

John Port Spencer Academy



PHYSICAL RESTRAINT POLICY

Safeguarding Team

Please see the safeguarding page on our website for the latest information about our Safeguarding Staff Team

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INTRODUCTION AND AIMS

This policy has been developed in accordance with principles set out in the Department for Education's Non-Statutory Guidance (17 July 2013), The Education and Inspections Act 2006 and The Violent Crime Reduction Act 2006.

For reasons of safeguarding the governing body advise strongly against any form of physical contact from a member of staff towards a student other than in exceptional circumstances. Physical contact or restraint should never be used as a disciplinary tool or sanction.

The aim of this policy is to:

- explain the rights of staff to use physical restraint when necessary;
- explain the circumstances in which physical restraint may be justified;
- set out the recording and reporting system; and
- explain the various responsibilities.

The Education and Inspections Act 2006 confirmed the right of staff (those fully employed by the academy) to use 'such force as is reasonable' for the purpose of preventing a student from:

- committing an offence;
- causing personal injury to, or damage to the property of, any person (including themselves); and
- prejudicing the maintenance of good order and discipline.

The explanatory notes to the Act give an example of 'reasonable force' - leading a student by the arm to enforce an instruction to leave the class. However, nothing in the law concerning the use of reasonable force legitimises corporal punishment.

Where a school or academy has students with known severe behavioural difficulties, only trained staff are allowed to use restraint techniques. The member of staff must be trained in the technique that is to be used. No staff can physically restrain students exhibiting extremes of behaviour unless so trained.

CIRCUMSTANCES WHERE PHYSICAL RESTRAINT MAY BE JUSTIFIED

Physical restraint should only be used as a last resort; other non-physical strategies for diffusing the situation must be tried first. Whenever possible, the age, level of understanding and gender of the student should be considered. In addition, staff should be mindful of any student who is on the Child Protection Register.

If there is a need to restrain a student with known behavioural difficulties, only staff trained in appropriate restraint techniques should attempt to restrain such students. The Governors recognise that in some instances (such as stopping a student who is running down a corridor) staff may have to act quickly, and without having the time to consider all the circumstances.

Examples of behaviour likely to lead to restraint include, but are not limited to:

- physical attack by a student on an adult/other student;
- deliberate damage to school or academy property;
- a student behaving in a way which places others at risk, e.g. pushing,
- tripping on a staircase, rough play or running in a corridor;
- preventing a student running into a busy road;
- refusal by a disruptive student to leave the classroom.

Restraint is **not** a punishment and must not be used as such.

- **Assistance** should be sought whenever possible.
- the student(s) should be told that this has been done.
- any other students who are at risk should be removed.
- the use of restraint in a one-to-one situation should be avoided, witnesses are important.

Restraint should not lead to injury: staff **should not**:

- hold a student around the neck or collar, or in a way that might restrict breathing;
- slap, punch or kick;

- twist or force limbs against a joint;
- trip;
- hold or pull by the hair or ear; or
- hold a student face down on the ground.

PHYSICAL CONTACT WITH VULNERABLE STUDENTS

Normally all staff should avoid physical contact with students. It is accepted that some more vulnerable students, and particularly those with Special Educational (and emotional) Needs may require more physical contact than other students in order to assist with their everyday learning. It is crucial that any physical contact from a member of staff is appropriate to their professional role and in accordance with the academy policies on which restraint techniques may be used and by whom.

Except in an emergency, only trained staff should use restraint techniques on vulnerable students with behavioural difficulties, and the techniques which may be used are only the ones that the member of staff is trained to use. Specific arrangements should be:

- understood and agreed by all concerned;
- justified in terms of the student's needs;
- consistently applied;
- open to scrutiny; and
- reviewed regularly.

When physical contact is made with students this should be in response to their needs at the time, of limited duration and appropriate given their age, stage of development, gender, ethnicity and background. If a member of staff believes that an action could be misinterpreted, the incident and circumstances should be recorded as soon as possible on the academy Incident Logs and, if appropriate, a copy placed on the student's file.

PHYSICAL CONTACT WITH OTHER STUDENTS

DfE guidance states 'It is not illegal to touch a student. There are occasions when physical contact, other than reasonable force, with a student is proper and necessary'. Examples given of where touching a student might be proper or necessary include, but are not limited to:

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

RIGHT TO SEARCH STUDENTS

The Violent Crime Reduction Act 2006 gives the Principal, and any member of the academy staff authorised by the Principal, who has reasonable grounds for believing that a student may have with him/her or in his/her possession a knife or offensive weapon, the right to search that student. See the APPENDIX for the John Port Spencer Academy Search and Confiscation Procedure.

