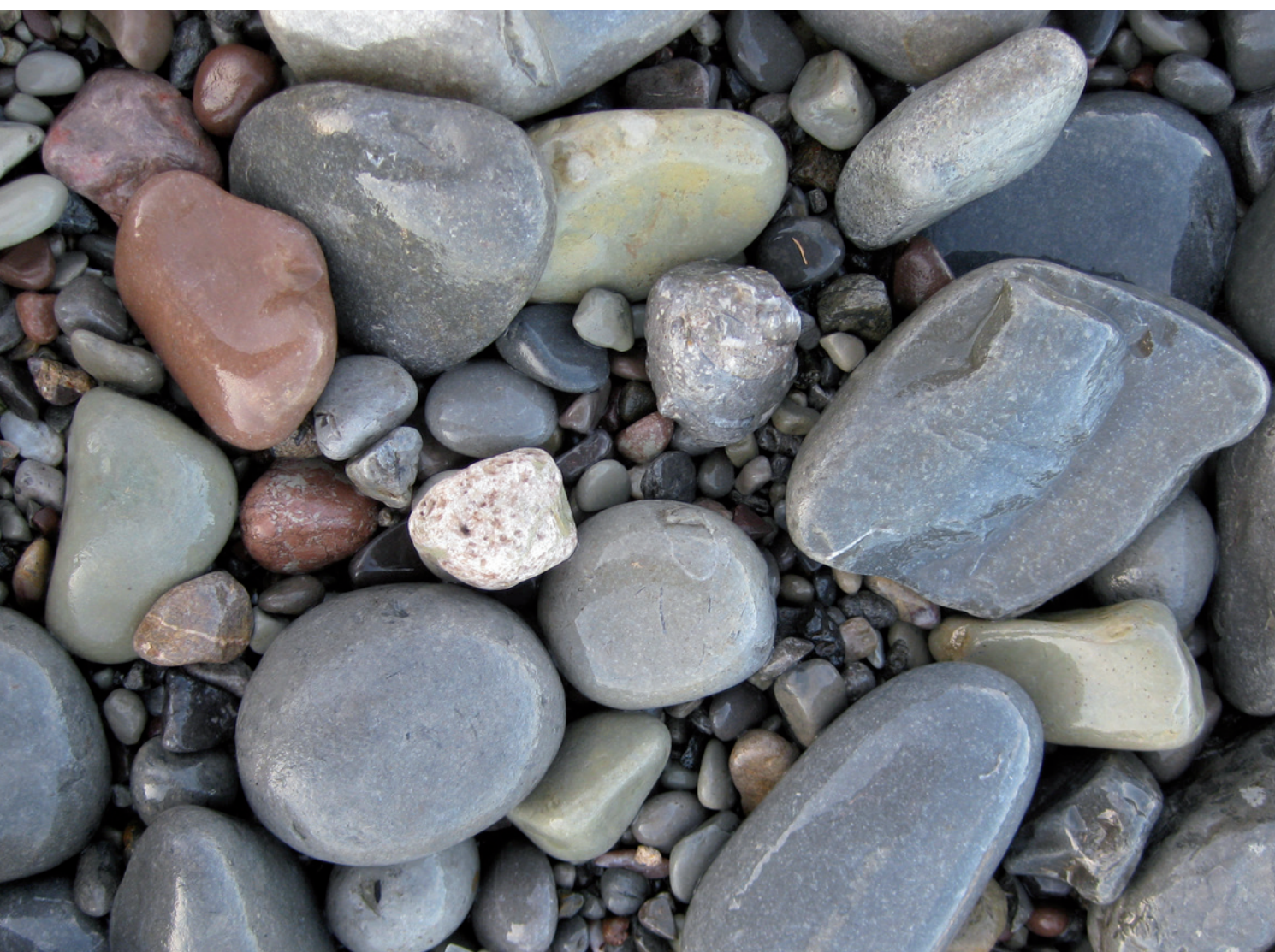




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# Safe and effective intervention – use of reasonable force and searching for weapons



## Guidance

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# Safe and effective intervention – use of reasonable force and searching for weapons

<b>Audience</b>	Governing bodies and headteachers of maintained and independent schools and pupil referral units in Wales; local authorities; teaching and other unions; church diocesan authorities; and national and local bodies in Wales with an interest in education.
<b>Overview</b>	This document covers two elements: revised guidance on the use of force, and new powers to search for weapons contained in the Violent Crime Reduction Act 2006.
<b>Action required</b>	Schools and local authorities should have regard to this guidance in using force and searching for weapons.
<b>Further information</b>	<p>Enquiries about this document should be directed to: Pupil Wellbeing Branch Support for Learners Division Department for Education and Skills Welsh Government Cathays Park Cardiff CF10 3NQ Tel: 029 2082 6080 e-mail: <a href="mailto:wellbeingshare@wales.gsi.gov.uk">wellbeingshare@wales.gsi.gov.uk</a></p> <p>This document and further summary information can be accessed from the Welsh Government website at <a href="http://www.wales.gov.uk/inclusionandpupilsupport">www.wales.gov.uk/inclusionandpupilsupport</a></p>
<b>Related documents</b>	<p><i>Inclusion and Pupil Support</i> National Assembly for Wales Circular No: 47/2006 <i>Exclusion from schools and pupil referral units</i> Welsh Government Guidance document no: 081/2012 <i>Special Educational Needs Code of Practice for Wales</i> (2002)</p>

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## **Summary**

This document represents guidance on 2 aspects intended to support schools, local authorities and their partners in providing a safe environment for children and young people. The power to search pupils for weapons without their consent were introduced in October 2010, whilst the power to use reasonable force are largely the same as those previously in place, introduced in the Education Act 1996.

The 2 sections of the guidance are 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.

# 1. Introduction

1.1. This document contains guidance on two powers available to schools to help manage pupils' behaviour. The powers were commenced in October 2010 and are as follows:

- Section 1: The Use of Force to Control or Restrain Pupils, the powers of which are contained in Section 93 of the Education and Inspections Act 2006, which replaced Section 550A of the Education Act 1996, with minor changes. The guidance replaces that currently contained in Welsh Office Circular 37/98.
- Section 2: Screening and Searching Pupils for Weapons, new powers contained in Section 45 of the Violent Crime Reduction Act 2006).

1.2. While the majority of pupils behave well and schools are generally orderly and productive places of learning, the Welsh Government wishes to support teachers and other school staff to deal effectively with poor and disruptive behaviour, whilst at the same time minimising the disruption to other pupils' learning, and so possibly their life chances.

1.3. Rather than increase the number of sanctions applied to pupils the legislative changes are intended to ensure greater clarity on what schools can do to promote positive behaviour and to promote greater consistency of application across Wales. This in turn will protect the rights of children and young people to be treated consistently and fairly

1.4. The Welsh Government has put in place the School Effectiveness Framework in order to develop and promote effective approaches in schools in Wales, which will include the promotion of positive behaviour and dealing with disruptive behaviour. The Framework sets out a national purpose for schools and two elements of this are particularly relevant in terms of the purpose of maintaining schools as safe and protective environments which promote positive behaviour. These two elements are as follows:

- to enable all children and young people to develop their full potential by acquiring skills, knowledge, understanding and attitudes, including personal, social and emotional skills, to enable them to become economically, socially and personally active citizens and lifelong learners; and
- promote a culture of social inclusion and respect for diversity, particularly through developing the wellbeing of learners and personalising their learning

1.5. The School Councils Regulations 2005 require all maintained schools in Wales to have a school council that is democratically elected by pupils and which meets at least six times a year. The school council is a democratic channel which allows all pupils to have a voice and be listened to, as set out in Article 12 of the United Nations Convention on the Rights of the Child (UNCRC). The Welsh Government recommends that schools develop a whole-school Participation Policy

setting out a variety of ways in which pupils can be actively involved in decisions that affect them at different levels of schools life (eg including class councils, eco-schools, healthy schools, peer mentors, assessment for learning, etc)

1.6. Positive behaviour is a matter of concern for all pupils, ensuring that they experience a safe and positive learning environment. These policies are more likely to be respected and adhered to where pupils are directly involved in formulating and monitoring behaviour policies and have a stake in them, Pupils can be involved in a variety of ways – eg through:

- consultations, suggestion boxes and focus groups;
- schemes to promote and implement positive behaviour – eg peer mentors systems;
- involvement in revision and monitoring of a whole-school behaviour policy;
- development of codes of conduct at class levels; and
- implementation of reward and merit schemes.

1.7. In involving pupils in promoting and implementing positive behaviours, schools should adhere to the National Children and Young People’s Participation Standards for Wales.

1.8. This guidance should be seen within the framework of inclusion and pupil support set out in Welsh Government Circular 47/06. It should also be considered alongside the overall suite of guidance on these aspects including those for exclusions, tackling bullying and the SEN Code of Practice.

# **Section 1: The use of reasonable force to control or restrain pupils**

## **1. Introduction**

1.1. This guidance replaces that currently contained in Welsh Office Circular 37/98 and provides direction on the powers of school staff to use force set out in Section 93 of the Education and Inspections Act 2006. These powers commenced in October 2010 and replaced Section 550A of the Education Act 1996, with minor changes.

1.2. 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.

1.3. The focus should be on preventing, as far as possible, the need for the use of force on pupils, by creating a calm, orderly and supportive school climate that lessens the risk and threat of violence of any kind. The use of force should only be a last resort, schools should minimise the possibility of force being needed. However, this may not always be possible and in such circumstances staff need to be aware of sensitivities associated with any form of physical contact with pupils.

1.4. Schools should never seek to inhibit the ability of staff to use force by adopting a 'no contact' policy. The power to use 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 them taking an action needed to prevent a pupil causing injury to others.

1.5. 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, whilst at the same time also protects children and young people from physical violence, injury or abuse, as set out in Article 19 of the United Nations Convention on the Rights of the Child. This document provides guidance on how the power should be exercised, particularly to:

- help school staff to understand what the law means for them in practical terms;
- protect pupils by reducing the risks that force may be used inappropriately; and
- provide advice on good practice;

1.6. Although the Education and Inspections Act 2006 specifically refers to "force" this 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 to themselves or others.



1.7. In schools, force is generally used for two different purposes – to control pupils and to restrain them.

- Control can mean either passive physical contact (eg 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).
- When members of staff use “restraint” they physically prevent a pupil from continuing what they were doing after they have been told to stop. Restraint techniques are usually used in more extreme circumstances, such as when two pupils are involved in a fight and physical intervention is needed to separate them.

1.8. Some examples of situations where reasonable force might be used are:

- to prevent a pupil from attacking a member of staff, or another pupil, or to stop a fight between two or more pupils;
- to prevent a pupil causing serious, deliberate damage to property;
- to prevent a pupil causing injury or damage by accident, by rough play, or by misuse of dangerous materials or objects;
- to ensure that a pupil leaves a classroom where the pupil persistently refuses to follow an instruction to do so;
- to prevent a pupil behaving in a way that seriously disrupts a lesson; or
- to prevent a pupil behaving in a way that seriously disrupts a school sporting event or school visit.

