



**Policy name: Use of Force Policy Framework**

**Reference:** N/A

**Issue Date:** 27 November 2023 **Implementation Date:** 31 December 2023

**Replaces the following documents (e.g. PSIs, PSOs, Custodial Service Specs) which are hereby cancelled:** PSO 1600, PSI 2015-30, operational guidance on PAVA and rigid-bar handcuffs issued prior to the publication of this framework.

**Introduces amendments to the following documents:** N/A

**Action required by:**

x	HMPPS HQ	x	Governors
x	Public Sector Prisons	x	Heads of Group
x	Contracted Prisons		The Probation Service
	Under 18 Young Offender Institutions		Other providers of Probation and Community Services
	HMPPS Rehabilitation Contract Services Team		

**Mandatory Actions:** All groups referenced above must adhere to the Policy Framework, which contains all mandatory actions.

**For Information:** By the implementation date Governors<sup>1</sup> of Public Sector Prisons and Contracted Prisons must ensure that all staff are adhering to this framework.

Governors must ensure that any new local policies that they develop because of this Policy Framework are compliant with relevant legislation, including the Public-Sector Equality Duty (Equality Act, 2010).

In this document the term Governor also applies to Directors of Contracted Prisons

**How will this Policy Framework be audited or monitored:** The framework and supporting guidance will be subject to ongoing review and update.

**Resource Impact:** N/A

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**Deputy/Group Director sign-off:** Deputy Director Andrew Rogers

**Approved by OPS for publication:** Sarah Coccia, Joint Chair, Operational Policy Sub-board, November 2023

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## **1 Purpose**

- 1.1 This is the HMPPS Policy Framework covering the use of force (UoF) in the adult estate. It sets out the context in which force is used lawfully by trained prison staff as well as setting out a professional standard for using force. It provides a framework for informed decision making and explains legal and professional responsibilities that must be adhered to. It contains mandatory actions for Governors, and for prison staff who may be required to use force in the course of duty.
- 1.2 For the purpose of the policy, 'prison officer' encompasses prison officers and prisoner custody officers employed in public prisons, privately managed prisons and by prison escort and custody services unless otherwise indicated. 'Prisoner' refers to those detained in the HMPPS estate, and those attending court.
- 1.3 For the purpose of the policy, 'teams with a specific function' include Tornado, LRT, ORRU Ops, DST, DST Dogs, area search teams, area dog teams, SOCU, and Repatriations team.

## **2 Outcomes**

- 2.1 By following the mandatory actions within this Policy Framework, staff will be able to demonstrate that any force used is:
  - i. Lawful (That all and any UoF is lawful. It must be necessary, reasonable, and proportionate to the seriousness of the circumstances);
  - ii. Accountable (All force must be accurately, properly and comprehensively reported. Individuals who misuse force are held personally accountable for their actions, and that force is monitored at a local, regional and national level.);
  - iii. Considered (That situation specific circumstances and options are taken into account before force is used, and when force is used, staff to act in a controlled manner to determine the level and type of force used, considering a range of options where possible, before resorting to force);
  - iv. Equal (i.e. that force is not used disproportionately in an unjustifiable manner on particular groups, and that action is taken where disproportionality exists in line with the Equalities Act and Public Sector Equality Duty requirements); and
  - v. Setting standards (our vision that we must be setting the standard at all levels in the organisation. This means prisons ensuring staff are up-to-date with training and aware of guidance, supervisors ensuring their staff feel supported, and leaders modelling the behaviours we expect)

## **3 Use of force principles and the law**

- 3.1 The starting point for lawful UoF is the legislation, 'common law' and case law. The Criminal Law Act 1967, Prison Rules 1999 47/Young Offenders Institution Rules 2000 50, the Criminal Justice and Immigration Act 2008, the common law, and the rights and freedoms contained within the European Convention on Human Rights (ECHR) govern the use of force in prisons.
- 3.2 It is the responsibility of every member of staff who is authorised to use force to know the principles of law and understand how this policy and operational guidance applies to their own practice. This will be covered in initial and refresher training, as well as being set out below.
- 3.3 It is important to note that these are not positive permissions for individuals to use force; they are all defences to a criminal charge which may result from the infliction of force on another person.

- 3.4 Common law provides circumstances where reasonable force may be used. Within a prison context, force will only be used where necessary and in the following circumstances:
- a. In self-defence or defence of another
  - b. To prevent imminent self-harm
  - c. To prevent damage to prison property
  - d. To prevent an escape
  - e. In the prevention of a crime
  - f. When it is essential to maintain order
- 3.5 Common law recognises that there may be circumstances in which one person may lawfully inflict violence on another, such as where a person may protect themselves from attack or act in defence of others. If no more force is used than is reasonable to repel the attack, such force is lawful. In the prison setting, this means, if staff have an honestly held belief that they or another are in imminent danger, then they may use such force as is reasonable and necessary to avert that danger. There is no rule in law to say that a person must wait to be struck first before they may defend themselves.
- 3.6 There are three key issues which will be considered when determining whether a UoF was lawful. They conceptually overlap in a lot of ways, but they are dealt with separately below.

#### *Necessity*

- 3.7 Staff must assess and make a defensible decision about whether UoF is necessary. In all cases, staff must consider what options other than force are available to them, and act accordingly. There will be some incidents where immediate action is deemed necessary which rules out these other options. In subsequent reporting they must clearly outline their reasons for not choosing those other options.

#### *Reasonableness*

- 3.8 The fact that an act was considered necessary does not mean that the resulting action taken was reasonable. What is 'reasonable' is a matter of fact to be decided in each individual case. Each set of circumstances are unique and must be judged by the prison officer on their own merits, and will be judged subsequently by any review, investigation, the Prisons and Probation Ombudsman, or the Courts.
- 3.9 When working out what is a reasonable response to a situation, it is important to consider the type of harm that the member of staff is trying to prevent or cease.
- 3.10 It is also important to consider the gravity of harm which may be suffered. I.e., If the foreseeable harm is very serious injury or death, more force may be justifiable in the circumstances.
- 3.11 Knowing when to cease application of force is another important aspect of reasonableness. If a prisoner is restrained until they become compliant, and then continue to be restrained with no justification, the UoF will cease to be reasonable in the circumstances and will not be considered lawful. Ongoing decision making must be actively carried out in these situations.
- 3.12 Factors to be considered when deciding what is reasonable may include aspects such as the size, age, and sex of both the prisoner and the member of staff concerned in the UoF, whether any weapons are present and the availability of assistance from colleagues.

