

Creating Tomorrow Trust

Trust Approach to the Use of Physical Force and Searching Students



Purpose

This document defines the approach across our Trust towards the use of physical force to ensure that all staff are aware of what is reasonable and unreasonable to ensure that students and staff are safe at all times

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Wellbeing in our Trust

The use physical force when supporting students can be very stressful and challenging and so this document aims to set out procedures to be followed to minimize what can be difficult process.

We can all be affected by poor physical and mental health at times during our lives and it is important the appropriate support is available in a timely manner.

Health and wellbeing is everyone's responsibility and we encourage an open and honest culture whereby anyone can discuss any issues they may have.

The Trustees of Creating Tomorrow take the health and wellbeing of all employees seriously and are committed to supporting our staff. The Trustees ensure that support for staff is available through:

- Effective line management
- Commitment to ensuring an appropriate and balanced workload
- Supportive and professional working environments
- Employee support programs
 - The Education Support Line telephone number 08000 562561 or website www.educationsupport.org.uk

1. Aims

The aim of this guidance is to make clear the position of the school with regards to necessary physical interventions and to safeguard the well-being of students and staff when a situation or incident requires the use of physical intervention.

This policy must be read in conjunction with our Relationship (Behaviour). At Creating Tomorrow we see that all behaviour is a communication, therefore any approach to managing a challenging behavioural situation must be part of our graduated approach and in line with the values and behavioural curriculum of the organisation.

Every child has rights, whatever their ethnicity, gender, religion, language, abilities or any other status.

The UN Convention on the Rights of the Child (UNCRC) The UN Convention on the Rights of the Child explains how adults and governments must work together to make sure all children can enjoy all their rights There are 4 articles (rights) that are seen as special:

- Non-discrimination (Article 2)
- Best interest of the child (Article 3)
- Right to life survival and development (Article 6)
- Right to be heard (Article 12)

All articles in the convention must be seen together, however, this policy aims to ensure that every child has:

- The right to protection from violence (Article 19)
- The right to privacy (Article 16)
- The right to protection from inhumane treatment and detention (Article 37)
- The right to freedom of expression (Article 13)
- The right to education (Article 28)
- The right that adults will respect for the views of the child), (Article 12)
- The right that adults will act in best interests of the child (Article 3)

The aims of the policy is to ensure that everyone at Creating Tomorrow Trust as the rights of the child at heart whilst maintaining consistent and safe practices in the use of handling, reasonable force & restraint.

2. Physical Intervention and the Law

Use of reasonable force in schools: Guidance about the use of physical restraint in schools for governing bodies, headteachers and school staff (DfE 2013) allows all adults who are authorised by the Headteacher to be responsible for students to use such force as is reasonable to prevent a student:

- a) Committing a criminal offence (or for younger children that which would be an offence)
- b) Causing personal injury, injury to others or damage to property
- c) Engaging in any behaviour prejudicial to maintaining good order and discipline

All members of school staff have the legal power to use reasonable force, as well as a duty of care to themselves and others to keep themselves and others safe.

It can also be used by anyone who's been put in charge of students temporarily by the headteacher, such as:

- Unpaid volunteers
- Parents accompanying students on a school trip.

Therefore staff should not hesitate to act in the situations described above provided they follow these procedures and the attached guidance; however, they should always satisfy themselves that the action they take would be considered justifiable by a wider audience of their professional colleagues.

3. Definition of Terms:

Handling – refers to any physical intervention applied by a member of staff where it necessary to make physical contact with a student in order to manage their conduct or ensure their own or others safety. Handling strategies may be restrictive or non-restrictive and include shepherding, guiding, supporting, blocking, confining, holding and, in the most extreme cases, restraining.

Use of Reasonable Force – is the application of appropriate and proportionate force required to achieve the required outcome from the handling strategy employed (see above) without further endangering the student, member of staff or others present at the time of physical intervention.

