

# **NORTH BIRMINGHAM ACADEMY**

## **PHYSICAL RESTRAINT AND REASONABLE FORCE POLICY**

### **Introduction**

The Education Act of 1996 (the Act) clarifies the powers of teachers and other staff in school to use reasonable force to prevent students committing a crime, causing injury or damage or causing disruption. Common law powers have been strengthened by the Act. The Act came into force with effect from September 1st 1998.

Corporal punishment is not authorised under any circumstances by this Act and continues to be illegal in Maintained Schools. This also applies to Academies. All schools are expected to devise a policy which can be understood by staff, parents, governors and students.

### **Authorised Staff**

The Act allows all teachers at this Academy to use reasonable force to control or restrain students in certain circumstances. Other staff can be authorised to exercise this control and restraint and at the Academy at the following staff have been authorised:-

1. The Inclusion Team
2. Caretaking and Premises Staff
3. Technician and all other Support Staff.
4. LSAs and mentors

### **The Extent of the Responsibility of those Authorised**

Section 550A of the Act allows teachers and those authorised to have control or charge of students to use such force as is reasonable in the circumstances to prevent a student from doing, or continue to do, any of the following:

- Committing a criminal offence (including behaving in a way that would be an offence if the student were not under the age of criminal responsibility.)
- Injuring themselves and others
- Causing damage to property (including the student's own property)
- Engaging in any behaviour prejudicial to maintaining good order and discipline at the Academy or among any of its students, whether in the classroom or elsewhere.

This provision applies whether the student is at school or on an organised activity -- e.g. field trip or visit. The section also covers all situations in which it might be reasonable to a degree of force. For example, everyone has the right to defend themselves against attack provided they do not use a disproportionate degree of force to do so. Similarly, in an emergency, for example if a student was at immediate risk of injury or on the point of inflicting injury on someone else, any member of staff would be entitled to intervene.

## **Types of Incident**

There are a wide variety of situations where force might be appropriate, or necessary, to control or restrain a student.

- Where action is necessary in self defence.
- Where there is a developing risk of injury, or significant damage to property.
- Where a student is behaving in a way that is seriously compromising good order and discipline and all other available approaches have been attempted.

Examples of situations in the first two of the above categories include:

- A student attacks a member of staff, or another student.
- Students are fighting.
- A student is engaged in, or is on the verge of committing, deliberate damage or vandalism to property.
- A student is causing, or at risk of causing, injury or damage by accident, by rough play, or by misuse of dangerous materials or objects.
- A student is running in a corridor or on a stairway in a way in which he or she might have or cause an accident likely to injure him or herself or others.
- A student absconds from a class or tries to leave school (NB. This will only apply if a student could be at risk if not kept in the classroom or within the Academy)

Examples of situations that fall into the third category are:

- A student persistently refuses to obey an order to leave a classroom. Assistance should be sought in such circumstances
- A student is behaving in a way that is seriously disrupting a lesson and threatening her safety of others.

## **Reasonable Force**

There is no legal definition of "reasonable force". It will always depend on all the circumstances of the case. There are two relevant considerations:

- The use of force can be regarded as reasonable only if the circumstances of the particular Incident warrant it. The use of any degree of force is unlawful if the particular circumstances do not warrant the use of physical force. Therefore physical force could not be justified to prevent a student from committing a trivial misdemeanour, or in a situation that clearly could be resolved without force.
- The degree of force employed must be in proportion to the circumstances of the Incident and the seriousness of the behaviour or the consequences it is intended to prevent. Any force used should always be the minimum needed to achieve the desired result.

Whether it is reasonable to use force, and the degree of force that could reasonably be employed, might also depend on the age, understanding and sex of the student. Before intervening physically a teacher should, wherever practicable, tell the student who is misbehaving to stop, and what will happen if he or she does not. The teacher should

continue attempting to communicate with the student throughout the incident, and should make it clear that physical contact or restraint will stop as soon as it ceases to be necessary. A calm and measured approach to a situation is needed and teachers should never give the impression that they have lost their temper, or are acting out of anger or frustration, or to punish the student.

Sometimes a teacher should not intervene in an incident without help (unless it is an emergency). For example, when dealing with an older student or a physically large student, or more than one student, or if the teacher believes he or she may be at risk of injury. In those circumstances the teacher should remove other students who might be at risk, and summon assistance from a colleague or colleagues. The teacher should inform the student(s) that he or she has sent for help. Until assistance arrives the teacher should continue to attempt to defuse the situation orally, and try to prevent the incident from escalating. In the event if it being deemed necessary for police involvement it must be a member of SLT who takes such responsibility.

### **Application of Force**

Physical intervention can take several forms. It might involve staff:

- Physically interposing between students
- Blocking a student's path
- Holding
- Pushing
- Leading a student by the hand or arm
- Shepherding a student away by placing a hand in the centre of the back or, (in extreme circumstances) using more restrictive holds

In exceptional circumstances, where there is an immediate risk of injury, a member of staff may need to take any necessary action that is consistent with the concept of "reasonable force"; for example to prevent a young student running off a pavement onto a busy road, or to prevent a student hitting someone, or throwing something. Staff should always avoid touching or holding a student in a way that might be considered inappropriate.