STAFF CODE OF CONDUCT

Staff at this academy are expected to:

- be aware that even well-intentioned physical contact may be misconstrued by the student, an observer or by anyone to whom this action is described;
- always be prepared to explain actions and accept that all physical contact will be open to scrutiny;
- be aware of the Government guidance in respect of physical contact with students and meeting medical needs of students; and ensure that all incidents are reported and logged in the academy Incident Log.

Staff may legitimately intervene by using physical restraint to maintain good order and discipline and prevent a student from:

- committing a criminal offence;
- injuring themselves or others;
- causing damage to property;
- engaging in behaviour prejudicial to good order

Staff should have regard to the health and safety of themselves and others. In all cases where physical intervention is deemed necessary, the incident and subsequent actions should be documented and reported. Under no circumstances should physical force be used as a form of punishment. The use of unwarranted physical force is likely to lead to a disciplinary process. It may also constitute a criminal offence.

Staff at this academy must:

- adhere to the academy Physical Restraint Policy;
- always seek to defuse situations; and
- always use minimum force for the shortest period necessary.

The Principal will ensure that appropriate training is provided for key staff annually and for all staff at least every two years. The Principal will ensure that a recording and reporting system is in place and is maintained; ensure that a senior member of staff is in charge of the Incident Log and reports regularly to the Senior Leadership Team; and report incidents and the outcome to the Governing Body.

INFORMING PARENTS WHEN FORCE HAS BEEN USED ON THEIR CHILD

The DfE advise that it is good practice for schools and academies to speak to parents about serious incidents involving the use of force and to consider how best to record such serious incidents. It is up to schools and academies to decide whether it is appropriate to report the use of force to parents.

In deciding what is a serious incident, teachers should use their professional judgement and consider the:

- student's behaviour and level of risk presented at the time of the incident;
- degree of force used;
- effect on the student or member of staff; and
- the student's age.

COMPLAINTS

All complaints about the use of force should be thoroughly, speedily and appropriately investigated in line with the Spencer Academies Trust complaints procedure.

- Where a member of staff has acted within the law – that is, they have used reasonable force in order to prevent injury, damage to property or *disorder* – *this will provide a defence to any criminal prosecution or other civil or public law action.*
- When a complaint is made the onus is on the person making the complaint to prove that his/her allegations are true – it is not for the member of staff to show that he/she has acted reasonably.
- Suspension need not be an automatic response when a member of staff has been accused of using excessive force. Schools and academies should refer to the DfE 'Dealing with Allegations of Abuse against Teachers and Other Staff' guidance) where an allegation of using excessive force is made against a teacher. This guidance makes clear that a person must not be suspended automatically, or without careful thought.
- The Principal will consider carefully whether the circumstances of the case warrant a person being suspended until the allegation is resolved or whether alternative arrangements are more appropriate.
- If a decision is taken to suspend a teacher, the school or academy should ensure that the teacher has access to a named contact who can provide support.
- The governing body will always consider whether a teacher has acted within the law when reaching a decision on whether or not to take disciplinary action against the teacher.
- The academy has a duty of care towards colleagues and will provide appropriate pastoral care to any member of staff who is subject to a formal allegation following a use of force incident.

APPENDIX

Search and Confiscation Procedure

In this procedure, the term “member of academy staff” means any teacher who works at the academy, and any other person who with the authority of the Principal has lawful control or charge of students for whom education is being provided at the academy.

Why conduct a search and what can be searched for?

The Principal and any member of staff authorised by the Principal may conduct a search where it is suspected that a student is in the possession of the following (or similar - this list is not exhaustive):

- Knives or weapons, alcohol, illegal drugs and stolen items; and/or
- Tobacco and cigarette papers, vape, fireworks and pornographic images; and/or
- Any article that the member of staff reasonably suspects has been, or is likely to be, used to commit an offence, or to cause personal injury to, or damage to property; and/or
- Any item banned by the academy rules that has been identified in the rules as an item which may be searched for
- Academy staff can view CCTV footage in order to decide as to whether to conduct a search for an item. In doing so academy staff must ensure they act in accordance with current Data Protection legislation.

Who Can Search?

- Under normal circumstances and especially in the case of a search without the student’s consent the search should be conducted by the Principal or staff authorised by the Principal so to do.
- The DfE guidance states that any member of staff can search a student who has given their consent. Good practice at John Port Spencer Academy is that the Principal or Designated Safeguarding Lead should be consulted prior to such a search taking place unless there is an urgent and immediate need for that search.
- The member of staff must be the same gender as the student being searched; and there must be a witness (also a staff member) and, if possible, they should be the same gender as the student being searched.
- There is a limited exception to this rule. The member of staff can carry out a search of a student of the opposite gender and without a witness present, but only where it is reasonably believed that there is a risk that serious harm will be caused to a person if the search is not conducted immediately and where it is not reasonably practicable to summon another member of staff.