Restraint - is the positive application of force in order to actively prevent a student from causing significant injury* to him/herself or others or seriously damaging property.

*Significant Injury would include: actual or grievous bodily harm, physical or sexual abuse, risking the lives of, or injury to, themselves or others by wilful or reckless behaviour, and self-poisoning.

It must be shown that on any occasion where physical restraint is used there were strong indicators that if immediate action had not been taken, significant injury would have followed.

4. Implementation of Physical Intervention:

All members of staff working with students at the school are authorised to handle / use reasonable force or restrain students if/when such physical intervention is necessary. No member of staff is required to employ any physical intervention strategy if they are not comfortable or confident to do so effectively.

All staff have a duty of care to the students they are working with and the welfare of our students is paramount and all staff are expected to intervene physically if required.

Staff also have a duty of care to themselves and those around them and are encouraged to speak to a member of the leadership team if they are unable to engage in a physical interaction (this could be due to an underlying health condition) and therefore a risk assessment or referral to OH may be required.

No member of staff should intervene physically if they have reason to believe that to do so would worsen the situation/incident that is taking place. In all circumstances where physical intervention is or may become required, members of staff should ensure that adult assistance is requested before intervention, although it is understood that circumstances may lead to the need for intervention prior to the assistance arriving.

Staff considering handling, use of reasonable force or restraint **must provide opportunity** for the student to alter their behaviour/actions before employing a physical intervention strategy and should continue to make instructions to the student and details of their intended interventions clear. The method of physical intervention employed must use the minimum reasonable force for the minimum length of time (additional guidance regarding what intervention is and is not appropriate is given in Appendix A).

Following an incident whereby a physical intervention has been used for the first time a personal handling plan **must** be written and parents / carers involved in the process. This plan must be reviewed after any additional physical intervention and if requiring an update parents / carers must be involved.

Although there is no legal requirement for staff be trained in physical restraint, across the Trust staff have the opportunity to be trained in a specific approach towards de-escalation techniques and restrictive physical interventions, for example Team Teach, however not being trained does not remove a member of staff duty of care to themselves and others.

5. Recording Physical Intervention

All incidents where staff feel that they have used force to modify behaviour or conduct should be recorded.

It is good practice to inform parents after a physical intervention, however for some students whose individual handling plan contains the use of physical touch to support access to learning, or whose communication is such that physical interventions are regular, it may be agreed with parents / carers that notification is only when there has been an change in presentation, or a significant restrictive physical intervention used.

A restraint should be recorded via the school / college recording system (e.g. Arbor) and if deemed as a serious incident the headteacher must be informed.

It is not necessary to record every incident of contact with a student, but where a member of staff perceives that contact has been received at all negatively, they must notify the headteacher or senior welfare manager and self-refer this as a low level concern.

It is the responsibility of the member of staff intervening to record the incident on the day that the intervention took place. The circumstances and nature of the physical intervention will be held on the record of the student involved. The Designated Safeguarding Lead will inform any necessary agencies/authorities of the physical intervention in accordance with DfE and LA guidance. The Headteacher will ensure that parents/carers are appropriately informed (in line with the approach as stated above). For the safeguarding of both the staff and student, any subsequent investigation of the situation/incident should be undertaken by a member of staff other than the one applying the physical intervention.

6. Searching Students

6.1 Rationale

At Creating Tomorrow we will always consider that all students have a right to expect a reasonable level of personal privacy, under Article 8 of the European Convention on Human Rights. Therefore any 'interference' with this right by our schools and college must be justified and proportionate. The best interests of the child will always be our primary consideration and therefore we will balance:

- The need to safeguard all students by confiscating harmful, illegal, or disruptive items
- The safeguarding needs and wellbeing of students suspected of possessing these items

On occasions a member of staff may have reasonable grounds to suspect that a student is in possession of an item, or items, which contravene school regulations and could potentially cause harm to the student or others. Under these circumstances The Education Act 2011, and guidance "Searching, Screening and Confiscation (DfE July 2022)" extends the power of staff to search students without their consent.