- 3.13 A judgement on reasonableness will also consider the fact that staff receive training in UoF and the legality surrounding it. There is a higher expectation that they will be able to resolve conflict without resorting to force and that their judgement on when force is unavoidable will be informed by their training.

#### *Proportionality*

- 3.14 Proportionality overlaps heavily with necessity and reasonableness. This means staff must be able to demonstrate that the force used was not excessive in all the circumstances – it was proportionate to the threat posed and the aim which the staff member intended to achieve. If there is a lower degree, type or amount of force which could have been used in the circumstances, the higher degree would not be considered proportionate, and therefore would not be lawful.

### **4 Making sure force is compatible with Law**

- 4.1 There is a duty placed on public authorities (including prison officers) to act in accordance with the ECHR. Force used in prisons by staff must be compatible with Article 2 (the Right to Life), Article 3 (Prohibition on Torture), and Article 8 (the Right to Personal and Family Life, incl. the Right to Personal Autonomy and Physical and Psychological Integrity) of the Human Rights Act 1998.
- 4.2 Torture, inhuman or degrading treatment or punishment are all prohibited under Article 3, irrespective of the circumstances and the victim's behaviour. Examples include but are not limited to use of PAVA on a prisoner who had already been brought under control; use of batons on a prisoner who refused to leave his cell; or any UoF which is 'retaliatory' or excessive in nature. Any suspected breach of human rights must be reported to the governor and Prison Group Director (PGD) for investigation.
- 4.3 Equally, Articles 2 and 3 place an obligation on HMPPS to take all reasonable measures to protect prisoners and staff from harm. Reasonable steps must be taken to prevent real and immediate risks to staff and prisoners, but the UoF must be, necessary, reasonable, and proportionate.
- 4.4 ECHR Article 8 protects, among other things, the right to physical integrity and dignity. UoF including use of handcuffs/restraints for the purpose of humiliating a prisoner, and where handcuffing was unnecessary and unjustified in the circumstances (for example, because of the prisoner being unwell, not posing an identifiable risk or resistance, or being subject to a medical procedure) have been found to be a breach of this right.
- 4.5 The below legislation supplements and clarifies (but does not replace) common law and ECHR principles.

#### *Prison and YOI Rules*

- 4.6 Prison Rule 47 and YOI Rule 50 regulates the UoF by prison officers in prisons and YOIs. The Rule specifies:
- a. An officer in dealing with a prisoner shall not use force unnecessarily and, when the application of force to a prisoner is necessary, no more force than is necessary shall be used.
  - b. No officer shall act deliberately in a manner calculated to provoke a prisoner.

- 4.7 Prison Rule 6, YOI Rule 44 and the Criminal Justice Act 1991 provides a framework and powers by which prison staff carry out their duty to maintain the stability, security, and safe functioning of an establishment. Staff must familiarise themselves with these materials and legislation.

#### *Criminal Law Act 1967*

- 4.8 Section 3 of the Criminal Law Act 1967 permits any person to use reasonable force to prevent crime or arrest/assist in the arrest of offenders, those suspected to be offenders, and those unlawfully at large from prison.

#### *Prison Act 1952*

- 4.9 By virtue of sections 8 of the Prison Act 1952, prison officers have the powers of a constable which allows them to use reasonable force when conducting a search of a prisoner. Please refer to the searching policy for further information.

#### *Criminal Justice and Immigration Act 2008*

- 4.10 Section 76 of the Criminal Justice and Immigration Act 2008 (CJIA08) applies where a person is charged with an offence relating to the UoF, enabling the accused to rely on a defence of self-defence (including defence of another person), defence of property or to prevent crime (section 3 of the Criminal Law Act 1967).
- 4.11 When deciding if section 76 applies, the Court will assess whether the degree of force used (i.e., the type and amount) was reasonable in the circumstances as the accused believed them to be. The Court will examine if the belief was reasonable and genuinely held; if it was, the accused is entitled to rely on the defence even if the belief was mistaken.

## **5 The Mental Capacity Act 2005**

- 5.1 The Mental Capacity Act 2005 (MCA) may be relevant for UoF in custody where officers are required to restrain any prisoner who lacks capacity to ensure their safety or receive medical treatment. The decision on capacity and treatment will be taken and directed by a qualified medical professional who has carried out an assessment of the prisoner and recorded their decision within their decision log. The Deputy Governor must authorise the use of force for the purposes of administering medication.
- 5.2 Section 6 places clear limits on the UoF or restraint in these situations. Restraint can only be used (for example, to transport the prisoner to hospital) where this is necessary to protect the person from harm and is a proportionate response to the risk of harm. A 'proportionate response' means using the least intrusive type and minimum amount of restraint to achieve a specific outcome in the best interests of the person who lacks capacity. On occasions when the UoF may be necessary, this means the minimum amount of force for the shortest possible time.
- 5.3 PSI 64/2011 (Management of Prisoners at Risk of Harm to Self, to others and From Others) should be closely considered and, if necessary, legal advice sought where there are any issues relating to UoF or restraint under the MCA in particular circumstances.



## **6 Using body worn video cameras (BWVC)**

- 6.1 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. BWVC should not be turned off until the prisoner is relocated, the incident is resolved, and the hot debrief completed. In addition to the above and in the event of PAVA being used, BWVC should be used to record the prisoner's response to PAVA and should remain recording until a registered healthcare professional or supervisory member of staff advise it is safe to reduce or cease observations. If a BWVC cannot be activated when using PAVA, the reasons must be explained in the UoF report and brought to the Governor's attention.
- 6.2 The camera operator should stay outside of the room or direct the camera away from the prisoner while the full body search is taking place as part of a planned activity, to maintain the decency of the prisoner. The aim being to capture any comments made during the search.

