

CARE AND CONTROL POLICY



KING EDWARD VI ASTON SCHOOL

Educational excellence for our City

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Statement of intent

This policy has been prepared for the support of all teaching and support staff who come into contact with students and for volunteers working within the school to explain the school's arrangements for care and control. Its contents are available to parents and students. A copy of the Care and Control Policy is made available to parents and students on the School's website. This policy includes information on the use of reasonable force to control or restrain students. It also includes information on searching, screening and confiscation. The Behaviour Policy also makes reference to this policy.

The use of reasonable force

There are circumstances when it is appropriate for staff in school to use reasonable force to safeguard children and young people. The term 'reasonable force' covers the broad range of actions used by staff that involves a degree of physical contact to control or restrain children. This can range from guiding a child to safety by the arm, to more extreme circumstances such as breaking up a fight or where a young person needs to be restrained to prevent violence or injury. 'Reasonable' in these circumstances means 'using no more force than is needed'. The use of force may involve either passive physical contact, such as standing between pupils or blocking a pupil's path, or active physical contact such as leading a pupil by the arm out of the classroom. Departmental advice for schools is available here: <https://www.gov.uk/government/publications/use-of-reasonable-force-in-schools>

Our school will not have a 'no contact' policy as this could lead our staff unable to fully support and protect their pupils and students.

When using reasonable force in response to risks presented by incidents involving children including any with SEN or disabilities, or with medical conditions, staff should consider the risks carefully.

They should also consider their duties under the Equality Act 2010 in relation to making reasonable adjustments, non-discrimination and their Public Sector Equality Duty.

Our school will by planning positive and proactive behaviour support, for instance through drawing up individual behaviour plans for more vulnerable children, and agreeing them with parents and carers, will reduce the occurrence of challenging behaviour and the need to use reasonable force.

1. Aims

Good personal and professional relationships between staff and students are vital to ensure good order. It is recognised that the vast majority of students at Aston respond positively to the behaviour strategies practised by staff. This ensures the well-being and safety of all students and staff. However, it is acknowledged that in exceptional

circumstances, staff may need to take action in situations where the use of reasonable force may be required.

Every effort will be made to ensure that all staff:

- clearly understand this policy and their responsibilities in the context of their duty of care in taking appropriate measures where reasonable force is necessary.
- are provided with appropriate training to deal with these difficult situations.

However individual members of staff cannot be required to use physical restraint.

The application of any form of physical control places staff in a vulnerable situation. It can only be justified according to the circumstances described in this policy. Staff, therefore, have a responsibility to follow the policy and to seek alternative strategies wherever possible in order to prevent the need for physical intervention.

Reasonable force will only be used as a last resort when all other behaviour management strategies have failed to prevent disorder, or when students, staff or property are at risk.

2. The power to use 'Reasonable Force'

School staff have a legal power to use force and lawful use of this power will provide a defence to any related criminal prosecution or other legal action.

Suspension should not be an automatic response when a member of staff has been accused of using excessive force.

The SLT should support their staff when they use this power, provided it has been done so in accordance with this policy.

3. Definition of reasonable force

The term reasonable force covers the broad range of actions used by most teachers at some point in their career that involve a degree of physical contact with students.

Force is usually used either to control or restrain. This can range from guiding a student to safety by the arm through to more extreme circumstances such as breaking up a fight or where a student needs to be restrained to prevent violence or injury.

'Reasonable in the circumstances' means using no more force than is appropriate in the context of the situation.

Control means either passive physical contact, such as standing between students or blocking a student's path, or active physical contact such as leading a student by the arm out of a classroom.

Restraint means to hold back physically or to bring a student under control. It is typically used in more extreme circumstances, for example when two students are fighting and refuse to separate without physical intervention.

Staff should always try to avoid acting in a way that might cause injury, but in extreme cases it may not always be possible to avoid injuring the student.

Who can use reasonable force?

All members of staff have a legal power to use reasonable force.

This power applies to any member of staff at Aston. It can also apply to people whom the Headmaster has temporarily put in charge of students such as unpaid volunteers or parents accompanying students on an academy organised visit.