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While we will only search a student if we have good reason to, we will always consider that, for the student, it could infringe upon their wellbeing and rights in several different ways. For example:

- Physical loss of privacy when clothes, bags, or possessions are searched
- Loss of a sense of security, if they feel they are being monitored and searched without reason
- The impact to a student's dignity or reputation if they are unduly searched or suspected of possessing prohibited items

Creating Tomorrow Trust does not endorse, and will not undertake, a physical search of any students' person

We will treat confiscations as a safeguarding issue, as children in possession of drugs, alcohol or weapons should be considered vulnerable and at risk of exploitation.

Any prohibited items found in a student's possession will be confiscated and these items will not be returned to students. We will also confiscate any item which is harmful or detrimental to school discipline. These items will be returned to students after discussion with senior leaders and parents, if appropriate. Any items found will be dealt with as per the DfE Guidance.

6.2 What you can search for

Headteachers and authorised staff members can search a student for:

- Any items with the student informed consent
- Prohibited or banned items, with or without the student's consent

Prohibited items are:

- Knives or weapons
- Alcohol
- Illegal drugs
- Stolen items
- Tobacco and cigarette papers
- Fireworks
- Pornographic images
- Any article that the member of staff reasonably suspects has been, or is likely to be, used to:
- Commit an offence
- Cause personal injury (including the student) or damage to property

This list is set out in [The Education Act 1996](#) and paragraph 3 of the DfE's guidance on searching, screening and confiscation

Other items banned by the school/college

In addition to the list above, headteachers and authorised staff members can also search for other specific items banned in the school or college.

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Please refer to the individual school/college Relationship Policy for a list of banned items

This will be clearly communicated to all members of the school community to make sure that students, parents and staff know which items may be searched for.

6.3 Who can carry out a search

Only the headteacher and authorised members of staff have the power to search students for any item if:

- The student agrees to the search, **or**
- The authorised staff member has 'reasonable ground's to suspect that the student may have a prohibited or banned item

6.4 Before you carry out a search

Before any search takes place, the member of staff conducting the search should explain to the student why they are being searched, how and where the search is going to take place and give them the opportunity to ask any questions.

Consent will always be sought from the student to carry out any search

If the student is not willing to co-operate with the search, the member of staff should consider why this is. Reasons might include that they:

- are in possession of a prohibited item;
- do not understand the instruction;
- are unaware of what a search may involve; or
- have had a previous distressing experience of being searched.

If a student refuses to agree to a search, depending upon the severity of the concern, the school / college may decide to act accordingly:

- Return the student to class and ask a member of the class team to observe
- Managing the situation as a safeguarding concern
- Follow the school / college Relationship policy in regards to removing the student from class and using an internal exclusion, notifying parents /carers of the concern
- Contacting parents / carers and asking for their support, either via the phone or in person
- Contacting parents carers and informing them of the situation and asking them to support in school ASAP
- In the event that the concern is that the student has an item that is a danger to themselves or others, or an illegal item, such as drugs, contact the police.

6.5 Carrying out a search

Searches will be conducted by two members of staff, at least one of whom will be the same gender as the student. Students will be offered the opportunity to have their parents/carers present.

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Where necessary a student will be asked to remove his/her coat, empty all pockets, open their bags and in some circumstances remove their shoes and socks. Possessions and items of apparel that have been removed may then be searched by the staff present.

School staff are **not** allowed to carry out strip searches, including the headteacher and authorised staff. Only police who have been asked to come to the school may decide whether a search is necessary and carry it out. The police can only carry out a search if they:

- Think this is necessary to remove an item related to a criminal offence, **and**
- Reasonably consider the student might have concealed such an item

At Creating Tomorrow we will always ensure that a parent, or family member with consent from a parent, is present.

