



STAFF POLICY

The Use of Force to Control or Restrain Learners

Lead responsibility: Director of Quality and Equality

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1. Policy Statement

The College is committed to safeguarding and promoting the welfare of all learners and staff. All services are designed for learners to promote independence, choice and inclusion and to maximise opportunity for personal growth and emotional well being (*ECM*).

In addition all staff at the College are required to demonstrate high standards in their management of risk and in the active protection of vulnerable adults and children from harm by being prudent about their own conduct, so that their relationships with all learners remain, and are seen to remain, entirely proper and professional.

The College recognises that there may be occasions where staff are required to use force either to defend themselves or to protect others from injury. However the use of force to restrain or physically direct another person should be regarded as a last resort. Where members of staff judge that the risks associated with not using force are greater than those associated with using force, they should follow the guidance in the Use of Force to Control or Restrain Learners Policy.

2. Purpose

The key objective of this policy is to maintain the safety of learners and staff by minimising the risk of a harmful, violent and/or dangerous situation arising. It sets out guidance on the use of force by members of staff, to control or restrain learners in order to prevent them from harming themselves or others or seriously damaging College property. The use of force will be rare.

Adherence to the guidance will help to protect learners and minimise the risk of false allegations of assault against members of staff.

This policy has been written with reference to:

The Power to use Force, AOC Guidance (2007) and best practice examples
Current Guidance on using Restraint with Pupils, ATL
Department for Education and Skills (DfES) / Association of Colleges – The Use of Force to Control or Restrain in Further Education
Section 3 of Criminal Law Act

3. Scope

The Policy applies to all members of staff at the College. "Member of staff" in relation to this policy means any person who works at the College whether or not as its employee.

The Policy applies to the use of force to control or restrain all learners on College property and in all situations offsite where learners are being supervised by a member of staff e.g. theatre or field trip

4. The Use of Force to Control and Restrain Learners

4.1.1 Minimising the need to use force

The first step in the College's response to emergency situations is prevention. All staff are expected to be vigilant in the monitoring of others behaviour and act to prevent a harmful, violent and/or dangerous situation arising, so that the use of force is not required.

4.1.2 In teaching and learning classrooms and spaces, learners should be engaged in purposeful learning activities, where members of staff should be alert to changes in the climate of the learning environments and/or learner group's dynamics and act to prevent negative tensions building. Members of staff are expected to reinforce the high standards of behaviour expected of learners through consistent interaction with learners acting outside of those standards.

4.1.3 In social, service and public areas of the College, all members of College staff should be proactive in approaching learners who are not following the College's standards of behaviour.

4.1.4 Individual members of staff should try to minimize the chance of harmful, violent and/or dangerous situations arising by:

- Creating a calm, orderly and supportive College climate that minimises the risk of violence of any kind.
- Avoiding actions that may be seen as inciting violence.
- Effective management of individual incidents – remaining calm, using non threatening language and giving verbal instructions.
- Avoiding any physical contact with any other person unless essential to Teaching and learning process or normal working arrangements.

Staff authorised to use force

Staff using any force who have been properly trained in recognised control and restraint techniques and follow the policy and its guidance will be fully supported by the College in the event of any legal action taken by a learner as a result of the use of force.

4.1.5 The legislation gives statutory power to use reasonable force to any person who is a member of the staff of an FE institution in order to prevent a learner at that institution from doing or continuing to do certain prescribed things. 'Member of staff' in relation to an institution means any person who works at that institution whether or not as its employee. This includes:

- Any member of the teaching staff;
- Support staff including teaching assistants, learning support assistants, learning mentors;
- Members of staff whose job does not normally involve supervising learners such as Security staff

4.1.6 In addition there is a common law right of any citizen in an emergency to use reasonable force in self-defence, to prevent another person from being injured or property from being damaged.

4.1.7 Section 46 of the Violent Crime Reduction Act 2006 authorises a Principal or a member of staff authorised by him or her, to search a learner at a further education institution for a weapon if that person has reasonable grounds for suspecting that there is a weapon with the learner or in his or her possessions. Persons authorised by a Principal to search for weapons may use such force as is reasonable in the circumstances for exercising that power. (See 4.3.4 Reasonable Force below)

4.2 Staff Training

4.2.1 All staff should be made aware of this policy, including staff in support services and staff working on College premises who are not employees of the College.