Where a search can be conducted

Searches without consent can only be carried out on the academy premises or, if elsewhere, where the member of staff has lawful control or charge of the student, for example on academy trips or in training settings. Searches should be carried out in a private and discreet place e.g. a senior leader’s office to afford privacy and confidentiality to the student as well as to the process.

What are the limits of a search?

The person conducting the search may not require the student to remove any clothing other than outer clothing. Outer clothing means clothing that is not worn next to the skin or immediately over a garment that is being worn as underwear. Outer clothing includes (but is not limited to) blazers; hats; shoes; boots; gloves and scarves.

‘Possessions’ means any goods over which the student has or appears to have control – this includes desks, lockers and bags. A student’s possessions can only be searched in the presence of the student and another member of staff, except where there is a risk that serious harm will be caused to a person if the search is not conducted immediately and where it is not reasonably practicable to summon another member of staff. **Also note:** *The power to search 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.*

Lockers and Desks

Under common law powers, school and academies are able to search lockers and desks for any item provided the student agrees to this. Schools and academies can also make it a condition of having a locker or desk that the student consents to have these searched for any item whether or not the student is present. If a student does not consent to a search (or withdraws consent having signed a consent form) then it is possible to conduct a search without consent but only for the “prohibited items” listed above.

Searching a student with their consent

There is no DfE recommendation that two persons of the same gender should be present where a student readily agrees to a search or a request to demonstrate that she/he is not in possession of something that should not be in the academy. However, academy recommendations are that there should be two persons of the same gender unless the exceptional circumstances referred to previously apply. All of the restrictions regarding the limits and extent of a search still apply.

Searching a student without their consent

Where possible students should be encouraged to co-operate with a request to search by an invitation to show that she/he is not in possession of something that they should not have. The Principal or member of staff authorised by the Principal can search a student without consent where there are reasonable grounds for suspecting that a student is in possession of a prohibited item.

The Use of Force

See the academy policy on Physical Restraint. The governors advise against the use of anything other than the use of minimum force and only in exceptional circumstances. The DfE advise that members of staff can use such force as is reasonable given the circumstances when conducting a search for knives or weapons, alcohol, illegal drugs, stolen items, tobacco and cigarette papers, fireworks, pornographic images or articles that have been or could be used to commit an offence or cause harm. Such force cannot be used to search for items not described above that are banned under the academy rules.

Confiscation

- Academy staff can seize any prohibited item found because of a search. They can also seize any item, however found, which they consider harmful or detrimental to academy discipline.
- The school's general power to discipline, as set out in Section 91 of the Education and Inspections Act 2006, enables a member of staff to confiscate, retain or dispose of a student's property as a disciplinary penalty, where reasonable to do so.
- The member of staff may use their discretion to confiscate, retain and/or destroy any item found as a result of a 'with consent' search so long as it is reasonable in the circumstances. Where any article is thought to be a weapon, it must be passed to the police.
- Staff have a defence to any complaint or other action brought against them. The law protects members of staff from liability in any proceedings brought against them for any loss of, or damage to, any item they have confiscated, provided they acted lawfully.

Police Requests to Search

- The academy always meets its legal obligations to co-operate with the police with any criminal investigation. Should the police request that they search a student or students in the academy this request, on official police headed notepaper or from the official police "PNN" email address and preferably from an officer of the rank of Inspector or above, must be forwarded to the Principal for consideration.
- Before agreeing to such a request, the Principal will base the decision on the necessity of the search taking place in the academy rather than away from the academy. The Principal will discuss the issue with the Chair of Governors unless a legitimate request from the police limits the number of persons who should know of the search in advance.
- The academy will provide an appropriate adult (usually a member of the Senior Leadership Team or the Safeguarding Team) of the same gender as the student to be present during the search to assure that the wellbeing of that student is maintained.

Telling parents and dealing with complaints

Schools and academies are not required to inform parents before a search takes place or to seek their consent to search their child. Although it is not a requirement to inform parents, the academy regards it as a common courtesy to make parents aware that a search has taken place.

There is no legal requirement to make or keep a record of a search however, the academy recommends that such a record should be kept in a student's file and logged by the Safeguarding Team. Schools and Academies should inform the individual student's parents or guardians where alcohol, illegal drugs or potentially harmful substances are found, though there is no legal requirement to do so. Complaints about screening or searching should be dealt with through the normal academy complaints procedure.