



Restraint & Complaints Procedures Policy

[LA]

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POLICY NUMBER

SILVP0061 161115

Restraint & Complaints Procedures Policy

This policy should be read in conjunction with our Behavioural Management Policy (SILVP0010).

The use of force in Silverdale School is very rare and exceptional. However the following points should be noted.

All of our students have a Risk Assessment. All staff have copies of these.

- Reasonable force can be used in the following circumstances:
- where a criminal offence is being committed
- where pupils may injure themselves or others
- where the behaviour is prejudicial to maintaining good order and discipline at the school or among the pupils;
- When the action occurs on the school premises or during an authorised activity off the premises
- In self defence, where risk of injury is imminent

The Headteacher authorises all teachers who are Team-teach trained in School to use reasonable force to restrain pupils.

Others authorised by the Headteacher include classroom assistants and Technicians who have received Team-teach training.

Authorisation is given to other adults who would come into day-to-day contact with pupils and where the reasonable forces used to control or restrain a pupil meets the circumstances outlined above.

There is no legal definition of reasonable force, but three criteria are established:

If the circumstances of the particular incident warrant it, the degree of force must be in proportion to the circumstances; the age, understanding and sex of the pupil.

Minimum force should only be used and never as a punishment.

Physical intervention can take a number of forms, for example:

- physical interposing between pupils
- standing in the way of a pupil
- holding, pushing or pulling
- leading a pupil away from an incident by the hand or by gentle pressure on the centre of the back

In extreme cases, more restrictive holds might be used.

Force that should NOT be used includes:

- Holding round the neck or any other hold that might restrict breathing
- Kicking, slapping or punching
- Forcing limbs against joints (e.g. arm locks)
- Tripping or holding by the hair or ear
- Holding face down on the ground

All incidents when restraint is used must be recorded as soon as possible.

The following information (as a minimum) should be detailed on an incident sheet or book together with written statements of witnesses:

- Name of pupils involved
- The time of the incident
- The place where the incident occurred
- The names of staff or other authorised adults involved
- The Team Teach hold that has been used in the restraint
- Where the incident has been prolonged or where considerable force has been used the following details should also be recorded
- Names of all witnesses, pupils and adults
- Signed witness statements
- The reason for force being used
- A description of the way in which the incident developed
- The pupil's response
- Details of the outcomes of the incident including injuries and damage

A general complaints procedure is to be made available for parents. This should be used where parents believe inappropriate intervention has been used. To avoid misunderstanding this policy should be made clear to Parents by the Link Worker at the time of entry to this school.

Colleagues should be aware that this policy does not allow restraint to be used as a disciplinary action or as punishment. Each and every incident where restraint is used will have to be examined on its merits. Staff and other authorised people should be extremely cautious about using restraint and must be aware of the school policy on discipline. Everyone has the right to defend themselves against attack provided that they do not use a disproportionate degree of force to do so.

Good Practice

Recommended review and monitoring practice

Following the detailed recording of a serious incident, good practice dictates that the Headteacher, deputy Headteacher, senior teacher or Link Worker should:

- Read all account of the incident
- Interview all staff (both teaching and support) and pupils who witness the incident
- Discuss the incident with the pupil or pupils who were directly involved. (It is important that pupils be provided with the opportunity of giving their own version of events, particularly in cases of divergent opinion or fact, and they should be encouraged, if necessary helped, to prepare a written statement)
- Ensure that parents and/or guardians or other persons with parental
- Responsibility (such as social workers) have been informed of all relevant facts
- Ensure that the LEA (LEA maintained schools) and the Chair of Governing Body have had the incident drawn to their attention
- Ensure that all concerned are aware of their rights of complaint
- Review school policies and consider if they sense the best interest of all
- Parties and whether alternative policies or change to the existing policy need to be considered

Following an incident involving physical intervention or restraint by a member of staff involving a pupil, it is important to monitor effects of the incident on the pupil as well as on the member of staff.

Cases of pupils with special needs, or who provoke confrontation as a means of seeking attention, or who are testing the boundaries of a school's disciplinary, policies, may require referral to, or consultation with specialist agencies. Other persons involved may also require post trauma counselling and their reactions should be monitored as a matter of routine. Specialist help should be sought wherever possible.