1.9. The guidance should help schools to understand what the law means for them in practical terms, as well as providing them with advice on good practice. The purpose of the law and this guidance is to protect staff and pupils, prevent serious damage or disruption and reduce the likelihood of actions by staff being successfully challenged in the courts. Schools would therefore be strongly advised to follow the guidance but it should not be treated as a complete and authoritative statement of the law. Interpreting the law is a matter for the courts.

1.10. 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.

1.11. The guidance should be seen within the wider context of the Welsh Government’s Framework for Restrictive Physical Intervention Policy and Practice.

1.12. The main areas covered in this section are:

- What the law says
- Effective practice for schools
- The Use of Restrictive Physical Interventions for Pupils with Severe Behavioural Difficulties (primarily aimed at special schools but also relevant to mainstream schools with such pupils.)

## 2. What the law says

Section 93 of the Education and Inspections Act 2006, replaced Section 550A of the Education Act 1996 and enables school staff to use such force as is reasonable in the circumstances to prevent a pupil from doing, or continuing to do, any of the following:

- committing any offence (or, for a pupil under the age of criminal responsibility, what would be an offence for an older pupil);
- causing personal injury to, or damage to the property of, any person (including the pupil himself); or
- 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

The staff to which this power applies are defined in section 95 of the Act. They are:

- any teacher who works at the school, and any other person whom the head has authorised to have control or charge of pupils. This:
  - i) includes support staff whose job normally includes supervising pupils such as teaching assistants, learning support assistants, learning mentors and lunchtime supervisors.
  - ii) can also include people to whom the head has given temporary authorisation to have control or charge of pupils such as paid members of staff whose job does not normally involve supervising pupils (for example catering or premises-related staff) and unpaid volunteers (for example parents accompanying pupils on school-organised visits).
  - iii) does not include prefects.

Those exercising the power to use force must also take proper account of any particular special educational need (SEN) and/or disability that a pupil might have. Under the Equality Act 2010 schools have key duties:

- not to treat a disabled pupil less favourably, because of his/her disability, than a non-disabled pupil;
- not to treat a disabled pupil unfavourably because of a reason related to their disability, without justification;
- not to apply a provision, criterion or practice that puts or would put a disabled pupil at a particular disadvantage compared with a non-disabled pupil, without justification; and to take reasonable steps to avoid putting a disabled pupil at a substantial disadvantage in comparison with a non-disabled pupil (known as the reasonable adjustments duty).

2.1 The power may be used where the pupil (including a pupil from another school) is on school premises or elsewhere in the lawful control or charge of the staff member (for example on a school visit).

2.2 There is no legal definition of when it is reasonable to use force. That will always depend on the precise circumstances of individual cases. To be judged lawful, the force used would need to be in proportion 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. However, deciding whether misbehaviour is trivial also depends on circumstances. For example, running in a corridor crowded with small children where there is a real danger of knocking them into walls or down steps may be dangerous enough not to be regarded as trivial.

2.3 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, 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.

2.4 On preventing other types of criminal offence, Section 93 provides essential clarification. It is by no means clear that all the behaviours that prejudice school discipline are also criminal offences and most primary pupils are below the age of criminal responsibility. So 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.

2.5 Reasonable force may also be used in exercising the statutory power, introduced under Section 45 of the Violent Crime Reduction Act 2006, to search pupils, without their consent, for weapons. This search power would apply to head teachers and staff authorised by them, where they have reasonable grounds for suspecting that a pupil has a weapon. Reasonable force could be used by the searcher and/or the second person required to be present at a search. However the Welsh Government strongly advises schools not to search pupils where resistance is expected, but rather to call the police. (See Section 3 for more detail.)

2.6 **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.

### **3. Effective practice for schools**

#### **Policy and procedures**

3.1. It is good practice for a school to have an explicit policy on the use of reasonable force to control or restrain pupils. It is also good practice for governors, staff, recognised trade unions, pupils and those with parental responsibility to be consulted about the policy and for the policy to be approved formally by the Governing Body and made known to staff, pupils and parents either as part of the school's behaviour policy or separately. 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, whilst at the same time ensuring that they reflect the particular circumstances of their school.

3.2. As the statutory power to use force would be held by individual members of staff, no school should have a policy of 'no physical contact' because this would make staff members feel deprived of that power or hinder their exercise of it.

3.3. It would be sensible for a school's policy on the use of force to describe both the kinds of circumstances the school regarded as justifying the use of force to restrain a pupil (for example, to prevent them injuring somebody) and the kinds of circumstances the school regarded as justifying the use of force to require a pupil to comply with a reasonable instruction (for example, to leave the classroom). All staff - authorised and unauthorised - need to understand their powers and the options open to them. They need to know what is acceptable and what is not. Similarly, all pupils should be made aware of what powers are available to school staff and the circumstances under which this power could be used.

3.4. A school's policy on use of force should be consistent with but not necessarily part of its behaviour policy. The Welsh Government guidance on the promotion of positive behaviour and school behaviour policies can be found in the Inclusion and Pupil Support Circular 47/2006. It should also be consistent with the school's policies on child protection and health and safety.

3.5. A school's policy on the use of force should describe examples of:

- the different approaches which should be used prior to force being used;
- the circumstances which the school sees the use of force to restrain a pupil as reasonable (for example, to prevent them injuring somebody); and
- the circumstances the school regards as justifying the use of force to require a pupil to comply

3.6. **Annex 1A** suggests a framework for a policy that schools may find helpful, including a list of subjects the policy could usefully cover.

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

3.7. Although preventative measures will not always work, there are a number of steps which schools can take to help reduce the likelihood of situations arising where the power to use force may need to be exercised:

- creating a calm, orderly and supportive school climate that minimises the risk and threat of violence of any kind;
- developing effective relationships between pupils and staff that are central to good order;
- adopting a whole-school approach to developing social and emotional skills such as the Social and Emotional Aspects of Learning (SEAL) programme;
- taking a structured approach to staff development that helps staff to develop the skills of positive behaviour management; managing conflict and also to support each other during and after an incident. Further guidance is provided in the Welsh Government's Inclusion and Pupil Support Guidance, Circular 47/2006;
- 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 with the staff member 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
- wherever practicable, warning a pupil that force may have to be used before using it.

### **Pupils with special educational needs and/or disabilities**

3.8. The following advice is particularly relevant to pupils with SEN and/or disabilities:

- Involve the SEN Co-ordinator or other named member of staff and 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 and/or disabilities including "fragile" pupils. (Further advice on "fragile" pupils and risk assessments is at paragraphs 3.16-3.17 and Annex 1C.)
- Develop behaviour management plans for individual pupils assessed as being at greatest risk of needing restrictive physical interventions in consultation with the pupil and his or her parents or carers. Further advice on risk assessments is provided in paragraphs 3.16 and 3.17 and

Annex 1C. Behaviour management plans set out the techniques that should be used and those that should not normally be used. Any planned potential use of physical intervention should be compatible with a pupil's statement and properly documented in school records.

- As far as practically possible, make staff who come into contact with such pupils aware of the relevant characteristics of those individuals, particularly:
  - i) situations that may provoke difficult behaviour, preventive strategies and what de-escalation techniques are most likely to work;
  - ii) what is most likely to trigger a violent reaction, including relevant information relating to any previous incident requiring use of physical intervention; and
  - 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.
- 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 where this would be 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.
- Designate staff to be called if incidents related to particular pupils occur. 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. Consideration should also be given as to whether there are certain circumstances where it is necessary for staff to work in pairs to safeguard pupils and/or staff.
- 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 designated quiet area or cool-off base) and ensure staff are familiar with these strategies.

3.9. More detail on working with pupils with Severe Behaviour Difficulties is contained in Part 4.

## **Ensuring staff know who has statutory power to use force**

3.10. The head teacher or delegated senior member of staff is advised to do the following.

- As part of an induction process, explicitly inform the people concerned of their responsibilities in relation to the school policy on use of force. He / she should make clear that all teachers and staff the head has authorised to have control or charge of pupils automatically have the statutory power to use force.
- For staff who have temporary authorisation he/she should make clear the circumstances in which staff whose jobs did 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;
- Keep an up-to-date record of temporarily authorised people and ensure that permanently authorised staff (i.e. all staff whose job involves supervising pupils) knows who they are. Given the requirement for schools to maintain a central, up-to-date record of the Criminal Records Bureau status of all staff and volunteers, they may wish to align these two sets of records.

## **Deciding if the use of force would be appropriate**

3.11. The judgment 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.

3.12. Decisions on whether the precise circumstances of an incident justify the use of significant 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 judgments about:

- 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;
- 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; 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

3.13. 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 and serious 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 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 be justifiable where allowing a pupil to leave would:
  - 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;
- a pupil persistently refuses to follow an instruction to leave a classroom;
- a pupil is behaving in a way that seriously disrupts a lesson; or
- a pupil is behaving in a way that seriously disrupts a school sporting event or school visit.

3.14. In these examples use of force would be 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. A record of the incident should be made as soon as practically possible, while the incident is still easy to recall. See paragraphs 3.34-3.46 for more detail.

3.15. Wherever possible, these judgements should take account of the particular characteristics of the pupil, including his or her age, understanding and any SEN or disability that he or she may have. This would include the outcomes of any risk assessment and, as appropriate, any specific strategies and techniques set out in the pupil's positive handling plan.

## **Risk assessments**

3.16. Leadership teams are advised to 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. These assessments will help to inform decisions about staff training (see paragraphs 3.29 to 3.33 below).

3.17. 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:

- communication impairments that make them less responsive to verbal communication;
- physical disabilities and/or sensory impairments;
- conditions that makes them fragile, such as haemophilia, brittle bone syndrome or epilepsy; or
- dependence on equipment such wheelchairs, breathing or feeding tubes.

## **Situations where staff should not normally intervene without help**

3.18. An authorised member of staff should not intervene in an incident 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 or physically stronger pupil, a large pupil, more than one pupil or if the authorised member of staff believes he or she 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 authorised staff, or where necessary phone the police.

## **Using force**

3.19. Before using force staff should, wherever practicable, tell the pupil to stop misbehaving and communicate in a calm and measured manner throughout the incident. Staff should not act out of anger or frustration, or in order to punish a pupil, and should make it clear that physical contact or restraint will stop as soon as it ceases to be necessary.

3.20. The types of force used could include:

- passive physical contact resulting from standing between pupils or blocking a pupil's path;
- active physical contact such as:
  - i) leading a pupil by the hand or arm;
  - ii) ushering a pupil away by placing a hand in the centre of the back;
  - iii) in more extreme circumstances, using appropriate restrictive holds, **which require specific expertise or training.**

3.21. Where there is a high and immediate risk of death or serious injury, any member of staff would be justified in taking any necessary action (consistent with the principle of seeking to use the minimum force required to achieve the desired result). 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.

3.22. Staff should make every effort to 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.

3.23. Staff should always avoid touching or restraining a pupil in a way that could be interpreted as sexually inappropriate conduct.

### **Use of quiet rooms and areas**

3.24. The use of quiet or isolation rooms/areas may be used as a short term measure in order to defuse a situation and reduce or remove the need for reasonable force. Where a pupil's behaviour warrants removal from a classroom or incident the pupil should not, other than in the most exceptional circumstances, be locked in a room. The Courts may consider it an offence/breach of a child's human rights to lock a child in a room except in an emergency when, for example, the use of a locked room is a temporary measure while seeking assistance. In such a circumstance the child should always be supervised by an adult. Placing pupils in a room which they cannot leave of their own volition should not be used as a punishment in any instances.