## **7 Personal Safety Techniques**

- 7.1 Staff may use personal safety techniques to protect themselves. This may be in circumstances where formal restraint techniques or attempts to control or evade a violent situation have failed, are considered unsafe, are considered unlikely to be successful, or unachievable due to lack of colleagues in the vicinity to assist. Staff must complete a UoF statement when personal safety techniques are used.

## **8 Physical Restraint**

- 8.1 Physical restraint is a UoF which involves applying techniques based on principles taught in training which provides sufficient ability to bring an individual under control, restricting their mobility.
- 8.2 Staff who are 'first on the scene' when violence is occurring must assess the level of threat to themselves and others and act accordingly. It may be necessary to summon further assistance and await the arrival of other staff before intervening. Decision making must be contained in the UoF statement.
- 8.3 Staff must continue to attempt to de-escalate the situation throughout the incident with the aim of ceasing force.

## **9 Full relocation**

- 9.1 Where a full relocation of a prisoner is required, it must be carried out using approved techniques as taught in training. Staff must attempt to de-escalate, and release holds or restraints as soon as judged safe to do so.
- 9.2 Where Rigid Bar Handcuffs (RBH) are used, they must be removed once the prisoner has been located in the holding cell. Prisoner's must not be left unattended whilst in RBH.
- 9.3 Placing the prisoner in the side position is preferable to the prone position, but time placed in either of these positions must be kept to a minimum. The prisoner must receive constant supervision (in person not via cctv, which can include observation from outside the cell). Healthcare must be given access to the prisoner in a medical emergency and in all other situations, can observe from outside the cell until such time as it is deemed safe by the supervising officer to enter the cell.

- 9.4 The prisoner must be observed at a frequency to be determined by dynamic risk assessment conducted by the UoF supervisor until such time they have been seen and assessed by a registered healthcare professional. The risk assessment must be recorded in the observation book and supervisors statement taking account of: (a) the circumstances that led to the relocation; (b) any signs of distress or injury; (c) the prisoner's mental or physical state prior to the relocation; (d) any known facts about any underlying medical condition the prisoner may have and (e) the length of time that restraint was applied.
- 9.5 Consideration must be given to the level of continued observation following medical examination if the prisoner's behaviour/ condition gives cause for concern.
- 9.6 Cells to be used for full relocation of violent and uncooperative prisoners must first have been risk assessed and certified by the local Head of Safety and a local UoF instructor as suitable for full relocation and for safe exit in circumstances where UoF techniques are being used. Governors must assess all cells with the potential to be used for relocation taking account of the view of the local UoF instructor or other relevant person and retain central records including details of any which require safe cell exiting procedures. This certification will only need to be repeated if the fabric of the cell is altered. Staff undertaking UoF supervision must be familiar with the cells used for this purpose and must justify the circumstances for use within their UoF statement. If an allotted cell for full relocation is unable to be used, a dynamic risk assessment must be carried out at the time of the relocation as to its suitability.

## **10 Full search under restraint**

- 10.1 Full searches following relocation under restraint are subject to the application of general UoF principles and should only be carried out where it is known or reasonably believed that the prisoner is carrying an unauthorised article. The authority of a duty governor is required for a full search under restraint. The decision to conduct a full search must be recorded in the UoF report and the instructions contained in the training manual on carrying out the search must be adhered to.
- 10.2 No prisoner can be stripped and searched in the sight of another prisoner, or in the sight of a person of the opposite sex. Clothing must be made available to the prisoner.
- 10.3 For further information, please see the searching policy framework and the care and management of Individuals who are transgender policy where applicable.

## **11 Batons**

- 11.1 Batons may only be carried and used by operational staff trained and accredited in its use who work in establishments which are authorised to have batons. Trained prison officer grades in operational bands 3-5 in closed adult male prisons must carry batons whilst on duty.
- 11.2 A baton may be drawn or used only when:
- i. It is necessary for an officer to defend themselves or a third party from an attack, or an impending attack; and
  - ii. There is no other reasonable option open to the member of staff to save themselves or another person but to employ this defensive technique; and
  - iii. The use of the baton is proportionate to the seriousness of the threat.

- 11.3 When used, the baton must be directed at target areas taught in training, where serious injury is less likely to result unless they are able to justify why it was necessary to strike another area.

#### **Individual Officers drawing the baton to de-escalate an incident**

- 11.4 Drawing a baton on a prisoner is a “show of force” and can be considered a breach of professional standards if drawn in inappropriate circumstances. Staff must only draw a baton where they judge that the incident cannot be verbally de-escalated, they have considered other options (such as retreating or calling for assistance) and it is believed that drawing the baton will de-escalate the incident and prevent loss of control, violence, or further violence.
- 11.5 The baton should be held as per the training manual and a clear verbal command to desist must be given. Staff must continue to give clear verbal instructions throughout the incident to encourage de-escalation. A UoF statement must be completed when a baton is drawn.

#### **Multiple Perpetrator Incidents**

- 11.6 A baton should not normally be drawn when there is more than one member of staff present. However, there may be occasions where staff arrive at an incident and there is a threat or perceived threat of violence by multiple perpetrators in which the ratio of prisoners to staff, or the extreme level of violence threatened, necessitates multiple staff drawing batons to protect themselves or to prevent harm to others. In these circumstances the following applies:
- i. The decision to draw the baton is a personal decision based on an assessment of the incident and the perceived level of threat.
  - ii. Staff arriving at an incident must not automatically draw their baton but must make an individual assessment and consider the likely impact of drawing the baton; it must only be drawn if it is justified in the situation.
  - iii. Drawing a baton must be a safe response in the circumstances; staff must not put themselves at unnecessary risk. In drawing the baton, the overarching consideration remains personal protection or the prevention of harm to others.
  - iv. As with all UoF, the general principles apply, and it must be considered necessary in the circumstances and must be a proportionate response to the threat.