Only members of staff who are specifically authorised by the Headmaster and trained can use restrictive holds. The Headmaster will maintain a list of the staff who have been authorised and trained. This list will be reviewed termly.

4. Application of reasonable force

Reasonable force can be used to prevent students from hurting themselves or others, from damaging property or from causing disorder.

In a school, force is used for two main purposes – to control or to restrain students.

The decision on whether or not to physically intervene is down to the professional judgement of the staff member concerned and should always depend on the individual circumstances.

The following list is not exhaustive but provides some examples of situations where reasonable force can and cannot be used.

By law, academies can use reasonable force to:

remove disruptive students from the classroom where they have refused to follow an instruction to do so

prevent students behaving in a way that disrupts an event or a trip or visit

prevent a student from leaving the classroom where allowing the student to leave would risk their safety or lead to behaviour that disrupts the behaviour of others

prevent a student from attacking a member of staff or another student, or to stop a fight between students

restrain a student at risk of harming themselves through physical outbursts

Wherever possible, these judgements should take into account the particular characteristics of the student, including his age, understanding and any SEND or disability that he may have. This would include the outcomes of any risk assessment and

there is a legal duty to make reasonable adjustments for students with disabilities and students with special educational needs, in accordance with their individual plans.

Academies cannot use force as a punishment – it is always unlawful to use force as a punishment.

5. Power to search students without consent

In addition to the general power to use reasonable force described above, members of the SLT and authorised staff can use such force as is reasonable given the circumstances to conduct a search for the following 'prohibited items':

Knives and weapons

Alcohol

Illegal drugs

Stolen items

Tobacco, cigarette papers and associated paraphernalia

Fireworks

Pornographic images

Inappropriate images of any kind (e.g. extreme violence, pornographic)

Any article that has been or is likely to be used to commit an offence, cause personal injury or damage to property (either school's or pupil's).

Any item banned by the school rules which has been identified in the rules as an item which may be searched for.

Guidance on the power to search, screen and confiscate can be found later in this policy.

6. Using force

Before using force staff should, wherever practicable, tell the student to stop misbehaving and communicate in a calm and measured manner throughout the incident. Staff should not give the impression of acting out of anger or frustration, or to punish a student, and should make it clear that physical contact or restraint will stop as soon as it ceases to be necessary. Assistance should be called for as soon as possible in any such situation. The following strategies are recommended:

Verbal acknowledgement of unacceptable behaviour with request for the student to refrain; (this includes negotiation, care and concern)

Further verbal reprimand stating:

that this is the second request for compliance;

an explanation of why observed behaviour is unacceptable;

an explanation of what will happen if the unacceptable behaviour continues

Warning of intention to intervene physically and that this will cease when the student complies.

Physical intervention. Reasonable force uses an appropriate degree of force to prevent a child harming him or herself, others or property.

Where there is a high and immediate risk of death or serious injury, any member of staff would be justified in taking any necessary action (consistent with the principle of seeking to use the minimum force required to achieve the desired result).

Staff should make every effort to avoid acting in a way that might reasonably be expected to cause injury. However, in the most extreme circumstances it may not always be possible to avoid injuring a student.

Staff should always avoid touching or restraining a student in a way that could be interpreted as sexually inappropriate conduct.

7. Use of inappropriate restrictive holds

In more extreme circumstances, appropriate restrictive holds, which will require specific expertise or training, may be needed. However, a panel of experts (Physical Control in Care Medical Panel 2008) identified that certain restraint techniques presented an unacceptable risk when used on children and young people. The techniques in question are:

the 'seated double embrace' which involves two members of staff forcing a person into a sitting position and leaning forward, while a third monitors breathing;

the 'double basket-hold' which involves holding a person's arms across their chest; and

the 'nose distraction technique' which involves a sharp upward jab under the nose.