3.25. If a pupil goes with a staff member to a quiet room away from an incident, the staff member must remain with the pupil in the quiet room or area until such time as the pupil is calm and orderly. Depending on the circumstances, it may be more beneficial for pupils to be accompanied by a staff member who is well known to them. Once the pupil is calm and safe, the staff member may leave the pupil unaccompanied, although not unmonitored, in the room but the door must not be locked.

3.26. All quiet rooms or areas must have sufficient daylight, access and exit points and not be within a confined space that could cause the pupil to feel trapped

or scared and therefore increase any anxiety, aggression or violence which may have been evident in the original incident.

3.27. The use of quiet rooms should also be consistent with the school's policies on safeguarding and health and safety. Proper records must be maintained of the use of such rooms and any form of physical restraint that has been employed.

3.28. The British Institute of Learning Disabilities (BILD) has a useful factsheet which explains the difference between 'time out' and 'isolation'  
<http://www.bild.org.uk/information/factsheets/>

### **Staff training**

3.29. 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 school policy on use of force. A school may decide that all staff who supervise pupils should have such training. However, individuals have statutory power to use force by virtue of their job. So a school policy cannot lawfully prevent teachers or other staff whose job involves having control or charge of pupils from using that power regardless of whether they have received training. However, schools should make it clear to staff that unreasonable or inappropriate use of force may lead to disciplinary action.

3.30. Schools will also need to make a judgement on the level and form of training that they provide to those who have been given temporary authorisation, due to their not usually having control of pupils.

3.31. As indicated below, there will be particular training needs for staff working closely with pupils with SEN and/or disabilities. Risk assessments (see paragraphs 3.16 and 3.17 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 pupils.

3.32. Schools are advised to ensure that training covers techniques for 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 challenging behaviour. Schools should ensure that the training needs of these staff are identified and appropriately met.

3.33. A number of organisations offer training in the use of physical force and related techniques such as de-escalation. Information about this is available at [www.bild.org.uk](http://www.bild.org.uk). Local authority advice and guidance on training can also help schools, particularly in the maintained sector, to ensure well-targeted and appropriate training.

## Recording and reporting incidents

3.34. Schools are strongly advised to keep systematic records of every significant incident in which force has been used, in accordance with school policy and procedures on the use of force and its child protection requirements. The purpose of recording is to ensure policy guidelines are followed, to inform parents, to inform future planning as part of school improvement processes, to prevent misunderstanding or misinterpretation of the incident and to provide a record for any future enquiry.

3.35. Schools may find the following questions helpful in deciding whether an incident is significant and requires a written record:

- Did the incident cause injury or distress to a pupil or member of staff?
- Even though there was no apparent injury or distress, was the incident sufficiently serious in its own right to require a written record? Any use of restrictive holds would, for example, fall into this category.
- Is a written record needed to be able to justify the use of force? This is particularly relevant where the judgement was very finely balanced.
- Is a record needed to help identify and analyse patterns of pupil behaviour or staff training needs?
- Were other agencies involved, such as the police?

3.36. If the answer to any of these questions is "yes", it would be strongly advisable to make a written record. Such records can provide 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 professional association when compiling a report.

3.37. Schools may find the model recording form provided in Annex 1B helpful. This identifies the types of information that should be recorded.

3.38. The member of staff involved in an incident is usually best placed to compile the record. It would be good practice for the member of staff with lead responsibility for safeguarding to check the record and for the school to provide the member of staff involved in the incident with a copy of the final version. Staff training could usefully include good practice on completing incident records.

3.39. Differing accounts given of the same incident should all be recorded. It is not always advisable as a matter of course to give parents a copy of the incident record, but parents should be told when and where the incident took place, which members of staff were directly involved (anonymised where necessary), why they decided that force had to be used, what force was used, whether there were any

injuries and what follow-up action (support and/or disciplinary) was being taken in relation to their child. It is advisable that the school's policy on making a record following such incidents is contained within its policy on the use of force and drawn to the attention of members of staff, parents and pupils, if these persons are not otherwise notified of the policy.

3.40. The record is likely to form part of the pupil's educational record as it is a record of information which is processed (obtained, recorded and held) by or on behalf of the Governing Body of the school (or teacher at the school, other than for personal use), relates to the pupil, and originated from or was supplied by a teacher employed by the Governing Body or the local authority.

3.41. Even if a copy of the incident record is not provided by the school as mentioned above the parent would be entitled to see the educational record free of charge, within 15 school days of receipt of the parent's written request. If a parent makes a written request for a copy of the record this must be provided, also within 15 school days of that request being received.

3.42. When schools comply with a request to see or to have a copy of a pupil's educational record there is some information that must not be disclosed. This is any information that the child him/herself could not lawfully be given under the Data Protection Act 1998, or to which s/he would have no right of access under that Act or by virtue of any order made under section 30(2) or section 38(1) of it. Further detail on what data contained in educational records may be disclosed is contained in the Welsh Government's guidance on Educational Records, School Reports and the Common Transfer System - the keeping, disposal, disclosure and transfer of pupil information, Circular 18/2006. When recording such incidents, staff should bear in mind that, if this information is later passed to the police, it may be included in a Criminal Records Bureau disclosure. 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 the allegation if that is longer.

3.43. After any recordable incident, parents should always be informed. Wherever possible, 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.

3.44. All injuries should be 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 [www.hse.gov.uk/riddor/index.htm](http://www.hse.gov.uk/riddor/index.htm).

3.45. 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.

3.46. Members of staff who have been assaulted will wish to consider reporting that to the police.

## Post-incident support

3.47. Serious incidents that require use of force can be upsetting to all concerned and 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. It is also important to ensure that staff and pupils are given emotional support.

3.48. 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 subsequent actions and support. It is good practice for parents to be involved in agreeing appropriate support arrangements. For parents of pupils whose behaviour is associated with SEN and/or disabilities, it is advisable to agree an individual behaviour plan. Such plans would include strategies to prevent and deal with any recurrence of behaviour that could lead to the use of force.

3.49. Schools are also advised to:

- decide whether multi-agency partners need to be involved and, if so, which partners. 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);
- where a pupil is responsible, hold the pupil to account so that he or she recognises the harm caused or which might have been caused. In addition to punishing the pupil, this may involve giving them the opportunity to repair the relationships with staff and pupils affected by the incident and/or to develop 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 Welsh Government's guidance on Exclusion from Schools and Pupil Referral Units, Guidance Document 081/2012;
- help the pupil and staff develop strategies to avoid such crisis points in future and inform relevant staff about these strategies and their roles;
- ensure that parents and pupils are aware of the school's complaints procedures;
- 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**

3.50. Parents and pupils would have a right to complain about actions taken by school staff. This might include the use of force. Schools need to make that clear. If a specific allegation of abuse is made against a member of staff then the school needs to follow the guidance set out in the three Welsh Government letters about the independent investigation service, dated 9 November 2006, and 30 March and 31 August 2007. Also the guidance in Welsh Government Circular 45/2004 – ‘Staff Disciplinary Procedures in Schools’. Other complaints should be dealt with under the school's complaints procedure which is normally set out in the school's published prospectus or website. The Welsh Government has also issued two guidance documents to schools on dealing with complaints. Circular 03/2004 ‘School Governing Bodies Complaints Procedures’ and Circular 39/2006 ‘Guidance for School Governing Bodies on Procedures for Complaints Involving Pupils.

3.51. In such circumstances it would be for the head teacher to respond to the complaint in the light of school policy and procedure, unless the complaint was against the head teacher himself/herself. Parents may choose to appeal against the head teacher's response. At this point a panel of governors may be convened.

3.52. The full involvement of those with parental responsibility following the incident should minimise the chances of a complaint about use of force but it will not prevent all complaints or allegations. Allegations can be made from a variety of sources, not just from the parents or children involved.

3.53. A dispute might lead to an allegation against a member of staff, made to the school, other agencies or even the police. These 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 the Welsh Government letters and circulars listed in paragraph 3.43 above. The Welsh Government has also issued Guidance in Circular 05/2008 - Safeguarding Children in Education: The role of local authorities and governing bodies under the Education Act 2002.

3.54. The school policy on physical intervention and the degree to which it had been followed will be at the core of any investigation. Such complaints may also be investigated under the school's disciplinary procedure.

## **Physical contact with pupils in other circumstances**

3.55. 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 physical education lessons, sports coaching or craft, design and technology 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. Teachers will use their own professional judgement when they feel a pupil needs this kind of support.



3.56. There may be some pupils for whom touching is particularly unwelcome. For example, some pupils may be particularly sensitive to physical contact because of 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.

## **4. The use of restrictive physical interventions for pupils with severe behavioural difficulties**

### **Introduction**

4.1. The guidance in this Part is intended to provide clear, practical advice for LAs and schools on drawing up policies on the use of restrictive physical interventions for pupils with severe behavioural difficulties. In the main the guidance is intended primarily for special schools but may also be useful for mainstream schools with such pupils. The guidance is divided into three main areas:

- Model policy guidelines for local authorities.
- Model policy guidelines for special schools.
- Advice on risk assessment and a suggested risk assessment proforma.

4.2. These guidelines have been produced to assist LAs and, particularly, special schools to respond appropriately in situations where the management of pupil behaviour requires the use of restrictive physical interventions. The guidelines for model policies are designed to be helpful but are not intended to be followed rigidly. Rather, they are designed to provide a broad structure on which policies might be based and highlight some questions and issues to be explored or clarified. There might be other questions and considerations according to local circumstances.

4.3. Assessing and managing risk is central to the process of deciding whether to use restrictive physical intervention and ensuring that it is both reasonable and proportional to the circumstances. Where it is known that a pupil is likely to present severe behavioural difficulties, a formal risk assessment will assist staff in judging the benefits and risks of any proposed intervention for staff, the pupil concerned and others. This section offers a suggested format for a risk assessment proforma. This material has been developed in consultation with teachers and other professionals. Although not intended to cover all forms of challenging behaviour in all settings, LAs may wish to bring the principles set out in this guidance to the attention of mainstream schools in their areas.

## Model policy guidelines for LAs

4.4. The following guidelines are designed to help LAs draw up policies where they do not already exist, or to review them where they do. The LA policy on the use of restrictive physical interventions should reflect an ethos of respect, care and safety in schools. It should be designed to:

- provide, with the guidance, a framework within which schools can develop their own policies
- promote a coherent consistent and co-ordinated approach across different schools and, where appropriate, with other agencies
- form a basis for monitoring the implementation of policies in schools
- provide advice to schools on how to monitor and evaluate their own use of restrictive physical interventions so that practice is improved both locally and across the authority.

## Formulating a policy

4.5. It is important that the LA policy on use of restrictive physical interventions is developed in consultation with schools, other agencies and professional bodies including local safeguarding children boards. The LA should make clear the extent to which its own policy reflects collaboration within the local authority and with other agencies. The greater the degree of collaboration, the greater the sense of joint ownership and common purpose. At the heart of the policy should be the clearly stated expectation that the use of physical intervention in schools should be **reasonable** and **proportionate** in the circumstances.