#### **Giving an order for batons to be drawn to prevent imminent loss of control**

- 11.7 Batons must never be drawn merely to obtain compliance with an order. Before drawing batons, staff should first consider, where possible, using other de-escalation techniques and/or withdrawing to prevent harm.
- 11.8 It may be necessary to draw a baton where several prisoners are acting in defiance of a lawful instruction, or against the requirements of the regime, and loss of control or order can reasonably be considered imminent. The aim of drawing batons in these circumstances is to:
- i. prevent the likelihood of loss of control, and any subsequent harm to prisoners or staff; or,
  - ii. facilitate the safe withdrawal of staff from an area where the loss of control is imminent and the risk to staff safety is assessed as being high and the safest option is to withdraw.
- 11.9 Any operational member of staff may give the order to a group of staff to draw batons and must justify their action to do so in their UoF statement. Staff must use personal judgement

in deciding whether to follow this instruction and determine whether there is justification to draw or use the baton and must detail their reasons in their UoF statement.

11.10 Where possible, staff must continue to give clear verbal instructions throughout the incident to encourage de-escalation.

### **Authorisation for carrying a baton**

11.11 Staff are only permitted to carry batons issued by HMPPS. A baton may only be carried by staff who have been trained in its use.

11.12 Only ORRU ops and tornado staff responding to incidents are permitted to carry batons in all establishments. Local staff must not carry a baton within women's or youth custody establishments. Staff can only carry batons in category D establishments at night, for security escorts, or moving prisoners to closed conditions.

11.13 Operational staff who are issued with a baton must not wear a baton during a planned intervention but must carry it at all other times when on duty.

11.14 Other than in the establishments listed above, it is mandatory for Physical Education Instructors (PEI) in Public Sector Prisons to carry a baton whilst on duty unless there is a risk, on the grounds of health and safety, to the individual or to others. This should be agreed with the Governor locally.

### **Carrying batons and fish knives outside the establishment**

11.15 Batons are considered an offensive weapon and fish knives a bladed article. There is an obligation to ensure the length of time this equipment is outside of the establishment is minimised. Reasonable efforts must be taken to avoid the need to take a baton or fish knife outside of the establishment such as arranging for the receiving establishment to provide a baton and fish knife to be provided upon arrival.

11.16 Circumstances where prison officers are allowed to carry batons and fish knives outside of the establishment are limited to:

- i. travelling from one prison to another as part of Operation Tornado arrangements – officers may need to carry both their extendable baton as well as a side-arm baton.
- ii. where access to the baton or fish knife outside the prison directly relates to the effective operation of a prison (e.g. when patrolling the perimeter or when the locker area is outside the prison but is still on prison property).
- iii. when an individual officer is travelling directly between prisons in the course of his/her duties and the baton or fish knife is required for use at the second prison.
- iv. when detailed to carry out a bed watch at a hospital or other escort; or,
- v. when escorting a prisoner to a contracted-out prison; however, a contracted-out prison may require staff to securely store their baton upon arrival.

11.17 The only circumstances where batons or fish knives may be taken home are:

- i. when attending work at another establishment on detached duty where the receiving establishment is unable to provide a baton or fish knife; and
- ii. when covering a bed watch for another establishment who is unable to provide a baton or fish knife.

- 11.18 Teams with a specific function may be required to carry batons, fish knives and RBH to carry out their duties and will need to store this equipment at home and within work vehicles where it is not practicable for the receiving establishment to provide the equipment.
- 11.19 Where batons or fish knives are taken home, they must be kept as securely as possible and must not be left in a vehicle overnight unless it is stored in a safe within the vehicle. They must be stored with a letter of authorisation by an operational manager (Band 7 or above) providing justification and the length of time which the baton or fish knife will be out of the home establishment. For teams with a specific function, the letter of authorisation will need to be reviewed and authority extended every 12 months.

For further information, please see UoF guidance.

### **Tornado and other operational incidents**

- 11.20 C&R advanced trained staff may be issued with a side-arm baton when asked to attend an incident as part of a Tornado team. Tornado team members are authorised to carry a side-arm baton in all types of establishments as part of a Tornado response.
- 11.21 The side-arm baton must never be carried outside of a Tornado operation and must be drawn and used in the same way as a standard baton, in accordance with training.
- 11.22 When attending Tornado or other operational incidents, extendable batons are carried by ORRU staff in addition to a side-arm baton. ORRU staff are authorised to carry an extendable baton in any type of establishment as part of a response to an operational incident.
- 11.23 Tornado team members must bring an extendable baton to incidents for possible use post-incident (e.g. in patrolling wings prior to handing back control to establishment staff). Until such time it is needed, the extendable baton should be stored safely in transport vehicles or at the gate.

## **12 PAVA**

### **Power and Authority for use**

- 12.1 PAVA can only be carried and used by operational staff trained and accredited in its use who work in establishments which are authorised to have PAVA. Within adult male open estates, PAVA must only be carried by trained operational bands 3-5's working in night state. Trained prison officer grades in operational bands 3-5 in closed adult male prisons must carry PAVA whilst on duty but must not be carried beyond the establishment gate. It cannot be taken on bed watches, escorts, or external perimeter checks. PAVA must not be used by local staff as part of a planned intervention, it must not be drawn or used on prisoners at height, or on members of the public. If on detached duty, or responding as part of mutual aid, PAVA may be issued at the receiving establishment, but staff must not take PAVA from their home establishment. When carrying out duties which involve the use of a patrol dog, staff are not permitted to carry PAVA. Staff carrying out the function of DST are not permitted to carry PAVA unless they are deployed to an establishment to carry out regular prison officer duties, in which case the receiving establishment will provide these members of staff with PAVA.
- 12.2 PEIs must carry PAVA unless on the grounds of health and safety where there is a risk to the individual or others when carrying out certain physical activities. This should be agreed with the Governor and PGD locally. This assessment must be both activity and location specific and should offer flexibility (i.e. staff participating in sports may not carry PAVA, but supervisors might need to). PEIs assisting with discipline duties must carry PAVA.

12.3 ORRU ops staff attending establishments on operational response are permitted bring PAVA for use during tactical intervention which is governed by the Incident Management Policy Framework.

12.4 The use of PAVA will **only** be appropriate where:

- i. It is necessary for an officer to defend themselves or a third party from an attack, or an impending attack, where they perceive a threat of immediate harm; and
- ii. There is no other reasonable option open to the member of staff to protect themselves or another person and reduce the risk of immediate harm but to employ this defensive technique.
- iii. The use of PAVA is proportionate to the seriousness of the threat.