8. Staff training

Whilst it is acknowledged that in education settings certain members of staff by virtue of their job have a legal right to use reasonable force, staff who may be called upon to use Restrictive Physical Interventions with students should be appropriately trained. It can be dangerous to both students and staff to use Restrictive Physical Interventions without training. The training should stress that de-escalation is the preferred option. Ideally staff should be given time to develop relationships with students before they might want to use Restrictive Physical Interventions.

No member of staff will be expected to undertake the use of reasonable force without appropriate training. Prior to the provision of training, guidance will be given on action to be taken. Arrangements will be made clear as part of the induction of staff and training will be provided as part of on-going staff development.

Training will cover ways of avoiding or defusing situations in which physical intervention might become necessary as well as methods of physical intervention. Training should cover the use of release or break away techniques to cover the occasions where a student has taken him or herself to the floor. Staff should be medically fit to carry out Restrictive Physical Interventions.

9. Recording and reporting incidents

Where physical intervention has been used to manage a student, a record of the incident may need to be kept. Where physical control or restraint has been used a record of the incident will be kept. This record should be made in a school incident book, kept by the Assistant Head (Pastoral). It will include:

- name of student
- date, time and place of incident
- a brief description of the incident and actions taken

The incident book report will be completed within 24 hours of the incident and be signed by all staff involved and the Headmaster (with the exception of school trips / overseas visits that run into holidays - when a contemporaneous note will be made and it will be fully completed within 24 hours of the party returning to school / school re-opening). The Headmaster must always be informed at the earliest opportunity.

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

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

In addition, specific details of the use of reasonable force will be recorded on the Restraint Recording Form (see Appendix 1) which will include:

- the names of the staff and students involved, including those who witnessed the incident
- the date, time and duration of the intervention
- the reason for using a physical intervention, rather than using an alternative strategy
- the nature of any de-escalation used seeking to prevent the need to intervene physically
- the type of physical intervention used
- whether or not anyone was hurt, if so the action taken
- whether or not anyone was distressed, if so the action taken
- any damage to property
- whether/how parents/carers have been informed
- the views of the student

Staff may find it helpful to seek advice from senior colleague when compiling a report.

After the review of the incident, copies of Restraint Recording Form (see Appendix 1) will be placed on the student's file

A Health and Safety Accident/Incident will be completed.

Where staff have been involved in an incident involving reasonable force they should have access to counselling and support. This will be made available through the Headmaster.

We do not require parental consent to use force on a student. Parents/carers should be contacted as soon as practicable after any recordable incident. It is not always advisable as a matter of course to give parents a copy of the incident record, but parents/carers should be told when and where the incident took place, which members of staff were directly involved (anonymised where necessary), why they decided that force had to be used, what force was used, whether there were any injuries and what follow-up action (support and/or disciplinary) was being taken in relation to their child.

The Assistant Head (Pastoral) will produce an annual written report in order for the Governors to monitor incidents where force has been used.

Members of staff who have been assaulted may wish to consider reporting the assault to the police. The School should support them through this process.

10. Post-incident support

Serious incidents that require use of force can be upsetting to all concerned and may result in injuries to the student or to staff. Immediate action should be taken to provide first aid for any injuries and to access medical help for any injuries that go beyond first aid. It is also important that staff and students are given emotional support.

As soon as practicable after the incident the member of staff should be de-briefed by the Headmaster. The 'de-brief' should allow for reflection and deal with the emotions raised by the incident.

The response of the student should be sought and he or she should also be allowed to reflect on the incident.

The Headmaster will ensure that each incident is reviewed and investigated further as required. If further action is required in relation to a member of staff or a student, this will be pursued through the appropriate procedure:

Child Protection Procedures (this may involve investigations by Police and/or Social Services).

A decision may be needed whether multi-agency partners need to be involved and if so, which partners, in line with the Common Assessment Framework. This could include Child and Adolescent Mental Health Services (CAMHS) or the Youth Offending Team (if

the student has been identified by YOT as being at risk of becoming engaged in criminal or anti-social behaviour)
Staff Facing Allegations of Abuse Procedures
Staff or Student Disciplinary Procedures
School Behaviour Policy

The member of staff will be kept informed of any action taken. In the case of any action concerning a member of staff, he/she will be advised to seek advice from his/her professional association/union.

