



MINSTHORPE

Community College



A SPECIALIST SCIENCE COLLEGE

**PHYSICAL CONTACT AND INTERVENTION
POLICY AND PRACTICE
INCLUDING SEARCHING STUDENTS**

**Richard Yates
Jeanette Collins
Assistant Principal**

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Equality Statement

Minsthorpe Community College values diversity, and is determined to ensure that everyone is treated fairly, with dignity and respect; where the opportunities we provide are open to all; and that we provide a safe, supportive and welcoming environment - for staff, students and visitors.

Equality Impact Assessment (EIA)

This policy has been assessed with regard to its impact on equalities issue, with specific reference to the aims of the Equality Act 2010. The equality impact assessment focused on race, gender, disability, pregnancy and maternity, age, sexual orientation, gender identity and religion/belief.

EIA outcomes

- **No areas of potential negative impact were found and actions resulting in positive impact are in place where appropriate.**

Policy last reviewed:	Due for next review:	EIA:	Role Responsible:
June 2015	June 2017		Assistant Principal

Key Points

1. Classroom teachers and support staff will very rarely be in a situation where they may need to use physical intervention.
2. The situation where physical intervention may occur for classroom teachers and support staff is where there is a confrontation/ fight between students. In these circumstances physical intervention is clearly legal but should be reasonable, that is to say no more force is used than is required. All staff should be clear that they do not have to physically intervene unless they feel comfortable doing so and equally do not consider themselves to be at risk.
3. If a student refuses to leave the classroom despite government guidance which suggests that you may use reasonable force, the college's clear advice is to contact the General Office for a member of the Leadership Team and Campus Supervisors.
4. If a student wishes to leave the classroom the school advises that staff should not prevent the student from doing so unless they are judged to be a significant risk to others.
5. If for any reason you believe a search of a student may be required contact the General Office for a member of Leadership.

A Background Information

Under the auspices of the Every Child Matters Agenda, Minsthorpe Community College, as with all other organisations working with children/young people and their families, has a commitment to safeguard and promote the welfare of all its children/students.

This document has been revised following the publication of:
Screening, Searching and Confiscation- Advice for Head Teachers, Staff and Governing Bodies 2012
Use of Reasonable Force-Advice for Head Teachers, Staff and Governing Bodies 2012

This document is based upon numerous relevant sources of information and advice:

- City of Wakefield MDC (Education, Libraries and Museums Department) – Physical Contact and Intervention: Policy and Practice.
- Children Act 2004 Every Child Matters:
- Education Act 2002 Change for Children
- Children Act 1989
- Working Together to Safeguard Children 2015
- Keeping Children Safe in Education 2015

Other relevant documents include:

- DCSF January 2008: The Use of Force to Control and Restrain Students.
- DfES Feb 2007 Guidance for School Staff: Screening or Searching Students for Weapons.
- Offensive Weapons Act 1996
- DfES Guidance on the Use of Restrictive Physical Interventions for Students with Severe Behavioural Difficulties (2003).
- DfES Guidance on Safe Working Practice for the Protection of Children and Staff in Education Settings (2005)
- DFES Searching, Screening and Confiscation: advice for schools (2014)

This policy should be read and implemented alongside other appropriate Minsthorpe Community College policies including:

- Safeguarding & Promoting the Safety & Welfare of Children/Young People
- The Behaviour and Discipline Continuum.
- Behaving and Learning the Minsthorpe Way
- The Rewards Policy
- The Code of Conduct.
- Dealing with Individual Students and Parents

B **Underlying Principles**

All students have a right to be treated with dignity and respect, and to be protected from their own dangerous behaviour and that of others.

Key points

School staff have a legal power to use force and lawful use of the power will provide a defence to any related criminal prosecution or other legal action. However, the college states that this should be a last resort and that appropriate staff members with Team Teach training should be called to deal with physical interventions.

In line with guidelines the school will not use suspension as an automatic response when a member of staff has been accused of using excessive force.

Senior school leaders should support their staff when they use this power. However, they will consult the Local Authority Designated Officer and seek advice about the appropriate course of action.

- 1 De-escalation Techniques.
Where a problem arises these should always be tried to be used in the first instance e.g.
 - appropriate use of language; positive tone of voice; non-threatening body stance.
 - listening and counselling
 - negotiating with all parties
 - asking onlookers to leave the scene
 - respecting the dignity of all concerned
 - taking the problem seriously
 - attempting to calm the heat of the moment.
 - Where appropriate use of the SSPO

- 2 In the vast majority of situations the use of reasonable physical intervention will only be used after all other strategies have been exhausted. In exceptional circumstances immediate physical intervention may be needed. Reasonable means using no more force than is needed.

- 3 It is unnecessary and unrealistic to suggest that staff should only touch students in emergencies. Recent guidance clearly states that “schools should not have a “no contact policy”.

- 4 However staff must bear in mind that even innocent actions can sometimes be misconstrued. The procedures outlined in this document are intended to clarify what constitutes appropriate behaviour and minimise the risk of allegations made against staff.