For additional material on decision making surrounding use of PAVA, and using PAVA to manage self-harm incidents, please see UoF guidance.

### **When using PAVA**

12.5 Staff must draw PAVA in an open and visible manner with a verbal warning, it must never be drawn or used covertly. PAVA must be held and deployed as taught in training and a clear verbal command to desist must be given. Staff must continue to give clear verbal instructions throughout the incident to encourage de-escalation and offer reassurance and aftercare. Staff must assess whether it is necessary to use any further force on the prisoner, detailing reasoning in their UoF statement.

12.6 If PAVA has been used, wherever possible, the prisoner should not be placed in the prone position. If this does occur due to the seriousness of the incident, there is an expectation the prisoner is taken out of this position as soon as possible. Use of the prone position following use of PAVA must be detailed and justification written into UoF statements.

### **Use of PAVA when prisoners are presenting a serious risk of harm to themselves or others**

12.7 There may be circumstances where it is necessary to use PAVA to prevent a prisoner who is at serious risk of harming themselves or others from doing so. PAVA must never be used to manage such incidents unless:

- i. there is a serious and imminent risk to the life of the prisoner who may also be threatening others; **and**
- ii. intervention is required immediately to prevent that risk; **and**
- iii. there are serious risks to staff in physically intervening; **and**
- iv. no other reasonable options are judged to be appropriate.

12.8 After any such incident, an Assessment, Care in Custody and Teamwork (ACCT) plan must be opened if one is not already in place. Please see PSI 64/2011 managing prisoner safety in custody for more information on the ACCT process. More information on suicide and self-harm prevention can be found in PSI 64/2011, Management of Prisoners at Risk of Harm to Self, to Others and From Others.

For further information on using force on prisoners presenting a risk of harm to themselves and others can be found in the UoF guidance.

## **Carrying, storing and disposal of PAVA**

- 12.9 PAVA canisters and holders are for personal issue. PAVA must be carried in the approved and issued holster, secured to the officer's belt with the lanyard attached (see annex E in UoF guidance on how PAVA must be secured to belt). Staff must check the canister for signs of damage or leakage at the beginning of their shift. Where a damaged canister is discovered, staff must inform the Senior Management Team (SMT) member with responsibility for PAVA immediately to obtain an undamaged canister. Staff must store canisters and holders in secure, metal lockers when it is not in staff possession.
- 12.10 The SMT member with responsibility must ensure that PAVA canisters held in reserve are stored in a secure and auditable manner, in accordance with Health and Safety at Work Act 1974, the Management of the Health & Safety at Work Regulations 1999 and the Control of Substances Hazardous to Health Regulations 2002 (COSHH) taking due regard to manufacture's guidelines. Bulk PAVA storage must be in metal, fire-retardant storage. Storage should be clearly marked with restricted access. The SMT member must ensure the fire risk assessment for the area is updated by Health and Safety which identifies specific fire risk and emergency firefighting procedures and incorporated into Fire & Rescue service documentation. Inert canisters for training should also be securely stored and clearly marked as training aids. Canisters must be visually inspected for leakage or damage on receipt.
- 12.11 For advice on disposal of out of date and used canisters, please use FMB [pava.returns@justice.gov.uk](mailto:pava.returns@justice.gov.uk)
- 12.12 Police Officers entering prisons must leave their PAVA in secure storage at the gate.

## **13 Planned use of force**

- 13.1 Planned UoF must be approved and overseen by an incident manager of at least Custodial Manager grade. A UoF supervisor must prepare a plan, brief, and ensure staff are appropriately trained, assess the need for PPE and understand their role. Before entering a secure area with the intention of restraint and relocation, staff should communicate with the prisoner to resolve the situation without recourse to force. In these situations, force must only be used when other methods not involving the UoF have been repeatedly tried and failed, or are judged unlikely to succeed, and action needs to be taken as there are no other reasonable options to resolve the situation. The considerations made must be detailed in the UoF statement and a handheld camera used to record the intervention.

## **14 Use of force on pregnant prisoners**

- 14.1 Specific techniques which are detailed in the training manual must be used when restraining a pregnant prisoner. In the case of a planned UoF on a female prisoner who is known or suspected of being pregnant, staff must be fully briefed, a registered healthcare professional must be consulted, and their advice adhered to.
- 14.2 In the case of spontaneous UoF on a female prisoner who is known or suspected of being pregnant all staff involved must comply with the specific techniques detailed in the UoF training manual.
- 14.3 In these situations, force must only be used when other methods have been repeatedly tried and failed, or are judged unlikely to succeed, and action needs to be taken as there are no other reasonable options to resolve the situation.

## **15 Pain Inducing Techniques**

- 15.1 Pain inducing techniques taught in training are permitted but must never be used where a non-painful alternative can safely achieve the same objective. A pain inducing technique may be justifiable where it is the only viable and practical way of dealing with a violent incident and there is an immediate risk of serious physical harm to the prisoner, staff, or others.
- 15.2 Applying a pain source simply to gain compliance is unlikely to meet the threshold for reasonable, necessary, and proportionate UoF; objective grounds must be established to ensure that this level of force is necessary and recorded in the UoF statement.