11. Complaints and allegations

The availability of a clear policy about reasonable force and early involvement of parents should reduce the likelihood of complaints but may not eliminate them.

All complaints about the use of force should be thoroughly, speedily and appropriately investigated.

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.

Suspension must not be an automatic response when a member of staff has been accused of using excessive force. The School will refer to the BSCB 'Dealing with Allegations of Abuse against Teachers and Other Staff' guidance when 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 School must 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 should ensure that the teacher has access to a named contact who can provide support.

The Chair of Governors will be informed of complaints but other governors will not be involved as a complaint may require further action on their part.

Governing bodies should 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.

As employers, academies, schools and local authorities have a duty of care towards their employees. It is important that the School provides appropriate pastoral care to any member of staff who is subject to a formal allegation following a use of force incident.

12. Other physical contact with students.

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 of where touching a student might be proper or necessary:

During the care of students with learning disabilities

To demonstrate how to use a musical instrument

To demonstrate exercises or techniques during PE lessons or sports coaching

To give first aid

13. Searching of Students.

By law, school staff have the statutory power to search and confiscate/seize any items which they reasonably suspect has been, or is likely to be, used to commit an offence or cause personal injury or damage to property, and any item banned by the school rules. This arises from the duty of care owed to students, and the fact that teachers are 'in loco parentis'. This does not require consent – but this should be sought, if possible.

Legal points of note regarding searching students:

Searching must only be done by an authorised member of staff (at Aston this is members of the SLT and Pastoral Staff)

The staff member must be of the same sex as the student.

There must be another member of staff present as a witness – of the same sex, if possible. There is a limited exception to this rule, an authorised member of staff of either sex can carry out a search with or without another member of staff as a witness if:

- The authorised member of staff carrying out the search reasonably believes there is risk that serious harm will be caused to a person if the search is not carried out as a matter of urgency; **and**
- In the time available, it is not reasonably practicable for the search to be carried out by a member of staff who is the same sex as the student; **or**
- It is not reasonably practicable for the search to be carried out in the presence of another member of staff

When an authorised member of staff conducts a search without a witness, they should immediately report this to another member of staff, and make sure a written record of the search is kept.

If the authorised member of staff considers a search to be necessary, but not required urgently, they will seek the advice of the headteacher, designated safeguarding lead (or deputy) or pastoral member of staff who may have more information about the student. During this time the student will be supervised and kept away from other students.

A search can be carried out if the authorised member of staff has reasonable grounds for suspecting that the student is in possession of a prohibited item or any item identified in the school rules for which a search can be made, or if the student has agreed.

An appropriate location for the search will be found. Where possible, this will be away from other students. The search will only take place on the school premises or where the member of staff has lawful control or charge of the student, for example on a school trip.

Before carrying out a search the authorised member of staff will:

- Assess whether there is an urgent need for a search
- Assess whether not doing the search would put other students or staff at risk
- Consider whether the search would pose a safeguarding risk to the student
- Explain to the student why they are being searched
- Explain to the student what a search entails – e.g. “I will ask you to turn out your pockets and remove your scarf”
- Explain how and where the search will be carried out
- Give the student the opportunity to ask questions
- Seek the student’s co-operation

If the student refuses to agree to a search, the member of staff can give an appropriate behaviour sanction.

If they still refuse to co-operate, the member of staff will contact the headteacher to try to determine why the student is refusing to comply.

The authorised member of staff will then decide whether to use reasonable force to search the student (as outlined in section 8.1 Detentions). This decision will be made on a case-by-case basis, taking into consideration whether conducting the search will prevent the student harming themselves or others, damaging property or causing disorder.

The authorised member of staff can use reasonable force to search for any prohibited items, but not to search for items that are only identified in the school rules.

The authorised member of staff may use a metal detector to assist with the search.

An authorised member of staff may search a student’s outer clothing, pockets, possessions, bags or locker.