4.6. The LA policy should identify one or more named contact points able to offer schools advice and information on physical intervention, both on a routine basis and in the event of specific incidents/emergencies.

## Expectations of schools

4.7. The LA policy should make explicit the issues and topics that it would like to see covered by schools making provision for pupils with extreme behaviour. These might include:

- the name of the person(s) responsible for implementing policy on restrictive physical interventions and monitoring and co-ordinating their use
- the balance required between the needs and rights of the pupils and the responsibilities of schools towards the rights and needs of staff.
- the measures to be put in place to ensure that, where physical intervention is used, it is reasonable and proportional to the circumstances

- the relevance of Health and Safety legislation, including guidance on manual handling and violence reduction in relation to staff, pupils and visitors
- the way in which schools should integrate policies on using physical intervention with policies on more general aspects of improving behaviour /a whole-school approach to improving behaviour
- how schools should communicate with parents/carers and pupils about their policies on the use of physical intervention
- the procedures which the LA expects schools to follow when planning, implementing, monitoring, reviewing and revising their own policies.

### **Issues for the LA to address**

- How will the LA policy be introduced and disseminated to schools and relevant agencies?
- What procedures should schools follow when recording incidents? A consistent approach across the authority will be desirable and will aid training.
- What avenues should schools follow when reporting incidents to the LA?
- Are schools clear as to the circumstances in which they should report incidents?
- Ensuring that reporting and recording procedures for schools are straightforward in nature and kept to a manageable level.
- How should the LA respond to school policies and practice which are found to be at significant variance with the LA's own policy?
- How challenging children are managed outside the school, for example on school transport.

### **Supporting the policy**

4.8. It is important that structures exist to assure schools that they are not alone in dealing with pupils with severely challenging behaviour and potentially dangerous situations. As well as helping schools to draw up their own policies in the context of the LA policy, there are a number of areas where the LA can offer practical help.

### **Monitoring the implementation of policies and their impact upon practice**

4.9. Without imposing excessive administrative burdens on schools, it is important that LAs collect a range of information in order to identify issues and trends, evaluate the effectiveness of their approach to the use of physical intervention in special schools, and the effectiveness of policies adopted by individual schools. This might include:

- how schools put into practice their policies and who co-ordinates, monitors and evaluates the process;

- the extent to which schools' policies are consistent with the culture and practices the LA wishes them to achieve whilst allowing for differences which properly reflect to the individual needs of schools (and thus aid ownership);
- to what extent the LA policy and school policy have been shared with other providers, and the compatibility of policies on the use of restrictive physical interventions operated by other agencies;
- what role governors have in the formulation, evaluation and review of the school's policies and procedures

### **Issues for the LA to address**

- What help will be available to schools to ensure that policies are effective, e.g. will the LA provide advice and support to schools after an incident involving the use of force?
- What steps can be taken to ensure that good practice is shared across the authority?
- What training and professional development is provided to school staff and to LA personnel dealing with incidents requiring physical intervention and/or their aftermath? How are such needs identified?
- What are the most appropriate ways of introducing parents/carers and pupils to new policies, or to revised versions of existing policies. This might occur at the time a pupil is admitted to the school or be ongoing during the placement.
- More generally, what steps can be taken to secure the active support of parents/carers for both the LA policy and the policies adopted by individual schools? Can parent partnership services help with this?
- To what extent there is an integrated approach to training staff in the use of restrictive physical interventions across the LA area how successfully schools respond to complaints.
- What criteria should schools use when evaluating their policies? Would schools find it helpful to have authority-wide criteria?
- Which agencies should be involved in working with schools, possibly through joint training, to review and evaluate policy and practice, for example the Local Safeguarding Children Board, parent partnership groups and social services departments?
- Are there opportunities for sharing good policies, for example by making them available to other schools, independent and non-maintained, as well as schools in adjacent areas?
- Similarly, is there scope for LAs in adjacent areas to develop common approaches to evaluation, share experience and perhaps collaborate, for example on training ?

- If changes to the LA policy are made, what are the implications for schools?
- What avenues do schools have to alert LAs of problems encountered in their use of physical intervention ?
- How are schools supported when discussions between an individual school and an LA point to the need for improvements ?

### **Model policy guidelines for special schools**

4.10. These guidelines are designed to help special schools to draw up policies covering the use of restrictive physical interventions with pupils with severe behavioural difficulties. A policy on restrictive physical interventions should be an integral but discrete element of the school's wider behaviour management policy. It is recommended that a policy should be organised into sections covering the following:

- Introduction;
- school expectations;
- positive behaviour management;
- risk assessment and planning for potential 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;
- monitoring use of restrictive physical interventions;
- responding to complaints; and
- staff training.

4.11. Each of these are considered in turn in the sections below.

4.12. Each section points to good practice and identifies issues to be addressed. It is anticipated that the guidance will be of practical assistance to schools when examining current school practice and procedures, and developing a policy suited to local circumstances. It should be possible to draw wording for school policies directly from these guidelines (by, for example, changing "the school should" to "the school will").

4.13. In special schools there are children with severe behavioural difficulties who present behaviour that may necessitate the use of restrictive physical interventions to prevent injury, damage to property, or the breakdown of discipline. Section 93 of the Education and Inspections Act 2006 clarifies the position about use of restrictive physical interventions by teachers and others authorised by the head teacher to control or restrain pupils. Teachers and other authorised school staff are reminded that use of physical force must be reasonable and comply with:

- Local authority policies
- The Children and Young People's Plan
- School discipline and behaviour policies.

### **School expectations**

4.14. The use of restrictive physical interventions should always be considered within the wider context of other measures. These include establishing and maintaining good relationships with children and using diversion, diffusion and negotiation to respond to difficult situations. Use of physical force that is unwarranted, excessive or punitive is not acceptable. Failure to comply with this principle, when considering or using physical force, should be dealt with under school disciplinary procedures.

### **Issues for schools to address**

- Which staff other than teachers will be authorised to use restrictive physical interventions in your school?
- By what process will staff be selected and authorised to use restrictive physical interventions in your school?
- In what situations would the school consider it appropriate for teachers and other authorised school staff to use restrictive physical interventions?
- What kinds of actions would be viewed as using reasonable physical intervention in your school?
- What kind of actions involving use of physical intervention would be viewed as unwarranted, excessive or punitive in your school?
- What course of action will be taken in the event of staff failing to comply with this policy?

### **Positive behaviour management**

4.15. All staff should adopt a positive approach to improving behaviour in order to reward effort and application, and to build self-esteem. The school should work in partnership with those who know the child to help those concerned:

- find out why this child behaves as he or she does
- understand the factors that influence this child's behaviour
- identify early warning signs that indicate foreseeable behaviours are developing.

4.16. This approach will help to ensure that early and preventative intervention is the norm. It should reduce the incidence of extreme behaviours and make sure that the use of physical force is rare.

4.17. School staff should refer to the school's behaviour policy when developing and implementing behaviour management plans. All behaviour management plans

should be formally agreed and ratified before implementing them in school. Plans should be formally recorded in accordance with school procedures and set out the action taken to:

- meet the pupil's needs;
- encourage the pupil to make positive choices and develop self-control;
- support the pupil in difficult situations; and
- safely manage crises if and when they occur.

### **Risk assessment and planning for use of restrictive physical interventions**

4.18. Schools should acknowledge that some children behave in ways that make it necessary to consider the use of restrictive physical intervention as part of a behaviour management plan. All identified behaviours necessitating use of physical intervention should be formally risk assessed: see para 4.28. The resulting risk management strategy must be compatible with a positive behaviour management approach.

#### **Issues for schools to address**

- How will the school involve parents and others who know the child in the process of developing behaviour management plans?
- What process is to be used to agree and ratify behaviour management plans for use in school?
- How are behaviour management plans to be recorded?

4.19. Intervention must be clearly shown to be in keeping with the pupil's statement and his or her individual education plan. It should also be properly documented within school records. All staff should be aware of the distinction between physical contact or touch, used appropriately in everyday situations to support, encourage, guide or comfort a pupil, and the use of force to restrict movement or to disengage from pupils whose behaviour presents a clear risk of injury.

4.20. Techniques and methods for controlling and restraining pupils using restrictive physical interventions must be assessed to ensure they are safe, suitable and appropriate for use with the named pupil. They should be agreed in partnership with the pupil, his /her parents (or those with parental responsibility) and other statutory agencies working with the pupil. This is especially the case when children are looked after by the local authority, in respite care, or cared for by others with legal responsibility in order to ensure that there is a consistent approach to the use of physical intervention in and out of school. In the event of disputes over, or concerns about, techniques and methods being considered, an interim school strategy should be agreed and the matter referred to the LA. If necessary, adjudication might be offered by an independent officer nominated by the Local Safeguarding Children Boards.

## **Issues for schools to address**

- For what kinds of behaviours would the school view it necessary to consider planned use of physical intervention?
- What action does the school intend to take to assess and manage the risks
- What steps does the school take to ensure that all staff coming into contact with pupils who may represent a risk have necessary information on the pupil concerned?
- How will the school ensure that planned use of physical intervention is compatible with a positive approach to improving behaviour and in keeping with the pupil's statement and pastoral support plan?
- What action will the school take to assess techniques and methods for implementing planned use of physical intervention?
- Who will the school work in partnership with to agree the techniques and methods to be used to implement planned use of physical intervention?
- What process is in place for you to refer disputes or concerns to the LA?

## **Use of restrictive physical interventions in unforeseen and emergency situations**

4.21. Schools should acknowledge that, on occasion, staff may find themselves in unforeseen or emergency situations when they have no option but to use reasonable force to manage a crisis. It is recommended that:

- before using force – staff attempt to use diversion or diffusion to manage the situation
- when using force – staff must use techniques and methods with which they are familiar, confident and are permitted by the school
- in exceptional circumstances (where permitted techniques are ineffective or staff are unfamiliar with the action they should take) – staff manage the situation as best they can to comply with Section 93 of the Education and Inspection Act 2006.

4.22. Staff should always report and record use of physical force that occurs in unforeseen or emergency situations using school procedures.

## **Post-incident support**

4.23. Incidents that require use of restrictive physical interventions can be upsetting to all concerned and result in injuries to the child or staff. After incidents have subsided, it is important to ensure that staff and children are given emotional support and basic first aid treatment for any injuries. Immediate action should, of course, be taken to ensure that medical help is accessed for any injuries that require other than basic first aid. All injuries should be reported and recorded in accordance with school procedures. The school should take action to report any



injuries to staff or pupils in accordance with RIDDOR. (Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995, HSE Books, PO Box 1999, Sudbury, Suffolk, CO10 6FS. HSE website: [www.hse.gov.uk](http://www.hse.gov.uk). HSE information line: 0541 545500 (HSE Information Centre, Broad Lane, Sheffield, S3 7HQ)

### **Issues for schools to address**

- What kinds of unforeseen or emergency situations might staff find themselves in within your school?
- What techniques and methods for implementing use of physical force to control or restrain pupils will be acknowledged as suitable for use in typical emergencies?
- What actions are staff required to take to report and record use of physical force in unforeseen and emergency situations?
- Who will provide staff and children with support after incidents?
- Who will check for injuries, provide first aid and arrange for medical aid?
- Who will report injuries to HSE?