Where the risk is not so urgent the teacher should consider carefully whether, and if so when, physical intervention is right. Teachers should always try to deal with a situation through other strategies before using force. All teachers need developed strategies and techniques for dealing with difficult students and situations which they should use to defuse and calm a situation. In a non-urgent situation force should only be used when other methods have failed. That consideration is particularly appropriate in situations where the aim is to maintain good order and discipline, and there is no direct risk to people or property. As the key issue is establishing good order, any action which could exacerbate the situation needs to be avoided. The possible consequences of intervening physically, including the risk of increasing the disruption or actually provoking an attack, need to be carefully evaluated. The age and level of understanding of the student is also very relevant in those circumstances. Physical intervention to enforce compliance with staff instructions is likely to be increasingly inappropriate with older students. It should never be used as a substitute for good behavioural management in accordance with the Academy Behaviour Policy.

## **Recording Incidents**

It is important that there is a detailed, contemporaneous, written report of any occasion (except minor or trivial incidents) where force is used. It may help prevent any misunderstanding or misrepresentation of the incident, and it will be helpful should there be a complaint. Immediately following any such incident, the member of staff concerned should tell the Principal or one of the Vice Principals and provide a written report as soon as possible afterwards.

That report should include:

- The name(s) of the student(s) involved, and when and where the incident took place.
- The names of any other staff or students who witnessed the incident.
- The reason that force was necessary (e.g. to prevent injury to the student, another student or member of staff).
- How the incident began and progressed, including details of the student's behaviour, what was said by each of the parties, the steps taken to defuse or calm the situation, the degree of force used, how that was applied, and for how long.
- The student's response, and the outcome of the incident.
- Details of any injury suffered by the student, another student, or a member of staff and of any damage to property.

Staff may find it helpful to seek advice from a senior colleague or a representative of their professional association when compiling a report. They should also keep a copy of the report. Incidents involving the use of force can cause the parents of the student involved great concern. It is Academy policy to inform parents of an incident involving their child, and give them an opportunity to discuss it. The Principal or Vice Principal will need to consider whether that should be done straight away or at the end of the school day, and whether parents should be told orally or in writing.

## **Complaints**

Involving parents when an incident occurs with their child should help to avoid complaints from parents. It may not prevent all complaints, however, and a dispute about the use of force by a member of staff could lead to an investigation, either under disciplinary procedures or by the Police and Social Services department under Child Protection procedures.

The possibility that a complaint might result in a disciplinary hearing, or a criminal prosecution, or in a civil action brought by a student or parent, cannot be ruled out. In those circumstances it would be for the disciplinary panel or the court to decide whether the use and degree of force was reasonable in all the circumstances. In that event, however, the panel, or court, would have regard to the provisions of Section 550A of the Act or its successor legislation. It would also be likely to take account of the Academy's policy on restraint, whether that had been followed, and the need to prevent injury, damage, or disruption, in considering all the circumstances of the case.

## **Physical Contact With Students in Other Circumstances**

There are occasions when physical contact with a student may be proper or necessary other than those covered by Section 550A of the Act. Some physical contact may be necessary to demonstrate exercises or techniques during PE lessons, sports coaching, or Technology, or if a member of staff has to give first aid. Young children and children with special educational needs may need staff to provide physical prompts or help. Touching may also be appropriate where a student, particularly a younger child, is in distress and needs comforting. Staff will use their own professional judgement when they feel a student needs this kind of support.

There may be some children for whom touching is particularly unwelcome. For example, some students may be particularly sensitive to physical contact because of their cultural background, or because they have been abused. It is important that all staff receive information on these children. Staff will receive information about these children, usually from the Child Protection Officer or Special Needs team. Physical contact with students becomes increasingly open to question as students reach and go through adolescence, and staff should also bear in mind that even innocent and well intentioned physical contact can sometimes be misconstrued.

## **Physical Contact with Parents or other visitors to the Academy Site or its environs.**

In the event of sustained unreasonable behaviour, threats of physical violence or aggressive verbal abuse towards staff or students, an adult visitor may be required to be removed from the Academy site or from the immediate locality. Relationships between the Academy and the police are united in shared values of crime prevention, crime detection and crime reduction. Continued co-operation between the police and Academy staff is vital in circumstances where an adult may need to be removed from the site. In all but the most extreme and immediate circumstances it is the role of the police to remove such individuals. The police should also be called by a member of SLT in any circumstances where such removal is deemed likely and prior to such removal. As such, the actual physical removal of an adult visitor to the site by an Academy employee should be a very last resort, when faced with an immediate threat to the safety of academy personnel or property. However, where that is the case, the relevant Sections of this policy apply.

This section of the policy is to be viewed in conjunction with the following legal and operational framework. The 1996 Education Act specifically informs that *"A parent or guardian should not expect to be entitled to enter the school at any time" and that, "Parents should be aware that they may be trespassers if they enter the school uninvited, or, if invited behave in such a way that their behaviour is not conducive to the proper function of the school"*

Case law illustrates that the courts take a broad view of such behaviours. Section 547 of the Act states that *"Any person present without lawful authority on school premises, and who causes or permits nuisance or disturbance to the users of such premises, commits an offence. "*

Case law states that this is viewed as a criminal not a civil offence and public order offences may be relevant in such circumstances.

**Approved by NBA Governors on: .....**

**Date of Next Review:.....**

**Lead Manager: .....**