## **16 Handcuffs**

### **Carrying and Storing Rigid Bar Handcuffs (RBH)**

- 16.1 Use of RBH is a use of force and is governed by the general use of force principles. Only staff who have been trained by an accredited UoF instructor have the authority to carry and/or use handcuffs. Handcuffs and a handcuff key will be personal issue on completion of training. Staff are required to physically check their handcuffs prior to commencing their duties, ensuring they are in working order. Staff must only use keys that are issued to them and cannot purchase their own. RBH and RBH keys must be carried on an officer's belt in an HMPPS approved and issued pouch while on duty. Staff may carry RBH on utility vests etc if approval has been given by the Governor. Staff must store RBH and RBH keys in a secure locker when not working.
- 16.2 The RBH unique serial number must be recorded when a member of staff is issued with a set.
- 16.3 Physical Education Instructors (PEIs) must carry RBH unless there is a risk on the grounds of health and safety when carrying out certain physical activities to the individual or others. This must be decided locally with the Governor and PGD. PEIs assisting with discipline roles must carry RBH. Suitable storage must be considered in the gym so that PEIs can safely store RBH and RBH keys.
- 16.4 ORRU ops staff are authorised to carry RBH in establishments as part of a response to an operational incident.
- 16.5 Tornado staff must carry RBH when deployed as part of an operational response. The RBH must be engraved with the issuing establishment details to enable easy identification and aid in the return of RBH.
- 16.6 PECS staff are authorised to use ratchet cuffs as well as RBH.
- 16.7 RBH will be personal issue within the adult male estate for operational prison officers (band 3-5 and closed grades). Staff who work in the adult male estate who are trained and issued with RBH must carry them for the duration of their duty including bed watches and escorts.
- 16.8 Arrangements for the Women's estate, PECS and open estate will differ. For these groups, RBH must be carried on bed watch and escorts.
- 16.9 The decision to prohibit staff carrying RBH in certain areas of women's and open estates must be data driven, the decision must be recorded and subject to quarterly review. For further information, see UoF guidance.



16.10 ORRU ops and LRT are trained and authorised to perform one on one handcuffing as part of an authorised intervention. LRT staff must only use one on one techniques as part of their LRT role.

### **Rigid Bar Handcuffs to restrain**

16.11 The application of RBH is preferable to using other methods involving physical force to aid control, movement, and relocation.

16.12 Staff must not attempt to apply handcuffs prior to gaining minimum control of a prisoner by at least two members of staff to ensure they can be applied safely and minimise the risk of injury.

16.13 RBH can only be applied in the positions as taught in training. RBH must not be applied to pregnant prisoners or those suspected of being pregnant in the prone or supine position.

### **Rigid Bar Handcuffs as a risk reduction measure**

16.14 Where RBH is utilised as a risk reduction measure, it must be recorded as a UoF, clearly detailing the risk identified, and why the use of RBH has mitigated against it. Use for this purpose must not be routine and must be authorised by an operational band 5 or above, and the reasons clearly recorded on the UoF report.

16.15 Prisoners are only to be handcuffed with their hands behind their back. When applied as a risk reduction measure, RBH will only be applied to a standing prisoner, and will be kept upright and supported by two members of staff.

### **Gaining control of a prisoner using the application of pain with Rigid Bar Handcuffs**

16.16 Once the RBH are fully applied, with both cuffs on, staff must not apply pain inducing techniques through the backstrap of the RBH or move prisoners against their will using the backstrap. Other pain inducing techniques can be used if a prisoner is still actively resistant/violent and presenting a serious risk of harm to others.

16.17 If a prisoner refuses to move, then staff should consider moving a prisoner against their will only when the RBH are in the right position, using techniques as taught in training. Prisoners must never be carried face down. Pain inducing techniques that are not applied through the cuffs can also be considered in exceptional circumstances (such as staff not being physically able to carry the prisoner).

### **Suitability of Rigid Bar Handcuffs**

16.18 RBH must not be used:

- i. When only a single member of staff is present.
- ii. On any part of the body, other than the wrist.
- iii. As a replacement for standard handcuffs, ratchet handcuffs or the escort chain for outside escorts (ratchet handcuffs must still be carried for escort).
- iv. To secure a prisoner to any object.
- v. As a replacement of a body belt; or
- vi. When a prisoner is on a cellular vehicle. If a prisoner is in RBH prior to being escorted on a cellular vehicle they must be replaced with the escort provider's handcuffs prior to relocation into the cellular vehicle.

- 16.19 The option to use multiple linked cuffs may be more appropriate in securing the prisoner correctly and safely where the prisoner is not flexible, has pre-existing injuries, lacks mobility in the shoulders or has other medical issues.
- 16.20 Staff must consider any known pre-existing injuries or disabilities when applying RBH. If there is a risk that the application of RBH may exacerbate an existing condition or potentially cause unintentional pain, then they should not be used.
- 16.21 If a medical emergency occurs while a prisoner is in RBH they must be removed immediately, and the prisoner placed in the recovery position.
- 16.22 Staff must be aware of the medical implications of using RBH as stated in the training manual. These can also be found in the UoF guidance.
- 16.23 Should RBH become compromised by a broken key or a problem with the unlock mechanism, staff must follow the steps contained in the training manual. This can also be found in the UoF guidance.

## **17 Following Use of Force**

- 17.1 For all UoF incidents, the following actions apply (not necessarily in this order):
- An operational debrief of staff present led by the supervisor or incident manager.
  - Prisons must have a mechanism in place for capturing the same information which is currently found on the F213.
  - The incident must be recorded on DPS within 24 hours of it happening.
  - All staff who were involved in any UoF (i.e. any role in a restraint, any use of a baton, PAVA, RBH or pain inducing technique), or supervising a UoF, must complete a staff statement explaining the decision-making process that they went through prior to using force and to show that alternatives (e.g. attempts to remove themselves from the threat and/or de-escalate the situation) were considered. UoF documentation must be completed within 72 hours.
  - A NOMIS case note is completed.
  - The Duty Governor must be informed, and all relevant incident and intelligence reporting completed.
  - If a prisoner requires outside hospital treatment, this must be reported to the NIMU line immediately,
  - A post incident review should be completed with the prisoner by someone unconnected to the UoF within 72 hours. The details must be recorded on the post incident review debrief found in the Good Governance Toolkit and collated with the incident documentation. A note of this discussion must be made in the NOMIS case notes and, if appropriate, on the prisoner's segregation history sheet. Any concerns about the UoF must be raised with the UoF Co-ordinator or SMT member with responsibility for the UoF.

### **Where PAVA is used**

- 17.2 Aftercare procedures (see below) must be followed.
- It must be reported on the single incident line within 24 hours.
  - There is no requirement to complete a separate UoF report for secondary exposure to PAVA, however details of any prisoner unintentionally exposed to spray should be captured in a NOMIS case note. It is important that they also have the chance to ask questions about why PAVA was used, and why they were affected.
  - The discharged canister must be sealed and double bagged in evidence bags and stored securely. A new canister will need to be drawn for the remainder of the shift if appropriate.