Call the police into school as a last resort

Always put the best interest of the child first. This means that before you decide to call the police into school you should first:

Make sure that you've exhausted other approaches

Strip searches on school premises can only be carried out by police officers under the Police and Criminal Evidence Act 1984 (PACE) Code A and in accordance with the Police and Criminal Evidence Act 1984 (PACE) Code C. While the decision to undertake the strip search itself and its conduct are police matters, school staff retain a duty of care to the student(s) involved and should advocate for student wellbeing at all times.

Before calling police into school, staff should 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 should consider whether introducing the potential for a strip search through police involvement is absolutely necessary, and should always ensure that other appropriate, less invasive approaches have been exhausted. Once the police are on school premises, the decision on whether to conduct a strip search lies solely with them, and the role of the school is to advocate for the safety and wellbeing of the student(s) involved.

6.6 Confiscation of items

If any items are discovered the school will use its power of confiscation to retain the offending item(s).

Only items that:

- Pose a risk to staff or students
- Are prohibited or banned
- Are evidence in relation to an offence

Will be confiscated.

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Parents/carers, if not present, will be contacted to explain what has been found and any subsequent sanctions that have been applied.

Prohibited items will be disposed of as per DfE Guidance.

If a banned item is confiscated, where appropriate, parents/carers will be invited to retrieve the offending property and asked to ensure that they are not brought to school / college again.

In the event that illegal items are discovered then the Police will be informed immediately.

6.7 Following a search

We must always remember that any search is a violation of the child's right to privacy and as such, following any search, the student must be supported by an appropriate adult.

This will include time to reflect on reasons for the search and an opportunity for restorative conversations with the adults present at the time of the search.

6.8 Recording

6.9

All searches must be recorded by the school/college

Searches will be recorded via the school/college safeguarding system (e.g. My Concern), and the report will contain:

- Date / Time
- Name of student
- Members of staff present
- Reason for search
- Findings of search:
 - Nothing found, or
 - Items found
- Outcome of search:
 - No further action
 - Sanction
 - Restorative conversation

Appendix A:

Guidance for Staff re: Handling, Use of Reasonable Force & Restraint

1. Purpose of this document

- To provide for the safety and security of students in need of physical intervention
- To clarify for staff the steps they are allowed to take if a situation requiring physical intervention arises
- To enable staff to distinguish between what intervention is and is not acceptable
- To ensure that staff have read appropriate documentation from the Trust
- To help ensure that any physical intervention is minimal, infrequent, recorded and that relevant parents / carers and authorities are appropriately informed.

2. The decision to employ a Physical Intervention Strategy

You should be aware that all staff who have responsibility for a student, or group of students, are authorised to employ physical intervention strategies in the event they are necessary and that the law allows you to intervene in this manner. Across our Trust if you are employed to work with students then it is generally expected that you will intervene to prevent harm occurring

There may be occasions when you are unable to intervene, for example underlying health condition or an injury, however this must be communicated to a member of the senior leadership team immediately so that a risk assessment or occupational health referral can be made.

At all times you should, however, be aware that you have a choice whether or not to intervene physically in any given situation, and that you should not do so if you are uncomfortable with the situation or not confident to deal with it effectively.

In the event that you employ a physical intervention strategy, the record of the intervention will be kept on the student's file and where necessary the parent / carer will be informed as well as relevant authorities (e.g. local authority).

All behaviour incidents must be recorded and the reason for either intervening or not intervening may be explored further.

3. In what way can you Physically Intervene?

Any application of physical intervention must only use the **minimum force for the minimum amount of time.**

There are a number of ways in which you can physically intervene and you must choose the strategy appropriate to the situation and presenting least risk to yourself, the student and other persons.