‘Outer clothing’ includes:

- Any item of clothing that isn't worn wholly next to the skin or immediately over underwear (e.g. a jumper or jacket being worn over a t-shirt)
- Hats, scarves, gloves, shoes or boots

The staff member who carried out the search should inform the DSL without delay:

- Of any incidents where the member of staff had reasonable grounds to suspect a student was in possession of a prohibited item as listed in section 4 of the school behaviour policy
- If they believe that a search has revealed a safeguarding risk

All searches for prohibited items (listed in section 4 of the school behaviour policy), including incidents where no items were found, will be recorded.

13.1 Strip searches

The authorised member of staff's power to search outlined above does not enable them to conduct a strip search (removing more than the outer clothing) and strip searches on school premises shall only be carried out by police officers in accordance with the Police and Criminal Evidence Act 1984 (PACE) Code C.

Before calling the police into school, staff will assess and balance the risk of a potential strip search on the student's mental and physical wellbeing and the risk of not recovering the suspected item.

Staff will consider whether introducing the potential for a strip search through police involvement is absolutely necessary, and will always ensure that other appropriate, less invasive approaches have been exhausted first.

Once the police are on school premises, the decision on whether to conduct a strip search lies solely with them. The school will advocate for the safety and wellbeing of the student(s) involved. Staff retain a duty of care to the student involved and should advocate for student wellbeing at all times.

Where reasonably possible and unless there is an immediate risk of harm, before the strip search takes place, staff will contact at least 1 of the student's parents/carers to inform them that the police are going to strip search the student, and ask them whether they would like to come into school to act as the student's appropriate adult.

13.2 After a search

Parents/carers will always be informed of any search for a prohibited item. A member of staff will tell the parents/carers as soon as is reasonably practicable:

- What happened
- What was found, if anything
- What has been confiscated, if anything
- What action the school has taken, including any sanctions that have been applied to their child

Irrespective of whether any items are found as the result of any search, the school will consider whether the student may be suffering or likely to suffer harm and whether any specific support is needed (due to the reasons for the search, the search itself, or the outcome of the search).

If this is the case, staff will follow the school's safeguarding policy and speak to the designated safeguarding lead (DSL). The DSL will consider whether pastoral support, an early help intervention or a referral to children's social care is appropriate.

14. Confiscation/Seizure and Disposal of Property

The general power of academies to discipline, as set out in Section 91-94 of the Education and Inspections Act, enables a member of staff to confiscate, retain or dispose of a student's property as a disciplinary penalty, where reasonable to do so.

A member of staff can use their discretion to confiscate/seize, retain and/or dispose 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/seized, provided they acted lawfully.

With regard to items found as a result of a search:

- Alcohol, tobacco and cigarette papers can be disposed of as appropriate but this should not include returning them to the student.
- Fireworks as above.
- Any weapons or items which are evidence of an offence must be passed to the police as soon as possible.
- Controlled drugs must be delivered to the police as soon as possible but may be disposed of if the person thinks that there is good reason to do so.
- Other substances which are not believed to be controlled drugs can be confiscated where a teacher believes them to be harmful or detrimental to good order and discipline. This would include 'legal highs'. Where staff suspect a substance may be controlled they should treat them as controlled drugs as outlined above.
- Stolen items must be delivered to the police as soon as reasonably practicable – but may be returned to the owner (or may be retained or disposed of if returning them to their owner is not practicable) if the member of staff thinks that there is a good reason to do so.
- Pornographic images may be disposed of unless its possession constitutes a specified offence in which case it must be delivered to the police as soon as reasonably practicable. Images found on a mobile phone or other electronic device can be deleted unless it is necessary to pass them to the police.
- Any item on the prohibited items list in the school behaviour policy.

With regard to items that have been confiscated/seized:-

Confiscated items should be kept in a locked drawer/office and the member of staff will specify where and when the student should collect their item (if it is to be returned). Ideally, items will be returned to the student by the end of the day that they have been confiscated/seized. It may be necessary to confiscate an item for a number of days or return an item to an authorised adult rather than directly to the student. In these cases the member of staff who has confiscated the item should liaise with a member of SLT or Head of Year, and inform parents of how and when the confiscated item can be returned.