## **Immediately following the deployment of PAVA**

- 17.3 Affected prisoners must be subject to a minimum of 4 observations per hour until the effects have subsided unless otherwise directed by a registered healthcare professional. The supervising officer must liaise with registered healthcare professional regarding the level of ongoing observations, who will undertake these and what they will consist of and must adhere to any clinical advice given. As far as possible, a registered healthcare professional should be available for the duration of this period to support recovery as necessary.
- 17.4 Effects of PAVA may subside quicker where there is access to fresh air. This must be facilitated where reasonably practicable in the light of other risks to health and or security.
- 17.5 Anyone experiencing ongoing primary symptoms due to unintentional exposure to PAVA must be seen by a registered healthcare professional. Staff who are likely to be indirectly exposed must be informed of the risks and their reduction.
- 17.6 Every prisoner exposed to PAVA, including secondary exposure, must have the information leaflet (annex A & B) explained to them and be given a copy at an appropriate later point.
- 17.7 Where a registered healthcare professional is not available, such as establishments without 24-hour healthcare, a member of staff trained in PAVA and its aftercare must fulfil this obligation and must complete an observation sheet (annex C).
- 17.8 All staff have a duty of care to the prisoner under restraint and are trained to recognise the warning signs associated with medical distress. In the event a prisoner shows signs of medical distress following the use of PAVA, a registered healthcare professional in attendance at the incident or a first aider will provide support. If there is no first aider at the scene staff will need to follow the process for a medical emergency as taught in training.
- 17.9 Although exposure to PAVA to the eyes is required for full irritant effect, contact with other areas, including clothing, may result in lesser symptoms such as minor irritation to the airways and eyes. If clothing is contaminated by PAVA, the prisoner or member of staff must be given the opportunity to change. Staff uniform may be taken and laundered at home as usual without any further adverse reaction. A soluble washing bag can be obtained for prisoner clothing that reduces the risk of secondary exposure for those washing the clothes.
- 17.10 Staff must be given time to allow the effects of any unintended exposure to wear off before resuming normal duties and should seek advice from a registered healthcare professional or first aider if symptoms persist. The Governor should ensure that that staff are suitably supported whilst in recovery.
- 17.11 Structural contamination i.e., walls, floors and doors must be washed with water, and soft furnishing vacuumed once dry. Before and during the cleaning process the area must be well ventilated, PPE should be worn to include overshoes, disposable gloves, and goggles to avoid cross contamination and inadvertent exposure. Where ventilation may not be sufficient the use of an appropriate disposable mask should be considered.

## **18 Role of Healthcare**

- 18.3 Governors must ensure that healthcare professionals working in the prison are fully briefed on what is expected of them locally. Governors must agree local arrangements to ensure aftercare for prisoners and staff who have been subject to the effects of PAVA.

- 18.4 Where a registered healthcare professional is on site then they must attend whenever there is a UoF incident as a priority. The incident manager or supervisor must ensure that a registered healthcare professional is present and briefed on what force has been used and that they understand they are expected to take an active role in ensuring the medical wellbeing and safety of prisoners whilst they are under restraint.
- 18.5 A registered healthcare professional attending a UoF incident must monitor the prisoner (and members of the team where appropriate). They must provide clinical advice to the supervisor and/or team in the event of a medical emergency. Any clinical advice offered must be adhered to by the supervisor and/or team.
- 18.6 In the event of a medical emergency, all force must cease, and the recovery position and first aid administered. A registered healthcare professional must be requested immediately.
- 18.7 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.

## **19 Post Incident Debrief with Officers following Use of Force**

- 19.1 Following all UoF, an operational debrief should be completed immediately after the incident to identify if there are any injuries to staff, that their immediate wellbeing is considered and that any support from the care team or other staff support is required. Staff should be given time to allow the effects of adrenaline to reduce before resuming normal duties.
- 19.2 Operational staff involved in the force must be debriefed, other staff present when force was used should be given the opportunity to attend the debrief. Staff attending the debrief must note attendance in their staff statements. The person leading the debrief must follow up any concerns they have about the incident, techniques and methods used by any staff involved.

Further information on post incident care for staff can be found in the Post Incident Care Framework.

## **20 Use of Force Reports**

- 20.1 UoF reports are hosted in the Digital Prison Service. User guides are available from [UoFQueries@justice.gov.uk](mailto:UoFQueries@justice.gov.uk).
- 20.2 The person reporting UoF must register the incident on DPS within 24 hours as this will then notify the staff involved to complete a UoF report.
- 20.3 UoF statements must be completed within 72 hours of any force being used, except in exceptional circumstances such as injury to the staff member. Staff should complete any outstanding reports prior to commencing any period away from the establishment such as annual leave, detached duty, or training.
- 20.4 Incidents where PAVA is drawn and not deployed, must be reported using the official UoF report.
- 20.5 If medication is issued under restraint, then this must be recorded in the UoF report.
- 20.6 UoF reports must be a freely recalled statement of the incident, and staff must not view CCTV or BWVC footage before writing their statement. Staff can confirm some details with others, such as time of incident and who was involved, but must not collude with others when writing their statement.

20.7 Managers and coordinators must monitor staff who have outstanding statements. In the first instance, support should be offered to see if there are any underlying reasons for non-completion. If a member of staff repeatedly fails to complete statements, then line managers may take action through performance management or formal discipline procedures.

## **21 Lost or unauthorised removal of use of force equipment from the establishment**

21.1 Where RBH, batons or a fish knife are taken outside the establishment without authorisation, it must be reported on IRS as a tool/implement loss, and to the PGD.

21.2 The loss of RBH or fish knife must be immediately reported on the NIMU incident line, on IRS as a tool/implement loss, and to the PGD.

21.3 Where PAVA is taken outside the establishment it must be reported on the NIMU incident line, on IRS as a miscellaneous incident, to the PGD, to the SMT member with responsibility, on CPIR on Mercury.

21.4 Where PAVA or a baton is lost or compromised, it must be immediately reported on the NIMU incident line, on IRS as a miscellaneous incident, to the PGD, to the SMT member with responsibility and to the local police if loss is not within the prison.