### **Reporting and recording use of restrictive physical interventions**

4.24. After incidents in which physical intervention is used, staff should report and record the matter in accordance with school procedures. All incidents requiring the use of physical intervention should be thoroughly and systematically documented within school records such as registers, logs, and incident books. The school should take action to ensure that parents and the local authority are informed about these incidents in accordance with agreed local procedures and time scales.

### **Issues for schools to address**

- How are incidents to be reported and recorded?
- What action will the school take to inform parents and the local authority about incidents?

### **Monitoring use of restrictive physical interventions**

4.25. Use of physical intervention in school should be monitored in order to help staff learn from experience, promote the well-being of children in their care, and provide a basis for appropriate support. The lessons learnt may provide a strategy for avoiding the use of physical intervention if similar incidents recur. Monitoring can help schools to determine what specialist help is needed for children and to assess the appropriateness of the child's placement at the school. Information on trends and emerging problems should be shared within the school using local procedures. Monitoring information should be reported on a regular basis to school governors.

### **Issues for schools to address**

- How will you monitor and evaluate the use of physical intervention?
- How will incident monitoring inform risk assessment and management?

### **Responding to complaints**

4.26. The use of restrictive physical intervention can lead to allegations of inappropriate or excessive use. In the event of a complaint being received by a school in relation to use of force by staff, the matter should be dealt with as set out earlier in paras 3.50 to 3.54 of this Section.

### **Issues for schools to address**

- How will complaints be investigated and by whom?

### **Staff training**

4.27. Training in physical intervention methods that are acceptable within the school is available and teachers and support staff should be encouraged to take up such opportunities.. This training is intended to help staff to link meeting children's needs with positive behaviour management. Staff involved in implementing planned use of physical intervention, as part of a behaviour management strategy within the school, should be provided with training in the range of intervention techniques they are expected to use in their day-to-day work. On successful completion of training, staff should be expected to practice their skills and periodically attend updates.

### **Issues for schools to address**

- How will you choose training for your school and what is the training to include?
- How will staff be assessed and updated?

### **Assessing and managing risks for children who present challenging behaviours**

4.28. The risk assessment and management proforma included in this section has been designed to help teachers, learning support assistants and other adults working in special schools to improve practice in relation to the assessment and management of risk posed by pupils with severely challenging behaviour. The risk may be to the pupils themselves, other pupils, teachers, other adults or property.

### **What is meant by "risk" and "risk assessment"?**

4.29. The term "risk" refers to any circumstances which could lead to adverse outcomes for the child or others. Risks may arise in relation to a number of factors, such as the health care and social support arrangements for the child; interactions between the child and his or her environment; the direct impact of behaviour(s)

presented by the child; measures and interventions employed to reduce, limit or manage the risks presented to the child and others. Risk assessment and management is a process that helps staff and others to consider risk issues, to act reasonably, and to learn from what happens in everyday practice. In the main, risk assessment and management involves:

- using what is known, in the light of experience, to make rational judgements about risk issues
- weighing up options and taking reasonable risks
- taking action to implement a range of approaches to support and safeguard children. By working in this way it is possible to make decisions and take actions to:
  - limiting the level of inherent risk to which children and others are exposed
  - taking calculated risks to broaden the child's experience and maximise his or her individual potential
  - avoiding unreasonable risks for this child and others
  - ensuring that strategies used to respond to challenging behaviour are reasonable, and proportionate to the risks presented by the behaviour.

4.30. Using a structured approach to risk assessment and management will help staff to make decisions about what can reasonably be done to limit risks. At the same time it will help prepare them for times when things go wrong. Challenging behaviours are often foreseeable, even though it may be difficult to predict exactly when they will occur or the degree of challenge they will pose. As a general rule, schools should:

- explore why children behave in ways that pose a risk
- try to understand the factors that influence the behaviour
- recognise the early warning signs that indicate that the child's behaviour is beginning to emerge, and
- develop the skills to manage difficult situations competently and sensitively. The measures agreed for managing identified risks should be set out in an agreed behaviour management plan for the individual child. Risk assessment and management can also be used in emergency situations when unforeseen risks occur.

### **Assessing the risk**

4.31. Risk assessment involves a consideration of potential and actual risk. Key steps are:

- **assessing the context for risk** – trying to predict the situations in which risks do/may occur. For example, situations where pupils might feel

frustrated, pupils being near open roads, on transport or in crowded places;

- **assessing probability** – trying to estimate how likely it is that the risk situation will occur and whether any injury or harm is very likely to occur, likely to occur, or unlikely to occur
- **assessing seriousness** – trying to gauge the kind of injury and harm that could result. For example: choking, bruises, bleeding, sprains, broken bones, stress, burnout, panic attacks, nervous breakdowns and post traumatic stress disorder.

4.32. In this part, it is assumed that the school will apply the risk assessment and management proforma. For some pupils, it will be appropriate for the LA to conduct the initial assessment, followed by updating by the school.

4.33. When assessed, all risks should be recorded in accordance with relevant requirements such as LA or school policies. In the event that risks are thought to be serious for the child or others, the school may need to use formal risk assessment frameworks and tools, such as the Health and Safety Executive's "Five steps to Risk Assessment".

### **Exploring risk reduction options**

4.34. Risk reduction involves an examination of risk management options and consideration of the benefits and drawbacks of each option for the child, staff and others concerned. After weighing up the options available, some may be discarded as unsuitable. This will usually be because they have insufficient impact on the risk or have too many drawbacks. A record should be kept of risk reduction options examined and discounted as well as those adopted for each pupil. Risk reduction should include:

- proactive measures to support the child effectively and prevent difficulties emerging;
- early interventions to help the child in difficult situations and avert problems; and
- planned measures to manage the child and others safely, when unavoidable difficulties arise.

4.35. In circumstances where there are concerns that the risk reduction options being considered may themselves give rise to risk to the pupil or others, it would be prudent for schools to seek advice from other bodies. These may include:

- the Local Safeguarding Children Board (LSCB) for concerns in relation to children;
- the Health and Safety Executive for concerns in relation to school staff and others;
- medical advisers;
- legal advisers; or

- the LA education and/or social services.

### **Deciding risk management measures**

4.36. The measures selected to prevent risks occurring, manage risks that arise and respond to injuries and harm that occur should be based upon a full appraisal of all the risk management options. In agreeing the risk management strategy, it is important to be explicit about inherent risks that continue to exist, even when the strategy is fully implemented; risks that can be reduced by implementing the strategy; and the risks that can be prevented by implementing the strategy, and any risks inherent in the strategy.

4.37. The agreed risk management measures should form the basis of the child's behaviour management plan and the school's risk management strategy. All decisions made about risk management options should be recorded in accordance with school procedures. When selecting risk management procedures for the child's behaviour management plan and the school risk management strategy, schools should involve parents, or those with parental responsibility. Both sides benefit from such an approach; parents can examine measures for supporting their child within a broader context, while schools find out things that might otherwise be overlooked.

4.38. Professionals from other agencies should also be consulted in the process of deciding the best options to eliminate, reduce or limit the risk, without placing unreasonable restrictions on the child, children, school staff or others, or putting others at unreasonable risk. Accommodation and resources will influence the strategy employed. In the event that there are disputes or concerns about the measures employed, it would be prudent for schools to seek advice from the people or bodies listed in the preceding section.

### **Sharing and communicating an agreed approach**

4.39. Once agreed, the behaviour management plan and risk management strategy should be shared with all those responsible for implementing or monitoring the impact of the plan. This is important as it will help to ensure that those concerned know how children are to be supported and why, which behaviours are to be managed and how they are to be managed; and which risk reduction measures are to be employed and when. The risk management strategy can be shared through discussion groups, meetings and circulating information. Those who should be informed include:

- the child;
- his/her parents or those with parental responsibility;
- members of the teaching team and other school staff; and
- other professionals involved with the child, child protection teams and other agencies. Schools should keep a record of those informed about the strategy.

## **Staff training**

4.40. Once the plan and risk management strategy have been shared with those who work with and support the child, consideration should be given to the ability of staff to implement the strategy. In particular, steps should be taken to determine what training may be required prior to implementation. This is key, because successful implementation will be dependent on staff competence and expertise. School records should show training needs identified as a result of the strategy and how training was provided to enable staff to implement it. Where it is apparent that there are staff with significant training needs, implementation of the risk management strategy should be modified until relevant staff training has been provided. In some instances, staff training will be required as a matter of urgency so that implementation can take place without delay.

## **Evaluating impact and effectiveness**

4.41. Along with other aspects of their approach to restrictive physical intervention, schools should regularly review risk assessment and management measures. All evaluations of plans and strategies should be reported using school procedures and recorded in school records. These will make an important contribution to informing future planning and improving day-to-day practice.

## **Annex 1A: School policies – suggested framework**

Situations involving decisions about whether to use force can occur in any school. Both using force and deciding not to can entail significant risks for pupils and staff. Establishing a clear school policy on the use of force by staff is an important part of minimising these risks.

Each school needs to develop a policy tailored to its particular circumstances. It is good practice to do this in consultation with governors, staff, parents and pupils. Schools may find the framework below helpful in developing or reviewing their own policies.

### **School Policy on the Use of Force by Staff to Control or Restrain Pupils**

#### **Objectives**

These could include statements about:

- the key objective of maintaining the safety of pupils and staff;
- preventing serious breaches of school discipline;
- preventing serious damage to property; and
- the need to preserve children and young people's rights.

#### **Minimising the need to use force**

This section could include material about:

- creating a calm environment that minimises the risk of incidents that might require using force arising;
- using social and emotional well-being approaches to teach pupils how to manage conflict and strong feelings;
- de-escalating incidents if they do arise;
- only using force when the risks involved in doing so are outweighed by the risks involved in not using force; and
- risk assessments and positive handling plans for individual pupils.

#### **Staff authorised to use force**

- This section could deal with both permanent and temporary authorisation.
- On permanent authorisation, it could make clear that all teachers and staff the head has authorised to have control or charge of pupils automatically have the statutory power to use force and identify which categories of staff this covers.

- On temporary authorisation, it could explain:
  - the circumstances in which staff whose jobs did 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; and how teachers and other staff with permanent authorisation will know who has temporary authorisation.

### **Deciding whether to use force**

- This section could set out guidelines to help staff decide whether or not to use force in particular circumstances. For example, it could suggest that staff should only use force when:
  - the potential consequences of not intervening were sufficiently serious to justify considering use of force;
  - the chances of achieving the desired result by other means were low; and
  - the risk associated with not using force outweighed those of using force.
- This section could also make clear
  - how 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); and
  - how staff should minimise the highest risks, for example by calling the police if a pupil suspected of having a weapon seems likely to resist a search.

### **Using force**

- This section could emphasise the importance of only using the minimum force necessary to achieve the desired result.
- The section could also:
  - advise giving a clear oral warning to the pupil that force may have to be used;
  - suggest types of force that could be used, making it clear that any form of restraint that is likely to injure a pupil (particularly anything that could constrict breathing) should only be used in extreme emergencies and where there was no viable alternative; and
  - advise staff 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.



## **Staff training**

- This section could deal with:
  - how decisions about training are made; and
  - how training is provided.

