk management. The circular advises that a risk assessment should balance the risk of using a physically restrictive intervention against the risk of not doing so
 - Distinctions between seclusion, time out and withdrawal
 - Distinctions between planned and emergency physical interventions
 - Descriptions of practices which carry elevated levels of risk

The Circular only stresses the importance of recording incidents involving the use of restrictive physical interventions (and provides detailed guidance on the points to be covered in special schools' policies). However, recording and reporting to parents significant incidents of the use of force is now a legal requirement.

The Circular stresses that staff should normally only use methods of restrictive physical intervention for which they have received training.

The key conclusions of the Guidance are that:

Restrictive physical intervention can be employed to achieve a number of different outcomes:

- to break away or disengage from dangerous or harmful physical contact initiated by a service user;
- to separate the person from a 'trigger', for example, removing one pupil who responds to another with physical aggression; and
- to protect a child from a dangerous situation – for example the hazards of a busy road.

Restrictive physical interventions should always be designed to achieve outcomes that reflect the best interests of the child whose behaviour is of immediate concern.

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The decision to use a restrictive physical intervention must take account of the circumstances and be based upon an assessment of the risks associated with the intervention compared with the risks of not employing a restrictive physical intervention.

The scale and nature of any physical intervention must be **proportionate** to both the behaviour of the individual to be controlled, and the nature of the harm they cause.

The minimum force necessary should be used, applied for the shortest period of time, and the techniques deployed should be those with which the staff involved are familiar and able to use safely and are described in the child's support plan.

The use of seclusion (where a person is forced to spend time on their own against their will) is a form of physical intervention and should only be considered in *exceptional* circumstances. The right to liberty is protected by criminal and civil law and seclusion outside the Mental Health Act should always be proportionate to the risk presented by the pupil.

It is an offence to lock a person in a room without a court order except in an emergency, for example where the use of a locked room is a temporary measure while seeking assistance.

Guidance on the Use of Restrictive Physical Interventions for Pupils with Severe Behavioural Difficulties (Circ LEA/0264/2003) applies to all local authorities and special schools. The Circular advised **all** local authorities and special schools to draw up policies on the use of restrictive physical interventions (as opposed to just some special schools as under the 2002 Circular), and provided advice on what should be covered in those policies – for example, the importance of consistency, reasonableness and proportionality in the context of effective risk assessment, risk management and schools' duty of care are stressed. It reiterates that the use of force should be avoided wherever possible.

The guidance says that the following points should be covered in special schools' policies:

- Positive behaviour management. It is explained that this is about finding out why a child behaves in certain ways, understanding what factors influence a child's behaviour and identifying early warning signs that indicate foreseeable behaviours are developing. This should form the basis of developing behaviour management plans for individual pupils which encourage pupils to make positive choices and develop self-control, support the pupil in difficult situations and safely manage crises if and when they occur. The Circular provides sample behaviour management plans for individual pupils.
- Risk assessment and planning for the use of restrictive physical interventions.
- Use of restrictive physical interventions in unforeseen and emergency situations.
- Post-incident support.
- Reporting and recording use of restrictive physical interventions.
- Responding to complaints.
- Staff training.

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