15. Statutory guidance for dealing with electronic devices (mobile phones etc)

Electronic devices can be searched, data can be examined, downloaded and retained. Data or files may also be erased, if staff reasonably suspect that data has been, or could be, used to cause harm, disrupt teaching or break school rules. It may also be appropriate to retain a device as evidence of a breach of school discipline. If the material found is of such seriousness, this may require the involvement of the police.

16. Further useful sources of information

Screening, searching and confiscation – advice for headteachers, school staff and governing bodies (DfE Jan 2018)

Use of reasonable force – advice for headteachers, staff and governing bodies (DfE July 2013)

Dealing with allegations of abuse against teachers and other staff – guidance for local authorities, headteachers, school staff, governing bodies and proprietors of independent schools. (DfE October 2012)

Guidance on the Use of Restrictive Physical Interventions for Staff Working with Children and Adults who display Extreme Behaviour in Association with Learning Disability and/or Autistic Spectrum Disorders (2002)

Education Act, 2012

Education and Inspections Act 2006 (changes up to date 16th April 2020)

Related Policies

School behaviour Policy

Child Protection Policy

Educational Visits Policy

APPENDIX 1: RESTRAINT RECORDING FORM:

<i>Name of student on whom reasonable force was used by a member of staff:</i>	Tutor Group:	Date of incident:	Time of incident:	Location of incident:
Report compiled by:	Names of staff involved directly:		Names of staff involved as witnesses:	
Names of other students involved directly:		Names of other students involved as witnesses: (please include any details of SEN, disability)		
Description of incident:				

De-escalation techniques used and details of any warnings given that force might be used:

2. Why was the decision made to use restraint?

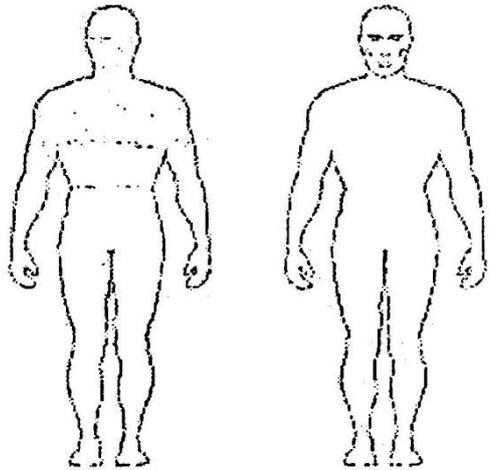
Was it:

- To prevent young person from committing a crime?* []
- To prevent young person from causing injury to him/herself?* []
- To prevent young person from causing injury to others?* []
- To prevent young person from causing damage to property?* []
- To prevent young person from causing serious disruption?* []
- To prevent young person from running away?* []
- Other? (Please specify)* []

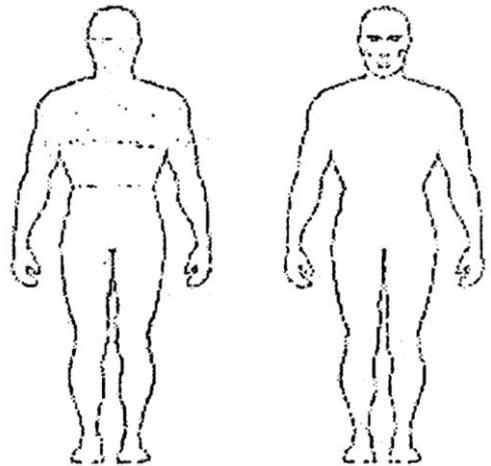
3. *Description of physical restraint holds used:
(Please include the approximate time span of any holds)*

4. Why was the restraint ended?

5. Did the student suffer any injuries as a result of this incident? Injury location and description, including any first aid and/or medical attention required.



Did staff or others suffer any injuries as a result of this incident? Injury location and description, including any first aid and/or medical attention required.



Signature of person submitting incident report:

Signed _____ Print name _____ Date _____

Signature of Headmaster:

Signed _____ Print name _____ Date _____

A copy must be placed in student's file