Training in the Policy Use of Force to Control or Restraint Learners is compulsory for all staff.

4.2.2 All new members of staff will be trained and there will be follow up training at suitable intervals to refresh their knowledge and understanding of the legal issues and their powers.

4.3 Deciding whether to use force

4.3.1 Staff may only exercise the statutory power to use force where, they and the learner are on College premises or they are off College premises but are in lawful control or charge of the learner, for example on a College visit.

Force should never, in any circumstances, be used to punish learners.

4.3.2 A member of staff may only use reasonable force to prevent a learner from doing, or continuing to do certain prescribed actions, these include;

- Committing a criminal offence.
- Causing personal injury to, or damage to the property of any person (including the learner).
- Prejudicing the maintenance of good order and discipline at the College.
- Self Defence

4.3.4 Examples of situations that fall under numbers 1 and 2 above are:

- A learner attacks a member of staff or another learner.
- Learners are fighting.
- A learner is committing, or on the verge of committing, deliberate or serious damage to property.

- A learner is causing, or at risk of causing, injury or damage by accident, by dangerous play, or by misuse of dangerous materials or objects.
- A learner (aged under the minimum school leaving age or who is a vulnerable adult) absconds from a class or tries to leave the College other than at an authorised time. The judgment on whether to use force in this situation would depend on an assessment of the degree of risk to the learner, if he or she is not kept in the classroom or College (age and understanding would be critical factors).

4.3.5 Examples of situations that fall under number 3 in 4.3.2 above, are where the learner:

- Is behaving in a way that is seriously disrupting a lesson
- Blocks a door to prevent others from leaving
- Resists attempts to search him or her for a weapon.

4.3.6 Decisions on whether to use reasonable force must depend on judgments about:

- The seriousness of the incident as judged by the effect of the injury, damage, or disorder, which is likely to result, if force is not used.
- The chances of achieving the desired result by other means.
- The relative risks associated with physical intervention compared with using other strategies.

4.4 Reasonable Force

There is no precise legal definition of what degree of force is reasonable; it will always depend upon the precise circumstances of the individual case. However, if a member of staff has decided that to use force is the only way to resolve the incident, this should be the minimum force required for the shortest practicable time. The purpose of the use of force should be restraint and the reduction of risk.

Members of staff should not strike blows or retaliate against learners as to do so would exceed the authorisation to intervene and create a significant risk of an allegation of assault being made.

When reaching a decision about using force, staff will need to take into account relevant factors related to any special educational needs or disabilities a particular learner may have. The Individual Learning Plans of all learners with special educational needs or disabilities include a risk assessment, agreed ways of controlling any extreme behaviour and methods of restraint that may be used.

5. Recording and Reporting Incidents

5.1 Reporting Incidents

Incidents should be reported immediately to the Head of Sector and the Director of Learner Information and Support as the lead designated officer for children protection and the safeguarding of vulnerable adults, who will determine the necessity of a written record using the following criteria:

- Did the incident cause injury or distress?
- Even if there was no apparent injury or distress, was the incident sufficiently serious in its own right to require a written record? Any use of restrictive holds would fall into this category.
- Is a written record needed to be able to justify the use of force? This is particularly relevant where the judgment was very finely balanced.
- Is a record needed to help identify and analyse patterns of learner behaviour?
- Any injuries would also require the completion of the standard College Accident Form and details entering onto the College's Accident and Incident Management System.

5.2 Recording Incidents

The Form in Appendix A should be used to record the use of restraint, if the Director of Learner Information and Support decides it is serious enough to warrant a written record (see 4.1 above)

5.3 Post incident support

Serious incidents can be upsetting and can result in injuries. The Director of Learner Information and Support should ensure support by:

- Organising first aid treatment on site or seeking medical assistance for injuries beyond basic first aid.
- Transferring to hospital any person where further treatment is required or recommended. School pupils should be accompanied by a designated officer who should stay with them until they are 'handed back' to the school or their parent or guardian.
- Ensuring that learners and staff who are affected by an incident have continuing support for as long as necessary by using the College's existing support networks in respect of any physical consequences, support needs to deal with emotional stress or loss of confidence; and analysing and reflecting on the incident. This may involve multi-agency partnerships, the Local Education Authority and partner schools.

