EMMANUEL SCHOOLS FOUNDATION

Use of Reasonable Force, Searching, Screening and Confiscation Policy

Last review: June 2024
Approved by Trustees: July 2024
Next review: June 2026
V1

Section A: Physical Intervention and Restraint

Introduction

Very rarely will staff be required to use physical intervention to restrain a child. The school seeks to avoid physical contact to restrain or control a child and staff always carefully consider the likely risks of not acting when making decisions and judgements to do so, as outlined below. Staff should never use physical contact simply to exert their authority in a situation but may use reasonable force if a child is, in the judgement of the staff present, at risk of causing harm to others or to themselves or for any of the other reasons discussed below.

The following constitutes the approach that a a school in the Emmanuel Schools Foundation (Trust) takes in this area and is in line with the 2013 Department for Education (DfE) guidelines on the use of reasonable force.

What is reasonable force?

- 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 students.
- Force is usually used either to control or restrain. This can range from guiding a student 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.
- As mentioned above, schools generally use force to control students and to restrain them. 'Control' means either passive physical contact, such as standing between students or blocking a student's path, or active physical contact such as leading a student by the arm out of a classroom.
- 'Restraint' means to hold back physically or to bring a student under control. It is typically used in more extreme circumstances, for example, when two students 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 student[1].

Who can use reasonable force?

All members of school staff have a legal power to use reasonable force[2] but, when they do so, they must act in accordance with this policy. This power applies to any member of staff employed by the Trust. It can also apply to people whom the Principal has temporarily put in charge of students, such as unpaid volunteers or parents accompanying students on a school-organised visit.

When can reasonable force be used?

[1] Use of Reasonable Force, Advice for head teachers, staff and governing bodies, DfE, July 2013.

[2] Section 93, Education and Inspections Act 2006

Staff may use force to **prevent students from causing harm to themselves or to others, from damaging property or from causing disorder**. The decision on whether to physically intervene is down to the professional judgement of the staff member concerned and should always depend on the individual circumstances. Reasonable force can also be used if you believe that any of the above may occur if you were not to physically intervene. Staff should go as far as possible to avoid the use of physical force and should always seek to use alternative methods to bring situations under control. Staff should have an appreciation that in some situations the use of restraint can add tension to a situation rather than defuse it.

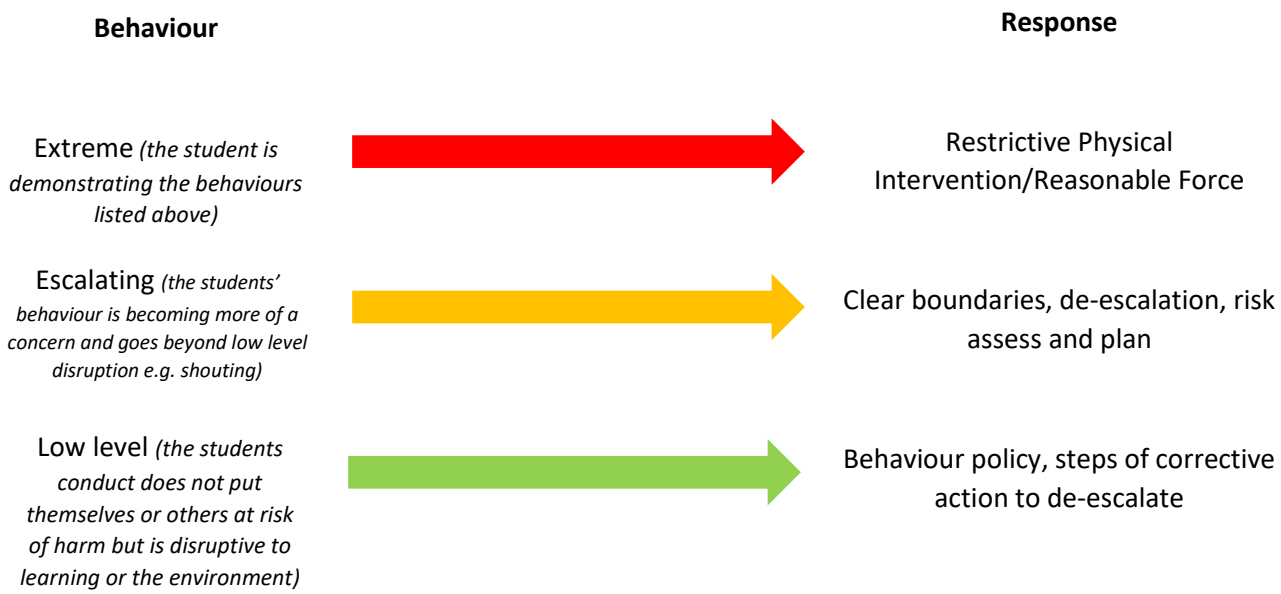
In addition to situations where students pose an immediate risk to themselves or others, staff may use reasonable power of force to:

- remove disruptive children from the classroom where they have refused to follow an instruction to do so;
- prevent a student behaving in a way that disrupts a school event or a school trip or visit;
- prevent a student leaving the classroom if allowing the student to leave might risk their safety or lead to behaviour that disrupts the behaviour of others;
- prevent a student from attacking a member of staff or another student, or to stop a fight in the playground;
- restrain a student at risk of harming themselves through physical outbursts.

It is not lawful for physical force to be used as a punishment.

Choosing the appropriate response when dealing with student conduct

When choosing the appropriate response to a student's conduct it is important to ensure that, where possible, strategies other than restrictive physical intervention are used, as outlined below.



Recording and reviewing the use of reasonable force

Following a situation where restrictive physical intervention or reasonable force has been used, the following process led by a senior leader in the school, normally a Vice Principal will be followed:

- **Recording**: written statements provided by all staff involved, review of CCTV where possible, statements taken from students where appropriate. A log of the incident will be created and stored in the Principal/Head of School's office in a bound and numbered book. Parents will be informed that the incident has happened.
- **Review**: the Principal/Head of School will review the incident log to review if the use of force was reasonable and justified as well as deciding whether any further action is necessary.
- **Support:** senior staff should support staff who have needed to use this power, and suspension should not be used automatically in response to incidents involving reasonable force.

Communication with parents and students

When a serious incident has taken place and reasonable force has been used in any form, we will endeavor to contact parents as soon as possible to outline the incident that has taken place. This may not be a detailed summary at this stage as further investigation may be needed; however, a member of the pastoral team or the Assistant Vice Principal: Behaviour and Attitudes/Vice Principal: Behaviour and Attitudes will make initial contact as soon as possible, most likely by phone. It is not a legal requirement to report the use of reasonable force to parents, but we do consider this best practice and therefore will always seek to do so, taking into consideration the seriousness of the incident. Following an incident, the child's views will always be sought and, along with any parent views, will be included in the review.

What happens if a child or parent makes a complaint about reasonable force being used?

- All complaints about the use of force should be thoroughly, speedily, and appropriately investigated.
- Complaints should be made in line with the Trust's complaints process which can found on our website.
- Where a member of staff has acted within the law – that is, they have used reasonable force 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 should also refer to the ESF Statement of Procedures for Dealing with Allegations of Abuse against Staff
- 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, and consult with the Trust HR Manager or Director of HR as 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 and confirm the decision and reasons in writing
- The employer will consider whether a teacher has acted within the law as a factor in deciding whether or not disciplinary action is appropriate.

- As employers, schools 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.[3]

Other physical contact with students.

It is not illegal to touch a student. However, staff should avoid physical contact in circumstances other than appropriate and professional contact. Some examples of appropriate contact are:

- When comforting a distressed student.
- When a student is being congratulated or praised.
- To demonstrate how to use a musical instrument, with the consent of the student
- To demonstrate exercises or techniques during PE lessons or sports coaching, with the consent of the student
- To give first aid.

Supporting staff who may have used reasonable force and staff training.

All staff are given annual updates about the use of reasonable force and physical intervention so that they are supported to make judgements when dealing with any incident involving a student. Based upon an annual evaluation or risk the school will ensure that a group of relevant staff including the Designated Safeguarding Lead, Senior Leaders responsible for behaviour, SENDcO's or staff responsible for pastoral care or welfare support have already received or receive updated external training on the use of reasonable force and restrictive physical intervention. Other key staff may also receive external training dependent on the evaluation of current risk, such as staff supporting specific students or pastoral members of staff.