Complaints Procedures

After an incident in a school, there is always the possibility of formal complaint. A number of persons might feel aggrieved by the incident, whether they are pupils, parents, teachers, other employees, or even visitors to the school and members of the public. Any of these persons can lodge a complaint and expect it to be investigated diligently and fairly. As a precursor to such a possibility, heads should be aware of the need to review and monitor the reactions of all parties involved in an incident, and to consider the effects on current school policies, and have a total awareness and understanding of all aspects of the case.

Receiving and Noting a Complaint

Members should note that new legislation will include the requirement for Governing Bodies to have a general complaints procedure.

Complaints Procedure

The general complaints procedure adopted by the governing body should always be followed – it should include the following elements:

Pupil;

A pupil wishing to complain should be treated courteously and without prejudice and be requested to write the complaint in his or her own words. In the event that the pupil has difficulty with writing, or cannot write fluently, or where English is not the first language, a member of staff not involved in the incident should record the complaints, verify and read through with the pupil, and ask the pupil to sign and date the report where possible.

Parent;

If a complaint is received from a parent or guardian which alleges some form of pupil abuse or injury, whether inflicted during the restraining of a pupil or not, the head or designated person must record the complaint in writing, if the parent has not already done so. This recorded information must include where and when the incident occurred, and include as much detail of the alleged injuries or abuse as possible. At this point, it is important that the head confirms to the complainant that a full and detailed investigation will be conducted immediately.

Staff;

If a complaint is received from a member of staff who has been verbally or physically assaulted, there is a sequence of prescribed actions that the head should undertake.

These are:

- Proffer immediately support and help to the member of staff to deal with any trauma and re-establish confidence
- Offer medical support if any physical injury has been sustained and
- recommend a visit to the doctor as soon as possible
- Report the incident to the Director of Education, in LEA school, and
- in other school to the Chair of Governors
- Compile a list of witnesses, conduct interviews and collect statements
- Provide the member of staff with a copy of the incident report and
- notes on any subsequent interviews and statement of witnesses;
- Where appropriate, inform the Police
- Advise the member of staff to contact their union or professional
- association immediately before responding to any aspect of the complaint

Conducting and Concluding an Investigation

In conducting an investigation the head, appointed investigator, will need to ensure that all appropriate evidence is considered. If, having examined all facts, the head is satisfied that the course of action taken during the incident complied with the school's policies as approved by the governing body, and the Local Authority guidelines and directives, and that in the circumstances there was no other reasonable course of action available, or no case to answer, then the following procedures will conclude the matter:

- Notify the complainant of the outcome of the investigation
- Notify the pupil's parents or guardians or responsible person or agency of the outcome of the investigation. (It is not a requirement to reveal the detail);
- Notify the local Education Authority (where appropriate) and Chair of
- Governing Body
- Record the outcome of the investigation, sign the record of the incident, ensuring a copy is placed on the appropriate file
- Subsequent to this conclusion, consideration may need to be given to the possibility of disciplinary action against the member of staff or pupil
- This will be pursued in accordance with approved school policies on discipline and behaviour

If a head concludes, after investigation, that a complaint has substance, then further action will be required. Depending on the nature of the complaint, and the person to whom it is directed, one or more of the following courses of action may become necessary.

NB Local Child Protection procedures will dictate when complaints should be referred. Heads must be familiar with such procedures and closely follow directions. Members are recommended to refer to two documents published by the Council of Local Education Authorities (CLEA) in conjunction with the six teacher unions, 1. "Teacher Facing an Allegation of Physical / Sexual Abuse – Guidelines on Practice and Procedure" (June 1994) and 2. "Headteachers Facing an Allegation of Physical / Sexual Abuse – Guidelines on Practice and Procedure" (August 1996).

In a case of complaint from a pupil, the incident may require to be further investigated under the Child Protection procedures appertaining to the school. Parents or guardians must be immediately informed in writing if this is the outcome.

In a case requiring disciplinary proceedings against a member of staff, the governing body, and the Local Authority in LEA schools (members should also seek advice from their professional association) will need to be informed and all statutory employment legislation and agreed procedures followed. Members must make themselves aware of the requirements of the Child Protection procedure and act accordingly.