## **Recording incidents**

- This section could set out the school's arrangements for deciding which incidents to record and how to record them.
- Schools may wish to use their own version of the attached incident recording form (Annex 1B)

## **Reporting incidents**

- This section could set out the school's arrangements for reporting recordable incidents to parents.
- It could also deal with reporting to external agencies such as other local authority children's services, the local Children's Safeguarding Board, the Health and Safety Executive, youth offending teams and the police.

## **Post-incident support**

- This section could set out arrangements for supporting staff and pupils involved in incidents, including meeting immediate physical needs and rebuilding relationships, and ensuring that lessons are learned from the incident.

## **Complaints and allegations**

- This section could set out the school's arrangements for dealing with complaints and allegations of misconduct arising from incidents.

## **Monitoring and review**

- This section could set out the school's arrangements for monitoring the impact of its policy on use of force and for reviewing and developing the policy, including the roles of senior leaders and governors.

## Annex 1B: Use of force to control or restrain pupils: incident record form

Details of pupil or pupils on whom force was used by a member of staff (name, class)	
Date, time and location of incident	
Names of staff involved (directly or as witnesses)	
Details of other pupils involved (directly or as witnesses), including whether any of the pupils involved were vulnerable for SEN, disability, medical or social reasons.	
Description of incident by the staff involved, including any attempts to de-escalate and warnings given that force might be used.	
Reason for using force and description of force used.	
Any injury suffered by staff or pupils and any first aid and/or medical attention required	
Reasons for making a record of the incident	
Follow up, including post-incident support and any disciplinary action against pupils	
Any information about the incident shared with staff not involved in it and external agencies	
When and how those with parental responsibility were informed about the incident and any views they have expressed	
Has any complaint been lodged (details should not be recorded here)?	
Report compiled by: Name and role: Signature: Date:	Report countersigned by: Name and role: Signature Date:

**Annex 1C: Proforma for assessing and managing foreseeable risks for children who present challenging behaviours – developing a Behaviour Management Plan**

*Name of child* .....

*Class group* .....

*Name of teacher* .....

*School* .....

<b>Identification of Risk</b>	
Describe the foreseeable risk	
Is the risk potential or actual? (Has there already been an incident?)	
List who is potentially affected by the risk.	
<b>Assessment of Risk</b>	
In which situations does the risk usually occur?	
How likely it is that the risk will arise?	
If the risk arises, who is likely to be injured or hurt?	
What kinds of injuries or harm are likely to occur?	
How serious are the adverse outcomes?	

**Assessment completed by:**

Print Name .....

Signature ..... Date .....

## Annex 1C (continued)

<b>Risk Reduction Options</b>			
<b>Measures</b>	<b>Possible options</b>	<b>Benefits</b>	<b>Drawbacks</b>
Proactive interventions to prevent risk			
Early interventions to manage risk			
Reactive interventions to respond to adverse outcomes			

<b>Agreed Behaviour Management Plan and School Risk Management Strategy</b>		
<b>Focus of Measures</b>	<b>Measures to be employed</b>	<b>Level of Risk</b>
Proactive interventions to prevent risk		
Early interventions to manage risk		
Reactive interventions to respond to adverse outcomes		

Agreed by:

.....

Relationship to child

.....

Date:

.....

**Annex 1C (continued)**

<b>Communication of Behaviour Management Plan and School Risk Management Strategy</b>		
<b>Plans and strategies shared with</b>	<b>Communication Method</b>	<b>Date Actioned</b>

<b>Staff Training Issues</b>		
<b>Identified training needs</b>	<b>Training provided to meet needs</b>	<b>Date training completed</b>

**Annex 1C (continued)**

<b>Evaluation of Behaviour Management Plan and School Risk Management Strategy</b>		
<b>Measures set out</b>	<b>Effectiveness in supporting the child</b>	<b>Impact on risk</b>
Proactive interventions to prevent risks		
Early interventions to manage risks		
Reactive interventions to respond to adverse outcomes		
<b>ACTIONS FOR THE FUTURE</b>		

Plans and strategies evaluated by:

Relationship to child

.....

Date:

.....

## **Section 2: Screening and searching of pupils for weapons**

### **1. Introduction**

1.1. The Welsh Government, as part of its measures to reduce violent crime and to maintain safety in schools, has introduced a power, contained in Section 45 of the Violent Crime Reduction Act 2006 which allows schools in Wales to be able to screen any pupil for a knife or other weapon, and search pupils suspected of carrying a weapon. The guidance in this Section accompanies the commencement of that power.

1.2. The main ways to keep knives out of schools continue to be educating young people in better behaviour and in the dangers of illegally carrying a knife. A range of activities should contribute: programmes in school on improving behaviour; curriculum opportunities for learning about responsibility, conflict, and safety; police school liaison officers are a key source of help. The powers to screen and to search fit with these programmes, and are two more options which schools can use.

1.3. Schools generally remain safe places. Only a small percentage of children, at any time, wrongly carry knives or other weapons in school. It is already a criminal offence to bring a knife or other weapon to school. School staff can already search a pupil, with consent, as part of their authority to discipline. The power to screen without suspicion will help to deter pupils from carrying a weapon in the first place. The new statutory search power, under education law, allows schools to search without consent, though within a range of safeguards: it will help schools remove weapons from the small minority who break the law. It is not intended that the power will be something which a large number of schools will be expected to or wish to use but it is an extra option which might be useful in some schools to help prevent a serious incident and support the efforts of the police to reduce crime by and against young people on the streets around schools.

1.4. Schools are not compelled to use these powers – a power is just that, it is not a duty. The power to search on suspicion adds another option which schools can choose when they suspect a knife or other weapon may have been carried onto the premises or may be carried on an off-site educational visit. It has the advantage of immediacy. But schools retain the option of calling the police, who may decide to conduct a search.

1.5. This section advises schools in Wales on:

- the power to screen pupils for weapons without suspicion; and
- the statutory power (it is not a legal duty) for head teachers, and staff they authorise, to search pupils without consent, when they have reasonable grounds for suspecting that a pupil has a knife or other weapon. They can search a pupil on school premises or anywhere else where pupils are under the charge of the member of staff conducting the search, such as during an off-site educational visit. When school staff

decide to conduct a search under this power, they *must* comply with conditions specified in the statutory power.

1.6. This guidance is primarily aimed at all maintained schools, including pupil referral units, and will help other schools, including independent schools, when they consider whether or not to screen pupils or to use the new search power, or both. It will also help schools to comply with the law and follow good practice if they decide to search pupils on suspicion and without consent. This section explains:

- what schools can do to screen pupils;
- what schools *must* do if and when choosing to search a pupil or the pupil's possessions for a knife or other weapon without consent;
- what schools must not do; and
- good practice that can help a school to comply with the law and make a search effective

### **Consultation with pupils**

1.7. The introduction of screening and searching is intended to safeguard pupils (UNCRC Article 19). At the same time, care must be taken to avoid arbitrary or unlawful infringement of the right to privacy (UNCRC Article 16). In introducing these measures schools should gather the views of children and young people in a school community. Particular care should be taken to ensure that pupils are given as much information as possible in a manner which is impartial, and in a form which is accessible to them. They should also have the opportunity to understand and discuss any ramifications and impacts which the introduction of such procedures would have on them.

## **2. Scope of powers**

### **No-contact or low-contact Screening**

2.1. Schools can require pupils to undergo screening for weapons without suspicion and without consent, by a walk-through or hand-held metal detector (arch or wand) which is “no-contact” or “low-contact” – it does not involve “patting down”, though it may involve minimal contact of the wand with the pupil's clothing. A requirement for such screening can be imposed under a school's statutory power to make rules on behaviour policy and the school employer's duties to manage the safety of staff, pupils and visitors.

2.2. Where a school decides that screening would be useful, it is recommended:

- occasional screening of randomly-selected pupils while on the premises – for example, a class or a year-group – should normally be enough to deter and prevent;
- screening all pupils on entry only in exceptional circumstances and/or for limited periods.



2.3. If a pupil refuses to be screened, the school may refuse to have the pupil on the premises or on an off-site educational visit. The school has a statutory power to make reasonable rules as a condition of admission. If the pupil fails to comply, and the school does not let the pupil in, it is unauthorised absence: the school has not excluded the pupil. The pupil's duty is to comply with the rules, and attend. Any refusal to attend should be investigated by the welfare officer in the same way as any other unauthorised absence. If the pupil continues to refuse to be screened the head teacher may wish to consider the use of exclusion on the basis that this is a persistent and open defiance of the school's behaviour policy.

2.4. Non-contact screening is not subject to the same conditions as with-suspicion searches under the statutory power to search. Schools can screen in view of other pupils. Schools should still take care to conduct screening reasonably, and should obtain training in the use of arches and wands (see Part 6, Training, below). Authorisation of staff, required for no-consent searches, would not be required for screening. Staff should require pupils to remove from their pockets, before screening, any metallic object that could cause a 'beep'. Wands are relatively low-cost, and can be as little as £30.

2.5. Searches on suspicion and without consent can also start by screening. If a wand or arch "beeps", showing it has detected metal, after a pupil has initially said that no metallic objects remain in their pockets, then this detection might help the searcher to gain consent, cooperation, or surrender of the object.

### **Without-consent search**

2.6. The statutory power to search applies where there are reasonable grounds for suspecting that a pupil has with him or in his possessions any of the following:

- anything referred to in this guidance as a 'knife' – to be precise, any article which has a blade or is sharply pointed. The definition does not include a folding pocket knife other than one whose cutting edge exceeds three inches or one which is not readily foldable at all times (such as a locking knife). This definition is taken from section 139 of the Criminal Justice Act 1988;
- an object referred to in this guidance as an offensive weapon – to be precise, any article made or adapted to injure a person, or any article which is intended by the person carrying the article for such use by him or by another person. This is taken from section 1 of the Prevention of Crime Act 1953. Three types of article are covered:
- a weapon made for causing injury, such as a gun;
- an article adapted for causing injury, such as a bottle broken deliberately for the purpose; and
- an article not made or adapted for causing injury but which the person who has it intends to be used for the purpose of causing injury, eg a baseball bat.

2.7. The power includes a power to search where there are reasonable grounds to suspect that a pupil is in innocent possession of a weapon. The power does not allow without-suspicion (whether random or blanket) searches, but see also the separate section in this guidance on “screening”.

**Note: It is a criminal offence to have a knife or offensive weapon on school premises. It is a defence to be carrying one for an educational or other lawful purpose.**

### **Human Rights Act 1998**

2.8. We believe that the exercise of these powers is unlikely to engage any of the Convention rights within the meaning of the Human Rights Act 1998. If such rights are engaged, any interference is capable of being justified for the purpose of keeping pupils and staff safe at school.

## **3. Role of school employer: school statement of policy**

### **Managing Safety**

3.1. School employers must ensure, so far as is reasonably practicable, the health and safety of pupils and staff in their schools; and head teachers of maintained schools must determine measures to ensure acceptable behaviour by pupils. The employer must provide guidance, training and policy on health and safety matters. For example, an employer could instruct a head teacher to direct authorised security staff to search pupils whenever the security staff have a reasonable suspicion of a weapon being carried.