Section B: Searching, Screening and Confiscation.

Introduction

All school staff and students should feel safe when they attend school. This means they work and learn better. Using searching, screening and confiscation powers appropriately is an important way to ensure student and staff safety and welfare. In writing this policy Emmanuel Schools Foundation has adopted the principles of the guidance provided by the Department for Education *'Searching, Screening and Confiscation. Advice for Schools, July 2022'.* This policy reflects the need to consider the obligation of schools under the European Convention on Human Rights. Article 8 states that all students have a right to respect for their private life. In the context of these rights and obligations, this means that students have the right to expect a reasonable level of personal privacy and any interference in this must be reasonable and justified.

This means that in making decisions regarding searching, screening, and confiscation we will always balance:

- The need to safeguard all students by confiscating harmful, illegal, or disruptive items.
- The safeguarding needs and wellbeing of students suspected of possessing these items.

This means that we will only search a student if we have reasonable cause to do so q

[3] Use of Reasonable Force, Advice for head teachers, staff and governing bodies, DfE, July 2013.

and having taken account of how the following might impact upon the student's well-being for example

- Loss of privacy when clothes, bags or possessions are searched.
- Loss of a sense of security, if they feel they are being monitored and searched without reason.
- Impact on a student's dignity or reputation if they are searched or suspected of possessing prohibited items.

Searching, screening and confiscation is a form of safeguarding and can support schools to identify vulnerable children and those who many benefit from early support and intervention. The Designated Safeguarding Lead should therefore be aware of all searching, screening, and confiscation activities in school.

Searching

Who can carry out a search and when?
Only the Principal or a member of staff authorised by the Principal, can carry out a search. Each school in Emmanuel Schools Foundation will decide which staff are authorised to carry out searches. This will normally be the following staff, but in all circumstances where it is reasonable to do so they will consult the Principal before doing so:

- Head of School
- Vice Principals
- Designated Safeguarding Lead.

The identified staff can carry out a search if:

- The student agrees to the search, or
- The authorised staff member has 'reasonable grounds' to suspect that the student may have a prohibited or banned item.

Even though common law sets out that any staff member can conduct a search with the student's permission, it's best practice to only allow staff members who have been authorised by the headteacher to conduct searches.

Under law:

- The person carrying out the search must be the same sex as the student being searched
- There must be another member of staff present as a witness to the search. The only exception to this is if the searcher reasonably believes that there is a risk of serious harm being caused to a person if a search isn't carried out urgently and it is not reasonably practical to summon another member of staff (to carry out the search or act as a witness) within the time available.
- The member of staff witnessing the search must also be the same sex as the student being searched if this is reasonably practicable (paragraph 6(d) of section 550ZB of the Education Act 1996).

There's no specific guidance on what 'reasonable grounds' to suspect a student has prohibited items means. However, all schools may use the following examples of reasons to have reasonable grounds to conduct a search:

- Hear the student or other student talking about an item.
- Be told directly of an item.
- See an item.
- Notice a student behaving in a way that causes you to suspect that they're concealing an item.

- Schools may use CCTV footage to decide whether to search for an item.

Prohibited items - The list of prohibited items is outlined in the ESF Behaviour Policy.

Power to search other students without consent

In addition to the general power to use reasonable force described above, the Principal has authorised the Vice Principal and other named senior staff to use such force as is reasonable given the circumstances, to conduct a search for the following prohibited items:

- Knives, bladed articles, and weapons
- alcohol
- illegal drugs
- stolen items
- solvents
- tobacco, cigarette papers, matches and lighters
- 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.

This should never be done lightly, and permission should be sought from the Principal or, in his absence, the Vice Principal, before searching a student without consent.

To be read in conjunction with:

- ESF Behaviour Policy
- ESF Suspensions and Exclusion Policy
- ESF Safeguarding Policy
- ESF Statement of Procedures for Dealing with Allegations of Abuse against Staff