In the case of a complaint by a member of staff, ensure appropriate action is taken against the pupil or member of staff if the complaint is found to have substance.

Right of Appeal

A parent or guardian will have been informed in writing of the outcome of any investigation. Further action, whether it be of a disciplinary nature or referral for further investigation under the Child Protection procedures, will have been communicated. The right for a member of staff to appeal will be through the grievance procedure. The parent or guardian's Right to Appeal must be an integral part of the complaints' procedure. In these circumstances, the parent / guardian should be given access to the following information:

- Copies of relevant approved and adopted policies and procedures of the school and the Local Authority on discipline, care and control, and
- behaviour management;
- Copies of all recorded documentation appertaining to the incident which has been investigated and determined

Legal Requirements

It is extremely important that the relationship between the pupil and adult is set on a firm professional basis which leaves no room for the misinterpretation of any act or instruction. Staff dealing with pupils and young adults should not place themselves in any situation which does not comply with school or college policy. Every school or college should have a care and control policy that is reviewed on a regular basis by the governing body. It should incorporate the following criteria:

- Child protection procedures against abuse and assault
- Discipline and restraint procedures, including any policy for positive
- reinforcement
- Staff protection procedures
- Staff induction and training

The Children Act 1989

The Children Act 1989 placed a duty of care on all Local Authorities and Governing Bodies of Grant maintained and independent schools to consider the pupil's needs as a priority in all their dealings with pupils and families (This will apply equally to the new categorise of schools established under the Standards and Framework Act 1998)

For teaching staff, the 'Duty of Care' is set out in the School Teachers ' Pay and Conditions Document: "Teachers are required to maintain good order among the pupils to safeguard their health and safety, both when they are authorised to be on school premises and when they are engaged in authorised school activities elsewhere."

In Loco Parentis

Linked to the 'Duty of Care' teachers also have a duty to act in Loco Parentis in the manner of caring and reasonable parents. This applies to all pupils in their charge at any time.

Corporal Punishment

Corporal punishment means the intentional application of force as punishment. This includes not only the use of the cane or implement, but also other forms of physical chastisement intended as punishment (such as slapping, punching, pushing, prodding, throwing missiles and any other such forms of rough handling). Section 548 of the Education Act 1996 has the effect of abolishing corporal punishment for all pupils in maintained school or publicly funded pupils in independent schools.

Types Of Incidents

There are a wide variety of situations in which reasonable force might be appropriate, or necessary, to control or restrain a pupil. They will fall into three broad categories:

- Where action is necessary in self-defence or because there is an imminent risk of injury
- Where there is a developing risk of injury, or significant damage to property
- Where a pupil is behaving in a way that is compromising good order and discipline

Examples of situations that fall within one of the first two categories are:

- A pupil attacks a member or staff, or another pupil
- Pupils are fighting
- A pupil is engaged in, or is on the verge of committing, deliberate damage or vandalism to property
- A pupil is causing, or at risk of causing, injury or damage by accident, by rough play, or by misuse of dangerous materials or objects
- A pupil 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 pupil attempts to abscond from a class or tries to leave who would be at risk out of the classroom or school

Examples of situations that fall into the third category are:

- A pupil persistently refuses to obey an order to leave a classroom
- A pupil is behaving in a way that is seriously disrupting a lesson

(Section 550A of the Education Act 1996 DCSF guidance circular 10 / 98).

References

- Education Act 1996 (Section 550A)
- DCSF Circular 1998 “Section 550A of the Education Act 1996: The Use of Force to Control or Restrain Pupils”
- Child Protection Procedures (issued locally)
- Teachers Facing and Allegation of Physical / Sexual Abuse -Guidelines on Practice and Procedure (June 1994) CLEA
- Headteachers Facing an Allegation of Physical / Sexual Abuse – Guidelines on Practice on Procedure (August 1996) CLEA
- The Children Act 1989
- School Teachers’ Pay and Conditions Document
- Health and Safety at Work, etc. Act 1974
- Framework for the Inspection of Schools
- PM003 Health and Safety NAHT September 1995
- PM004 Health and Safety – Model Policy NAHT September 1995