### **School policy**

3.2. If a head teacher plans to use the power to screen or the statutory power to search, the head teacher should take the views of, for example, the employer, governing body and staff. The school’s profile should include relevant information about these school security measures in the narrative section about health and safety. The head teacher can present the information as a school policy which sits alongside, and complements, a school’s policies on behaviour and on the use of force (a head teacher has the option of using powers to screen or search in support of measures to ensure acceptable behaviour by pupils). The policy should:

- remind pupils and parents that it is a criminal offence to have a knife or offensive weapon in school and that the penalties for a pupil on conviction can be severe ;
- include how, when a pupil is suspected of carrying a weapon but school staff choose in this particular instance to call the police instead of using the power to search, school staff will manage the pupil in order to keep other pupils and staff reasonably safe while the police are not present.

3.3. If the local authority chooses to draw up a model policy, maintained schools should refer to it, and it might be helpful to other schools, as might advice from

professional associations. The policy should be based on safety management, including risk assessment. It should include advice given by trainers on, for example, weapons awareness, searching, likely scenarios and control measures.

3.4. Some schools might feel reluctant to publicise an intention to screen or search, if they feel it implies admitting a problem which could reduce admissions; but if some pupils are carrying weapons then parents probably already know, and will give credit to the school for acting to stop it. Publicity could also deter pupils from bringing a weapon to school.

3.5. As part of school rules, schools can also ban folding penknives, which could be used to cause harm. Schools can screen pupils for these but cannot search pupils without consent on suspicion that they are carrying a folding penknife as these are not classified as weapons under the Act.

#### **4. Options before a without-consent search**

4.1. Schools normally should use the power of without-consent search only if they have first exhausted other options:

- a. the main way to persuade pupils not to carry a weapon is educating them in how to behave well, how to resolve conflicts without violence, and about the dangers as well as the illegality of, and penalties for, carrying a weapon, whether in school or elsewhere. In particular:
- b. Police school liaison officers have a key role to play in helping schools devise and implement alternative approaches.
- c. where staff suspect a pupil is carrying a weapon, they can seek to confirm or allay their suspicion by questioning the pupil;
- d. if questioning confirms suspicion, staff should ask the pupil to surrender the weapon, reminding the pupil about key points of the school policy and school rules and that it is a criminal offence, with severe penalties, to carry a weapon in school. As from 12 February 2007 the penalty for carrying a knife or offensive weapon is up to 4 years imprisonment and/or a fine. Comparable youth penalties are based on, among other factors, carrying a knife being classified as a crime of medium seriousness.
- e. if suspicion remains and the pupil does not surrender the weapon, staff should ask the pupil to consent to a search. In a with-consent search, the statutory constraints on a without-consent search do not apply, but we recommend that a school follow them.

In (c)–(e), staff should use “talking down” techniques to calm the pupil and prevent or reduce any risk of their exchange escalating.

- f. A member of school staff may have reasonable grounds to suspect that a pupil is in innocent possession of a weapon (eg the pupil is unaware that it

has been “planted” on him): in that case the pupil may be searched, but is most likely to surrender the weapon willingly if asked.

g. **if a school decides a search would not be safe, they should call the police.** As this guidance emphasises, the power to search is not a duty: it should only be used where school staff judge that it is safe to do so. In particular, if members of staff believe that a pupil is carrying a weapon and is likely to resist a search physically, they should call the police rather than try to overcome him. Other factors that school staff can consider in deciding whether they judge that a search would be safe include:

- school staff, especially senior managers, are highly skilled and experienced in managing the behaviour of young people in their charge. This includes the ability to resolve difficult confrontations;
- the law requires a second adult to be present for a search;
- this guidance recommends training before any staff do a search.

4.2. A suspected pupil might not stay to be searched and might flee the scene. If staff believe that the pupil’s running away indicates he would physically resist a search, then whether or not he stays on school premises, and whether or not a weapon has been found, staff should call the police at once and seek to identify the pupil’s whereabouts, rather than look for the pupil themselves

## 5. During a search: practical aspects

### Staff

5.1. As mentioned above, the power to search should be used only as a last resort. It is not a duty. A head teacher cannot require anyone other than a member of the security staff to carry out a search where they have reasonable grounds for suspecting that a pupil has a knife or offensive weapon with him or in his possessions. Security staff are staff employed entirely or mainly for school security purposes. (such staff, on the payroll of the school or local authority, are not licensable, as are contracted security guards, but head teachers or employers can check licensability issues with the Security Industry Association at <http://www.the-sia.org.uk/home/licensing/>).

5.2. A head can if it is reasonable in the circumstances, direct a member of staff to be present at a search. It is recommended that this “second person present” should be someone already authorised and trained to search.

5.3. On training, insurance, and managing safety, it is recommended that:

- training for searchers should include how to reduce any search-related risk to the searcher, as well as to others;
- before undertaking a search or authorising staff to do so, the head teacher should check that the employer’s Employers’ Liability insurance covers any possible claims by staff in the event of any injury to staff as a

result of their work in searching a pupil for a weapon; should only proceed if it does cover this; and should inform any authorised staff of this cover. A local authority school employer may self insure if it wishes, but any other employer must take out Employers' Liability insurance;

- if school staff decide it is not safe for them to search, but they still suspect a weapon is present, they should not search and should call the police – especially if they believe that pupils or staff are at serious risk;
- staff who undertake a search according to the law and who follow their employer's guidelines are protected by the law. Staff in practice are not sued, because the employer is "vicariously" liable when their actions are "in the course of employment", which is usually the case where staff follow their employer's guidance.

5.4. Two members of staff must be present at a without-consent search of a pupil or his possessions (even where the search is conducted by the head teacher, who is then one of the two).

5.5. During a weapons search of a pupil without consent, the searcher and the required "second person present" must be of the same sex as the pupil searched. This means that a school without two male staff must not search male pupils without consent, and should instead call the police if it does not have a security contractor immediately available. A pupil's possessions can be searched without consent (and the search witnessed) by staff of the opposite sex to the pupil; the pupil must be present.

5.6. For a weapons search without consent, the "second person present" must be a member of the school staff, defined as any teacher who works at the school or anyone who, by the authority of the head teacher, has lawful control or charge of the pupils.

5.7. School staff can search a pupil outside the school premises where the pupil is under their lawful control or charge, e.g. during an offsite educational visit. On school visits, staff should normally rely on calling the police rather than seek to have a member of staff authorised to search on every visit where suspicion might arise.

5.8. While the law on the power to search would not explicitly prevent more than two persons being present at a search, we recommend that only in exceptional circumstances should a school allow more staff to be present than the two who must be present. For example, searching a pupil with particular Special Educational Needs might be helped by support from a further adult with expertise on the pupil's needs; or, where particular religious or cultural sensitivities might apply, an adult with knowledge of those aspects might help.

5.9. Some searches might be helped by a parent's presence where that is practicable. A search can in principle be conducted with other persons present (that is, as well as the pupil and two members of staff of the same sex), though the pupil's privacy and dignity should be safeguarded. In some cases it might be

advisable to take the pupil to a separate room, for example if the pupil is to be asked to remove a religious head covering.

## **6. Training for school staff**

6.1. The head teacher should undertake training if intending to search pupils for a weapon on suspicion and without consent, and should arrange training (including refresher training) for any school staff whom the head teacher will authorise to search. No-one should do a search before being trained.

6.2. Members of school staff voluntarily undertaking a search of pupils in their own school are not required to hold a licence under the Private Security Industry Act 2001. So a full 'door supervision' course of 30 hours would not be appropriate. That said, training should be wide enough to cover all topics in this guidance, and should include, for example, awareness of what constitutes a weapon; the issue of any protective clothing for searchers; recording an evidence trail; confiscation of illegal items; and detaining a pupil after a weapon is found.

6.3. Local trainers in weapons-awareness and search techniques could help to assess a school's needs and arrange suitable training with a head teacher, or with a group of heads and relevant staff. Such training can take into account the school environment and circumstances. It can also build on staff knowledge of the pupils and their existing disciplinary and talking-down skills. Some providers charge per trainee. Others charge by the day for any number of trainees (a typical charge could be £250-£400 per day for a whole group). Head teachers seeking training for themselves and staff could in the first place contact <http://www.skillsforsecurity.org.uk> for advice and the names of trainers listed under Products and Services – Basic Weapons Awareness. About 40 trainers, accessible through Skills for Security, hold a Skills for Security certificate and adhere to a code of practice agreed with the Association of Chief Police Officers. Head teachers seeking training from other training providers should check credentials and the contents of the course advertised.

6.4. Training should include questions to ask of, and information to give to, the searched pupil; e.g. the searcher should explain the reason for the search, what the power entitles the searcher to do, and what will or could happen during the search.

6.5. When staff decide to call the police, they should implement the procedures in the school's policy (see above) on how to deal with a suspected pupil while the police are not present.

## **7. Liaison between the school and local police**

7.1. Whether or not schools use the new power to search without consent, school and local police should mutually establish and develop strong partnerships. This could result in better and more cost-effective search arrangements and security procedures. The Police School Liaison Officers can help develop an effective mechanism for ensuring structured joint working between schools, police and other local agencies.

## 8. Use of staff from security firms

8.1. It is recommended that, where a school wishes to use a security firm, screening without suspicion in order to deter and prevent is the more cost-effective way. That is likely to provide better value for money than paying a firm to keep trained staff permanently on call to attend at short notice to conduct with-suspicion searches – which would require the head teacher to give them lawful charge of the searched pupils, and authorise them to search.

8.2. If, despite the above (or in conjunction with no-suspicion screening), a school's managers decide that it would be cost-effective for staff of a security firm to search pupils on suspicion, then:

- the head teacher should give written lawful control or charge of pupils, for the purposes of a search, to any security guard they will authorise to search, as part of the contract between the security firm and the school;
- if a security firm employee searches a pupil, it is recommended that the second person who must be present should be a permanent member of the school staff (who is authorised to search), because security-firm staff are likely to be less familiar with the school and its pupils;

8.3. Some schools or local authorities might already pay a firm to supplement or provide security services – eg mobile patrols at night-time. By law, security guards must have a licence to operate from the Security Industry Authority (SIA). A licence means that the guard has a formal qualification with (for front-line security guards) training in personal searches and coping with conflict and risk, though not necessarily in working with children. The SIA states that licence-holders will have had their identity and probity (mental health and non-criminality) checked. Further information is on <http://www.the-sia.org.uk/home> which carries a register of licence-holders.

8.4. Schools can find information on firms offering security guards from national or local advertising or from the British Security Industry Association (whose 500-plus members do over 70% of security business in the UK), at: <http://www.bsia.co.uk/companyfinder>. The SIA also has a register of security service providers who have achieved the Approved Contractor Scheme at [http://www.the-sia.org.uk/home/acs/roac\\_intro.htm](http://www.the-sia.org.uk/home/acs/roac_intro.htm).

## 9. Authorisation

9.1 A head teacher needs no authorisation to conduct a weapons search without consent. Other school staff must be authorised by their head teacher before they can do so. Authorisation may be on a long term or permanent basis, or for a stated shorter period, and should be in writing.

9.2 It is advised that the “second person present” at a search should be authorised and trained to search, because while they are witnessing the propriety of a search, the member of staff conducting the search might ask the member of staff witnessing to help more actively. They *must* be authorised if they join the

search. The second person can use reasonable force to restrain a pupil if the pupil unexpectedly seeks to assault the person undertaking the search, though such instances would be rare; the statutory power of members of staff to use force applies (see Section 13 below).