Appropriate actions include;

- **Shepherding or Guiding;** using body positioning and positive gestures to move a student away from harm. This may include the placing of a hand on the back (between the shoulder blades) and using reasonable force to actively move them from one place to another.
- **Blocking or Interposing;** placing yourself between the student and their objective (e.g exit, another student) thereby preventing the potential injury damage or prejudice to good order.
- **Holding and Leading;** leading the student (with open hand e.g by the upper arm) to prevent them from injury, damage, etc. In cases of resistance from a student, it may be necessary to employ holding to effectively achieve shepherding and, hence you are actively leading them away.
- **Restraining;** used only in the most extreme cases, restraining may require a significant amount of force in order to prevent significant injury (as described in the guidance). Essentially, restraining is a more extreme version of holding, may require more than one adult and may last significantly longer than other strategies. However, the same care must be taken to restrain a student appropriately.

4. In what ways must you NOT Physically Intervene?

The purpose of physical intervention is essentially to maintain good order and ensure the safety of all individuals, therefore it is never appropriate to employ a physical intervention strategy if you are not in control of your own emotions.

Physical interventions must never be employed in anger or frustration

If you find yourself angry or frustrated by the situation at hand you must step back and allow someone else to manage the issue.

It is never appropriate to use physical intervention strategies as a punishment or with the intention to hurt / harm

Just as there are a number of acceptable intervention strategies, there are also a number of actions it is completely inappropriate to take. Inappropriate actions include (but are not limited to);

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- Hitting or Striking; while it is entirely possible that in the course of an intervention (eg. breaking up a fight) you may be hit yourself, you must never strike a student.
- Deliberately inflicting pain; it is not okay to twist limbs or put pressure on joints (eg. arm up a student's back), pull or hold hair, pinch or hold a student in a pain inducing way (eg. by the ear).
- Making contact with sexually sensitive areas of the body; where at all possible contact should be restricted to arms, shoulders and the back as previously described.
- Restricting breathing; by holding round the throat or for a prolonged period around the chest. It is also never appropriate to sit on/straddle a student or hold them face down to the floor.

Accidents can happen, and in the course of a physical intervention a student may be hurt. In these cases this must be documented fully within Arbor, and there may be need to gather further information into the circumstances.

As long as all guidance is being followed, the member of staff is fully supported by this process. However, if a member of staff employs a physical intervention in the manner describe in this section (appendix A section 4) the incident will be formally investigated and this may be under the disciplinary policy.

5. Guidance for managing your intervention

- a) Always give a student an opportunity to resolve the situation without use of physical intervention first.
- b) Always send for assistance from colleagues or another authorised adult; other students should never be involved in physical intervention. You may have to intervene before help arrives, but not managing this entirely on your own is safer for all concerned.
- c) Be aware of your emotions. Are you comfortable and confident to deal with this scenario without anger? If not – don't intervene.
- d) Using clear and simple language (appropriate to the student's needs, i.e. use of symbols / signing) continue to communicate with the student (and witnesses) throughout the incident even if the student doesn't respond. Be clear about what you are doing and inform the student that the intervention will cease when it is no longer necessary.
- e) Apply only appropriate strategies and the minimum required force to achieve the required outcome (prevention of injury/harm, student/staff safety, restoration of good order). Release the student once this has been achieved.
- f) Manage the situation calmly – even if the student responds negatively.
- g) Record the incident as soon as possible after the event using the school / college system (e.g. Arbor).

6. Minimising the need for Physical Intervention

In most circumstances Physical Intervention really should be a last resort or an emergency action. Therefore, all staff should:

- endeavour to create a calm environment which will minimise the risk of incidents where the use of physical intervention may be required;
- endeavour to teach students how to manage strong emotions and conflict through opportunities for SMSC and wider aspects of the school curriculum (including use of Zones of Regulation, Protective Behaviours);
- quickly seek to de-escalate incidents if they do arise;
- only use reasonable force when the risks involved in doing so are outweighed by the risks involved in not using force;
- be aware of risk assessments and positive handling plans for specific individual students.

A list of authorised personnel is available from the school but will include all teachers and staff who are contracted by the school. All staff must read the schools' / college Relationship Policy.