## **22 Governance and Assurance**

22.1 All establishments must ensure that the UoF monthly monitoring report is completed and uploaded to the performance hub.

22.2 The Governor must set clear expectations and ensure that any UoF is lawful and complies with this policy. The Governor must appoint a member of the SMT to oversee UoF governance and assurance processes.

22.3 The SMT member must ensure the PAVA Issue Log (see PAVA annex D) is maintained as a full auditable record of the allocation, weight and return of every canister to staff.

22.4 In the event a canister is used on an individual, the evidence retention form (see annex F) must be completed noting the evidence bag number prior to the cannister being disposed of. The evidence retention form should be connected to the individuals core record for a period of 6 years from release or termination. Retention of records beyond the prescribed or established retention period must be justified and documented by an Information Asset Owner, where possible on the file or record itself. See PSI 04/2018 Records, Information Management and Retention policy for further information.

22.5 Governors must appoint a UoF co-ordinator, providing them with sufficient time to undertake these duties. Governors must establish a diverse and empowered UoF Committee which must meet on at least a monthly basis to oversee UoF, with minutes being taken and retained for a period of two years. Membership must include representation from all areas of the prison, including Diversity and Inclusion and Safer Custody. Committees must include at least one member whose primary focus is directed at prisoners' interests. It is essential that the committee has a racially diverse membership, and it is best practice to have independent, external members. The committee must perform a scrutiny function and must review incidents by looking at BWVC footage, CCTV, and UoF statements with the aim of identifying good practice, training needs, and where there is need for further investigation. Committees must review all uses of PAVA, batons,

and injuries to prisoners. A quarterly meeting must take place at least quarterly to scrutinise equality data and action taken where disproportionality is identified.

- 22.6 For further information on establishing the committee and the role and responsibilities of the co-ordinator, please refer to UoF guidance and the good governance toolkit.
- 22.7 On occasion, whether through routine review or a complaint, there will be a need to apply further scrutiny to the circumstances leading up to and surrounding a UoF. If this is the case, an investigation may be commissioned. See PSI 06/2010 for further information on Conduct and Discipline. Where an investigation is commissioned, the civil test of reasonableness will be used to establish whether practice was within expected boundaries. There are two limbs to the test:
- i. The member of staff had an honestly and objectively reasonably held belief that the UoF was necessary in the circumstances: and
  - ii. The member of staff used reasonable force in the circumstances.
- 22.8 Investigators must report whether the perception of the situation was objectively reasonable. They should question whether another member of staff in that situation would have come to the same decision in the moment and what action they may have taken. This is not the same as asking what a member of staff would have done knowing all the facts discovered after the event.

### **23 Training in the Use of Force**

- 23.1 All new band 3 Prison Officers will be trained in the UoF curriculum during initial training. The curriculum content and length will be agreed between Learning and Development and ORRU. This initial basic training must cover the legal provisions for the UoF and HMPPS UoF Policy and approved techniques.
- 23.2 At the end of the initial training course, staff will be assessed against competence criteria and will be issued with a logbook certifying competence. This must be updated each time an officer receives any refresher training to certify their ongoing competence.
- 23.3 All front-line staff in bands 3-5 must attend UoF training annually. This comprises of 8 hours practical skills and the completion of mandatory e-learning modules. Staff returning from an extended period of sick leave, maternity leave or a career break who have not completed training in the previous 12 months must complete refresher training as soon as possible on return, and at the very least within 3 months of resuming duty.
- 23.4 Training for PECS staff will be agreed between the Head of ORRU, the Head of Prisoner Escort and Custody Services and the provider.
- 23.5 Where staff have not completed refresher training within 12 months Governors must ensure that this is provided as a priority. In the interim, these staff must not take part in any planned UoF or be deployed under operation tornado. Staff without up-to-date certification may assist in spontaneous incidents where there is an immediate threat to life, limb or to establishment security, but where possible they should be replaced with staff holding up-to-date certification. Untrained and/or uncertified staff must not be involved in any planned control or restraint interventions.
- 23.6 Personal safety training (PST) will take place for new prison officers during their initial training. Annual refreshers in UoF must cover elements of both C&R and PST with the structure and hours allocated to each element being determined locally. The opportunity to undertake the training must be made available to non-prison officers who are in prisoner facing roles (uniformed or civilian). For this cohort, the number and frequency of training will be determined locally by the Governor but must satisfy the demand. Should members of

this cohort request refresher training, the Governor must risk assess the need considering the Health and Safety at Work Act 1974, and Regulation 13 of The Management of Health and Safety at Work Regulations 1999.

- 23.7 Undertaking annual refreshers in use of force is recommended for operational bands 7-11 as they will be expected to initiate and carry out investigations into use of force as well as ensuring the successful running of the establishment in emergencies where there is an expectation to carry out band 3-5 roles where there is staff refusal to work. Carrying and using RBH, batons and PAVA will only be permitted for operational bands 7-11 where they have successfully completed the annual refresher in use of force and where there is an operational emergency such as industrial action.

## **24 Teams with a specific function**

- 24.1 To be 'accredited' to carry out Tornado duties, staff must ensure that they have:
- i. Undergone an initial training course / refresher course in advanced C&R in the last 12 months, and
  - ii. Passed the advanced level fitness test in the last 12 months, and
  - iii. Undergone a basic C&R refresher course in the last 12 months.
- 24.2 Governors must ensure that they have enough staff trained to meet their establishment's Tornado commitment.
- 24.3 The deployment of Tornado teams is governed by the Incident Management Framework and must be authorised by HMPPS Gold command.
- 24.4 In addition to C&R, ORRU Ops are authorised to use enhanced techniques which are subject to internal governance arrangements.
- 24.5 Staff must only use the techniques from the LRT training manual when deployed as an LRT under the command of a silver or gold commander. When conducting normal duties, they must use techniques from the UoF manual.
- 24.6 The Repatriations Team at HMP Wandsworth, when transferring prisoners either into or out of the HMPPS estate, may use the Home Office Manual for Escorting Safely if assessed by escorting staff as necessary to maintain the safety and security of the escort. Training and accreditation of these staff will be agreed between the Head of Repatriations and Head of ORRU.