

# SILVER BIRCH ACADEMY TRUST

## Positive Handling Policy

### **ADOPTED BY**

Chingford Hall LGB

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# Positive Handling Policy

The purpose of this policy is to describe the trust's approach to the management of relatively rare situations when children and young people present extremely challenging behaviour, which may require some form of physical intervention from adults. This is sometimes referred to as restraint or care and control. Our approach has adopted the term, Positive Handling, in line with the DfE guidelines.

## The Legal Position – Who can use force to control or restrain and when?

Section 93 of the Education and Inspections Act 2006 “enables school staff to use force as is reasonable in the circumstances to prevent a pupil from doing or continuing to do any of the following:

- i. committing any offence (or, for a pupil under the age of criminal responsibility, what would be an offence for an older pupil)
- ii. causing personal injury to, or damage to the property of, any person (including the pupil himself), or
- iii. prejudicing the maintenance of good order and discipline at the school or among any pupils receiving education at the school whether during a teaching session or otherwise.”

The definition of ‘school staff’ applies to:

1. any teacher who works at the school, and
2. any other person whom the Headteacher/ Head of School has authorised to have control or charge of pupils. This includes:
  - i. support staff whose job normally included supervising pupils such as teaching assistants, learning support assistants, learning mentors and lunchtime supervisors
  - ii. can also include people to whom the Headteacher/ head of School has given temporary authorisation to have control or charge of pupils such as paid members of staff whose job does not normally involve supervising pupils (for example catering or premises – related staff) and unpaid volunteers (for example parents accompanying pupils on school – organised visits)
  - iii. does not include ‘other pupils’.

It is lawful for all teachers and other staff as described above to use ‘reasonable’ force. However, the definition of ‘reasonable’ is open to interpretation.

The DfE Non-Statutory Guidance to Schools states:

There is no legal definition of when it is reasonable to use force. That will always depend on the precise circumstances of individual cases. To be judged lawful, the force used would need to be in proportion to the consequences it is intended to prevent. The degree of force used should be the minimum needed to achieve the desired result. Use of force could not be justified to prevent trivial misbehaviour.

However, deciding whether behaviour is trivial also depends upon the circumstances. For example running in a corridor crowded with small children may be dangerous enough not to be regarded as trivial.”

This power to use reasonable force is in addition to the common law power of any citizen in an emergency to “use reasonable force in self-defence, to prevent another person from being injured or committing a criminal offence”. (The DfE Non-statutory Guidance to Schools para. 15)

The guidance explains that staff may use force to prevent behaviour that prejudices the maintenance of school discipline regardless of whether that behaviour would also constitute a criminal offence. Staff may use reasonable force to search pupils without their consent for weapons using powers exercised under section 45 of the Violent Crime Reduction Act 2006. However, the DfE Non- statutory Guidance to Schools (para 16) strongly advises schools “not to search a pupil where resistance is expected but rather to call the police”.

All policies and practice regarding the supervision of children during the school day should be appropriate to the identified needs and behaviours of the child. This, combined with the whole school approach to behaviour, should minimize the likelihood of requiring positive handling.

We believe it is important for members of staff who may need to physically intervene to do so after other behaviour management techniques have been tried and preferably following training in such techniques.

All staff must be aware that they must not:

1. use force as a punishment as this action would fall within the definition of corporal punishment which has been abolished;
2. use pain to gain compliance;
3. deprive the person of food or drink;
4. require the person to wear inappropriate clothing;
5. humiliate/degrade the child or young person.

In the following situations, staff must judge whether or not a physical intervention would be reasonable or appropriate:

1. risk to the safety of staff, children or visitors;
2. where there is a risk of serious damage to property;
3. where a child's behaviour is seriously prejudicial to good order and discipline;
4. where a child is committing a criminal offence.

This judgment will take into account the circumstances of the incident. All staff should be aware that the use of a physical intervention in response to a clear or developing danger of injury is intended to be used to manage behaviour positively to prevent a deterioration of the situation.

Staff should view physical intervention with a child as a 'last resort' and for the purposes of maintaining a safe environment. We have in place a variety of measures which will reduce the likelihood of the need for positive handling to be used which is in line with our behaviour policy. For example:

- i. A calm and supportive school environment
- ii. Positive relationships
- iii. Whole school approach to developing social and emotional skills
- iv. A structured approach to staff development

If a child is behaving disruptively or anti-socially, every non-physical strategy will be used to manage the behaviour positively to prevent a deterioration of the situation. Staff understand the importance of listening to and respecting children to create an environment that is calm and supportive, especially when dealing with children who may have emotional and behavioural needs, which may increase their aggression.

All staff across the trust understand the importance of responding to the feelings of the child, which lie beneath the behaviour, as well as the behaviour itself. The physical action taken will take into consideration the age and competence of the child and will be the least detrimental alternative. In doing so the action must take proper account of any particular special educational need and/or disability that the pupil may have.

Our policy on the use of force is consistent with the school's behaviour policy. It is not expected that all staff will need detailed training. However, we ensure that staff are aware of the principles and practices associated with best practice initially through their induction training and, on an ongoing planned basis. Teachers and other staff are not contractually obliged to carry out restraint procedures and they are not contractually obliged to undertake training in any restraint procedures. However, they are encouraged to do so because they are expected to work within a duty of care. A breach of duty of care may involve either taking unreasonable action or failing to take reasonable action to prevent harm to another person.