

Policy into Practice

Use of Force Policy Framework

I am delighted to welcome you to the second publication in our *Policy into Practice* series. The *Policy into Practice* publications focus on HMPPS policy frameworks. They combine policy and case studies to highlight learning from our investigations on how the policy is applied in practice.

This *Policy into Practice* focuses on some of the important requirements for prisons as set out in the Use of Force Policy Framework and how they are applied to our investigations.

When investigating complaints about use of force, the question of whether force was used is rarely in dispute. The most common question our investigations need to consider is whether the use of force was necessary, reasonable and proportionate in the operational context and specific circumstances of the case.



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Necessity

To be lawful, all use of force must be necessary, reasonable and proportionate to the seriousness of the circumstances.

The Use of Force Policy Framework explains that “staff must consider what options other than force are available to them, and act accordingly.”

Case study: A prisoner made a verbal threat to an officer. Immediately after making the threat, the prisoner turned around and started walking back to his cell. While walking away from staff in the direction of his cell, (seemingly complying with their instruction to return to his cell), staff initiated the use of force.

When determining whether the use of force was necessary, the PPO considered whether it was necessary for staff to use force to protect themselves and/or others. There was no evidence or suggestion that there was any threat to other prisoners, and he was walking away from staff at the time. For this reason, the PPO concluded that it was not necessary for staff to use force.

This case demonstrates the importance of not initiating use of force, even at a low level, when it is not necessary as incidents can escalate and result in the need to use control and restraint (C&R) techniques. This increases the risk of harm to staff and prisoners.

De-escalation

It is very important that staff seek to defuse confrontational situations and resolve them peacefully, without the use of force wherever possible. Where force is initiated, attempts to de-escalate should continue throughout the incident. Officers should explain their intention and give clear, brief instructions to the prisoner.

The Policy Framework states that “staff must continue to attempt to de-escalate the situation throughout the incident with the aim of ceasing force”.

Case study: The PPO investigated a prisoner’s complaint about a use of force when he refused to comply with an order to return to his cell.

The PPO noted that staff had tried to reason with Mr A and de-escalate the situation for an extended period, before giving a direct order to return to his cell. When it was clear that Mr A did not want to engage, staff then attempted guiding holds. Following further resistance, staff felt they needed to gain control and C&R techniques were used.

The PPO recognised the considerable and commendable efforts by officers to try to de-escalate the situation to avoid the need to use force.

Body Worn Video Cameras (BWVC)

A BWVC is an important tool when officers are faced with conflict or confrontation. Where situations escalate and staff consider the use of early recording, they may act as a de-escalation tactic. They also provide evidence of actions taken leading up to and during a use of force incident.

The framework makes it clear that “BWVC must be utilised in accordance with the BWVC policy framework, to record events that could potentially lead to using force, and record force being used.”

Case study: An officer entered a cell to issue an IEP warning to Mr B, who raised his voice and became abusive towards the officer. The officer then returned to issue Mr B with a second IEP warning which he refused to sign. The situation escalated and when Mr B came into the officer’s personal space brandishing a pen, it was not unreasonable for the officer to use force as they deemed their personal safety to be at risk.

However, the escalation of the situation and the use of force could have been avoided by the officer not re-entering the cell at that time to serve the second warning, given the already heightened situation. The officer also had the opportunity to exit the cell once Mr B had initially started to demonstrate his frustration.

BWVCs were not activated until after Mr B had been taken to the ground. It was clear that staff were reasonably aware that this incident might have escalated to confrontation. Another officer chose to remain nearby in case the situation escalated. Therefore, the BWVC should have been activated earlier as a potential de-escalation tactic and also to capture the events of what happened leading up to and during the start of the use of force.

Role of healthcare

Prisoners must see a registered healthcare professional within 24 hours of force being used. Healthcare must examine the prisoner and record that the prisoner has been seen even if it appears the prisoner has not sustained any injury.

We sometimes see instances where the healthcare examination following a use of force is a glance through an observation panel. It is important that following a use of force prisoners receive a proper examination. We accept that there will be times when due to the behaviour of the prisoner it might be too dangerous to unlock the cell immediately to allow the nurse to examine the prisoner. However, on these occasions, healthcare staff should return to carry out the examination once the prisoner has calmed down.

While the following case study refers to an incident that took place in the youth estate, the learning from the incident is relevant to prison and healthcare staff working in adult prisons.

Case study: Mr C complained that staff had used excessive force during a restraint. As part of the use of force investigation, the PPO reviewed the prisoner's access to healthcare during and post-incident.

A nurse arrived to see Mr C following the use of force. Staff would not initially unlock Mr C as he had made threats to staff and the nurse instead spoke to him through the cell hatch. The nurse later recorded that staff were still stating Mr C was not to be unlocked. The nurse made a further request for Mr C to be unlocked so that she could carry out further observations. This was agreed by prison staff.

Considering the intensity of the restraint, the number of staff available and that Mr C had swelling near his eyebrow, it seemed unreasonable that Mr C wasn't initially unlocked to be seen by healthcare.

In this case we were disappointed that a proper healthcare examination was delayed. However, it is positive to see that the nurse returned and made further requests for the cell to be unlocked so that she could carry out a physical examination, rather than assess through the observation panel on the cell door.

Governance and assurance

The Policy Framework explains that “Governors must establish a diverse and empowered UoF Committee which must meet on at least a monthly basis to oversee UoF”.

The Ombudsman has seen impressive models for the UoF Committee in prisons. This includes models where the Committee reviews every UoF incident and those in attendance include a Deputy Governor, Head of Residence, Head of Safety, Use of Force instructors and the IMB. The policy framework explains that the “Committee must include at least one member whose primary focus is directed at prisoners' interests”. IMBs are an example of fulfilling that role.

The Use of Force instructors embed any learning from the reviews into their refresher training. This approach provides assurance that there is scrutiny of use of force incidents at a senior grade and that learning is shared and embedded.



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