9.3 Head teachers who choose to authorise staff should usually authorise staff generally, to allow a search at any time, at short notice, of any suspected pupil. Authorising just for a particular search could only be done at the time when suspicion arises, which could unhelpfully delay the search. A head teacher could decide to authorise a member of staff to conduct a particular type of search, e.g. during an offsite educational visit (though for practical reasons this might be rare), or for a group of pupils whom the staff member knows well. Head teachers should consider carefully whether to authorise short-term staff or others, especially volunteers, who may not know pupils so well as permanent staff do. School staff not authorised to conduct a search and who suspect the presence of a weapon should tell the head teacher or an authorised colleague, or call the police.

9.4 Heads should keep a log of staff authorised, type of authorisation (general, particular type of search, or a particular search) and training achieved.

9.5 When the head teacher is not on the premises, if there is an acting head teacher (who may be a deputy head teacher in some instances), then they can take over the head's powers to conduct a search or authorise another member of staff to conduct a search.

9.6 An authorised member of staff of a 'host' school can search pupils from another school who are engaged in learning at the host school.

## **10. Reasonable suspicion (which allows a search to take place)**

10.1 If authorised staff suspect a weapon is somewhere in a school or on an offsite educational visit, they can search any of their school's pupils if they have reasonable grounds for suspecting that s/he has the weapon with him/her or in his/her possessions. This is a legal standard and not a subjective one; the searcher must assess what constitutes, in each particular case, reasonable grounds for suspicion that a pupil may have a weapon with him/her or in his/her possessions. The searcher should, in reaching a decision, take account of the following factors.

- a. No-contact or low-contact screening with a wand or arch might establish suspicion.
- b. Suspicion should be based on facts relevant to the likelihood of finding a weapon. Reasonable suspicion will rarely be supported on the basis of personal factors alone, without reliable supporting intelligence or information about some specific behaviour by the pupil to be searched. For example, a pupil's race, age, appearance, or any isolated instance of misbehaviour in the distant past must not be used alone or in combination with each other as the reason for suspecting that pupil. Reasonable suspicion cannot be based on generalisations or



stereotypical images of certain groups or categories of pupils as more likely to be in possession of a weapon. However, schools will normally be able to make reasonable decisions, based on their knowledge of pupils and their past habitual behaviour.

- c. Where a member of staff reasonably suspects a knife is somewhere on the premises, though one has not yet been found, then suspicion may move from initially more suspect pupils to initially less suspect ones to the suspicion (who may, for example, have been bullied into 'storing' a knife).
- d. As a result of questioning, the reasonable grounds for suspicion may be confirmed or be eliminated. Questioning may also reveal reasonable grounds to suspect the possession of a different kind of unlawful article from that originally suspected. But while staff who suspect a pupil can, before searching, question the pupil (and as a result confirm or eliminate their reasonable grounds for suspicion), staff would not use the result of a search to provide grounds for suspicion retrospectively.

See below on suspicion about objects found during a search.

## **11. Location**

11.1 While pupils can be screened in a public part of the school, we recommend that schools do what they can to conduct a no-consent, on-suspicion search in a private place - that is, out of view of other persons than those who must or may be present. Where this is not possible – for example because the pupil refuses to co-operate – the police should be called. See Part 4[g].

## **12. Extent of search – clothes and possessions**

12.1 The power to search on suspicion and without consent enables a personal search, involving removal of outer clothing and searching of pockets; but not an intimate search going further than that, which only a person with more extensive powers (e.g. a police officer) can do.

12.2 The searcher can pat down a person's clothing, without directly touching the body. If patting down finds an object in, for example, a trouser pocket, the pupil can be asked to bring out and show the object. If this is refused, the searcher can search the pocket. A pocket should not be searched when the member of school staff believes the pupil may interpret the search as an assault. The police should be called instead.

12.3 The searcher can require the pupil to remove outer clothing (eg a coat, jacket or pullover - see also the definition and examples of outer clothing in the legislation) if it is necessary for the search. If the pupil refuses, the searcher can use reasonable force to remove outer clothing (see Part 13). If reasonable force is not enough to remove the outer clothing and staff still suspect a weapon, they should call the police. This option is always available: the school can stop the

search at any point and call the police instead. (Resisting a police search can be a criminal offence.)

12.4 Staff must not require a searched pupil to remove, and must not themselves remove, clothes beneath outerwear: eg trousers, skirt, sari, shirt, blouse, shalwar-kameeze (tunic and trousers), socks, and tights. Nor should staff seek the voluntary removal of such clothes. Pupils volunteering to remove such clothes should be required not to do so. Staff must be careful not to touch or hold a pupil indecently.

12.5 When schools search they should take reasonable steps to preserve the dignity and privacy of any searched pupil:

- some of these safeguards are required by the new law: the person who carries out a search of a pupil and the other person who must be present at a search must be of the same sex as the pupil being searched (see above). Failure to take proportionate steps to preserve the dignity and privacy of any searched pupil may lead to a breach of the pupil's rights under the Human Rights Act. The advice below deals with the issues involved:
- as stated under **Location**, we recommend searching out of sight of other pupils or staff passing by – though privacy may not always be possible, e.g where school staff decide to search a line of pupils waiting to board a coach;
- searchers should be sensitive to issues of race, culture or religion, eg where a pupil's customary head covering or other outer clothing has religious or cultural associations. In this respect, the previous two steps should help. See also Section 14 on Special Educational/Medical Needs;
- boys who are Sikhs might carry, as a religious duty, a ceremonial knife (kirpan). Since this is a legitimate item, school staff should ask a Sikh pupil to declare it before being screened or searched in the same way as other legitimate metallic objects (eg keys or coins) should be declared.

12.6 A pupil's possessions include any goods over which the pupil has or appears to have control, eg a bicycle, panniers, motorbike, car (including family car). A school can already search a pupil's locker, since lockers or other storage facilities are school. The new power expressly preserves existing powers.

### **13. Use of force**

13.1 The power of school staff to use reasonable force to prevent a pupil committing an offence, injuring themselves or others, damaging property, or prejudicing the maintenance of good order and discipline applies to a search without consent. While it is legally permissible to use force, we advise that when a pupil suspected of carrying a weapon is likely to physically resist, school staff call the police rather than using force to continue a search (see section 4[f] above). See also Section 9 on when the second person present can use reasonable force (to oppose an unexpected assault on the searcher).

## **14. Special educational needs/medical needs**

14.1 Any pupil may be upset by being searched without consent. Some pupils with behavioural problems might react strongly to being searched or confined in a private room. School staff should take account guidance on use of restrictive physical interventions for pupils with severe behavioural difficulties (see Section 2, Part 4 of this document). Schools should not conduct a search themselves, but should call the police, when they expect a pupil may violently resist being searched.

14.2 Head teachers and other staff should not normally exempt pupils from a search solely on grounds of their special educational or medical needs. However, schools should take account of any additional sensitivities, e.g. by spending more time discussing their suspicion with a child with learning difficulties or medical needs, before a search, and should involve the special educational needs co-ordinator. Any 1-to-1 supervisor of a pupil being searched should also be present at the search.

## **15. Consequences**

### **After the Search**

15.1 If no weapon is discovered by a search, the school can decide to take no further action, but should still:

- briefly record the outcomes;
- inform the pupil's parent; and
- inform the school's governing body annually of how many searches or screenings took place under the school's policy, and the results.

#### **a. power to seize**

The searcher can seize:

- any knife or offensive weapon or anything that could be used as an offensive weapon. See below on storing and surrendering;
- any knife or other weapon found 'accidentally' – when, for example, a mobile phone is being confiscated. It should be treated as if it has been sought;
- anything which provides reasonable grounds for suspecting that an offence has been committed – for example, an offence relating to drugs or to stolen property. See below on found items other than suspected weapons;
- when school staff find and seize a knife which they suspect is illegal, they should promptly inform the police. Since staff must pass the seized knife to the police, they should ask if the police are willing to collect it from the school. The police, when they learn of the alleged offence,

might also wish to come to the school to question the pupil from whom the knife was seized;

- when the authorised member of staff has seized a suspected illegal knife or other weapon found on a pupil's person, he and the second person present should arrange for someone to call the police. If the police say they will come to the school to question the pupil, staff should guard the pupil with reasonable force as necessary until the police arrive. Staff should similarly guard a pupil when they have called the police to attend in order to search that pupil.

#### **b. storing and surrendering a confiscated weapon**

If a suspected illegal weapon is seized it *must* be delivered to the police as soon as is reasonably practicable. This would usually happen at the school, if the police come in response to the school's call. It is lawful for staff to keep a seized weapon (we recommend securing it in a locked cupboard) until delivering it to the police. The head teacher should also arrange for a written note to the police recording delivery of a seized item.

#### **c. other found items**

A weapon search might find items on the pupil that are against school rules or even illegal such as drugs or stolen property, which the searcher can seize – see power to seize, above. For general powers for schools to draw up and enforce disciplinary measures, which could include confiscation powers, see Section 1, Part 7 of this document. Anything which the searcher suspects is evidence in relation to an offence and seizes must, as with weapons, be delivered to the police.

### **Records**

15.2 Given that a pupil holding an illegal knife or other weapon on school premises is committing an offence, it is possible that the pupil will be arrested by the police, and that members of staff involved in the search will be called as witnesses in a criminal prosecution. The head teacher should require authorised staff to make and keep a written or electronic record of any search as soon as possible, e.g. in an incident book. It may help prevent any misunderstanding or later misrepresentation. Such records, together with evidence trails, could be of use to the courts. Schools can decide how long to retain a file for the purpose of discerning trends. The record should include:

- name, year, sex, ethnicity of every pupil searched
- grounds of suspicion
- time and place
- who searched
- who else was present
- what if any reasonable force was used, and if so why
- how the search began and progressed

- the pupil's responses and how staff managed them (eg steps taken to calm the pupil)
- outcomes and follow-up actions.

Staff might find it helpful to seek advice from a senior colleague or a representative of their professional association when compiling a report.

### **Informing Parents; complaints**

15.3 Schools are not required in law to inform a parent before a search or seek parental consent, but a parent might feel concerned about their child being searched. As well as publicising the school's policy in advance (above), we recommend that the school should generally inform parents of pupils other than 18 year olds when their child has been searched, and offer an opportunity to discuss the matter. A parent might complain about a screening or search, to the head teacher, governing body or employer. Schools must have a complaint procedure (in general, not search-specific) and must publicise it.

15.4 In a few circumstances, it is not recommended informing parents. An example might be where something found could be evidence of an offence involving the parent as well. Another situation might be where, although nothing was found, a parent might be abusive towards the child on the mistaken assumption that the child "must have" done something wrong because staff had grounds for suspicion (which, in fact, does not follow).

### **Exclusion**

15.5 "There will be circumstances where, in the head teacher's judgement, it is appropriate to permanently exclude a child for a first 'one-off' offence. These might include ... carrying an offensive weapon." (from *Exclusion from Schools and Pupil Referral Units Guidance Document 081/2012*).

### **Finance**

15.6 The power to screen and the power to search are powers which schools may choose to implement or not, using funds already available to them for training staff, for equipment, or for security, or from elsewhere within the school's delegated budget share.