5.4 Complaints and allegations

5.4.1 Learners and their families have a right to make a complaint about actions taken by College staff, including the use of force. All complaints will be dealt with following the College's Complaints procedure. An early

discussion with the learner to make clear the College policy and reasons for actions taken may minimise the number of complaints.

5.4.2 Learners and their families may complain to the Police about unreasonable use of force. Such allegations may be referred to the local Children's Safeguarding Board. The College's Safeguarding Procedure and records of such incidents would be central to any investigation. It will be for the Principal and Board of Governors (or if there was a prosecution, the Court) to decide whether the use and degree of force was reasonable.

5.4.3 Staff also have the right to make a complaint about any violence, threats and abuse directed at them when they are making an intervention. The complaint should be made to the line manager.

5.5 Members of the Public

If a person involved in using force is not linked to the College by a learning agreement e.g. a College visitor, a parent attending parents' evening, a prospective learner not yet enrolled at the College etc, such persons would have to rely on common law rights, i.e. the right of any citizen in an emergency situation to use reasonable force in self-defence, to prevent another person from being injured or property being damaged.

Employers providing work experience placements for College learners have only common law rights to use force.

The Director of Learner Information and Support will decide if a written record needs to be produced using the criteria in 4.1 above.

6. Monitoring and Review

This Policy will be monitored and reviewed on an annual basis by the Director of Learner Information and Support. The review will be informed by the views of staff, governors and learners.

7. Further information

7.1.1 Legislation

Education and Inspections Act 2006 Section 165 (Power of members of staff of further education institutions to use force), which inserts section 85C into the Further and Higher Education Act 1992 (c. 13).

Violent Crime Reduction Act 2006 Section 46 authorises a Principal or a member of staff authorised by him or her, to search learners at a further education institution for a weapon if that person has reasonable grounds for suspecting that there is a weapon with the learner or in his or her possessions. Persons authorised by a Principal to search for weapons may use such force as is reasonable in the circumstances for exercising that power.

The following conditions apply:

- The search is exercised on the institution's premises or elsewhere where the member of staff has lawful control of the student (e.g. during a field trip).
- Searches are undertaken or authorised by the Principal, either generally or to deal with a specific incident.
- The learner can only be required to remove outer clothing, i.e. clothing not worn next to the skin or immediately over underwear, but the staff member can require the learner to remove a hat, gloves, scarf or shoes.
- The person conducting the search must be of the same sex as the student and may only carry out the search in the presence of another member of staff of the same sex as the learner.
- Anything found which the member of staff has reasonable grounds for suspecting is a knife, blade or in law an offensive weapon may be seized but must be handed over to the police as soon as reasonably practicable.
- The person exercising the power may in doing so use such force as is reasonable in the circumstances. Where the staff member anticipates force may be required it may be advisable to call the police if it is feasible to postpone the search until they arrive.

7.1.2 Useful Websites

The DfES provides additional guidance on physical intervention with learners who display extreme behaviour associated with learning disability and/or autistic spectrum disorders and learners with severe behavioural difficulties. Whilst aimed at special schools, it is also relevant to colleges with such learners. It is available at:

www.teachernet.gov.uk/wholeschool/sen/schools/piguide/pisec1/

A full analysis of "reasonable force" and the circumstances under which common law alters its use can be found on the Crown Prosecution website www.cps.gov.uk/legal/section13/chapter_t.html

APPENDIX 1

Use of Force to Control or Restrain: Incident Record

Details of learner(s) on whom force was used by a member of staff (name, course)
Date, time and location of incident
Names of staff involved (directly or as witnesses)
Details of other learners involved (directly or as witnesses), including whether any of the learners involved were vulnerable/LDD.
Description of incident by the staff involved, including any attempts to de-escalate and warnings given that force might be used.
Reason for using force and description of force used

Follow up, including post-incident support and any disciplinary action against learners.

Any information about the incident shared with staff not involved in it and external agencies

When and how those with parental responsibility were informed about the incident and any views they have expressed

Has any complaint been lodged (details should not be recorded here)

Report Compiled by:
Name and Role:

Signature

Date

Reported to Head of School

Name

Date

Follow up details to be completed by Director of Quality and Equality

Details of Police involvement and actions taken