- 5 The level and type of physical contact reflects the educational and social needs of the student, e.g., physical contact is likely to occur in some PE activities. It may, in a minority of circumstances, be used to provide comfort to a student in distress.

- 6 There should be no general expectations of privacy for the physical expression of affection or comfort – staff should try, wherever possible, not to be alone with a student in such a situation.

Who can use reasonable force?

1) All members of school staff have a legal power to use reasonable force Section 93, Education and Inspections Act 2006. However, the college advises that staff contact the relevant leadership member or supervisory body who have adequate Team Teach training to carry out physical interventions with students where possible

2) This power applies to any member of staff at the school. It can also apply to people whom the head teacher has temporarily put in charge of students such as unpaid volunteers or parents accompanying students on a school organised visit. However, the college advises that staff contact the relevant leadership member or supervisory body who have adequate Team Teach training to carry out physical interventions with students where possible

When can reasonable force be used at Minsthorpe Community College?

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

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

The following list is not exhaustive but provides some examples of situations where reasonable force can be used at Minsthorpe Community College

Schools can use reasonable force to instruct appropriately trained personnel to:

- remove disruptive children from the classroom where they have refused to follow an instruction to do so;

Schools can use reasonable force to:

- prevent a student behaving in a way that disrupts a school event or a school trip or visit;
- prevent a student leaving the classroom where allowing the student to leave would risk their safety or that of another;
- prevent a student from attacking a member of staff or another student, or to stop a fight in the playground; and
- restrain a student at risk of harming themselves through physical outbursts.

If any person has sustained injury, staff should seek appropriate medical help and advice, logging information on the accident/incident record forms. Equally if the incident had the potential to cause injury or death please report this immediately to your line manager. Please refer to the Staff Handbook.

Schools do not require parental consent to use force on a student.

Schools cannot:

➤ use force as a punishment – **it is always unlawful to use force as a punishment. If force or restraint has to be used the member of staff should report it in the first instance to the CTL or CCTL responsible. They should then in turn report it to the Assistant Principals for both Pastoral and Student Safety and Well-being.**

Full details of any incident involving reasonable physical force should then be recorded on the Physical Intervention form at the end of this document and forwarded to the Assistant Principal Progress and Aspiration and the Assistant Principal Wellbeing and Safety

It is then good practice for the CCTL or an agreed senior leader at the college to inform parents/carers of the incident on the same date as the incident

What happens if a student complains when force is used on them?

- 1) All complaints about the use of force should be thoroughly, speedily and appropriately investigated. Staff need to be aware that where physical force is used by a staff member without the appropriate Team Teach training a referral may be made to the Local Authority Designated Officer (LADO) to complete an investigation.
- 2) When a complaint is made the onus is on the person making the complaint to prove that his/her allegations are true – it is **not** for the member of staff to show that he/she has acted reasonably.
- 3) Suspension must not be an automatic response when a member of staff has been accused of using excessive force. Schools should refer to the “Dealing with Allegations of Abuse against Teachers and Other Staff” guidance (see Associated Resources section below) where 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.
- 4) Schools 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.
- 5) 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.
- 6) 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.
- 7) As employers, schools and local authorities have a duty of care towards their employees. It is important that schools provide appropriate pastoral care to any member of staff who is subject to a formal allegation following a use of force incident.

All incidents of poor behaviour will always be investigated and dealt with according to The Behaviour and Discipline Continuum

C. Searching Students

Below is advice taken directly from Screening, Searching and Confiscation DFE (2014) Minsthorpe Community College adheres to this guidance when conducting such activities.

Key points

Designated school staff can search a student for any item if the student agrees.

The ability to give consent may be influenced by the child's age or other factors

Head teachers and the staff authorised by them (CCTL, SMT and Campus Supervisors) have a statutory power to search students or their possessions, without consent, where they have reasonable grounds for suspecting that the student may have a prohibited item.

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:
 - i) to commit an offence,
 - ii) to cause personal injury to, or damage to the property of, any person (including the student)

Head teachers and authorised staff can also search for any item banned by the school rules which has been identified in the rules as an item which may be searched for.

Confiscation

Designated school staff can seize any prohibited item found as a result of a search. They can also seize any item, however found, which they consider harmful or detrimental to school discipline.

D. Searching with consent

Schools' common law powers to search:

Designated school staff can search students **with their consent** for any item.

Also note:

1) Schools are not required to have formal written consent from the student for this sort of search – it is enough for the teacher to ask the student to turn out his or her pockets or if the teacher can look in the student's bag or locker and for the student to agree.

2) Schools should make clear in their school behaviour policy and in communications to parents and students what items are banned.

3) If a member of staff suspects a student has a banned item in his/her possession, they can instruct the student to turn out his or her pockets or bag and if the student refuses, the teacher can apply an appropriate punishment as set out in the school's behaviour policy.

4) A student refusing to co-operate with such a search raises the same kind of issues as where a student refuses to stay in a detention or refuses to stop any other unacceptable behaviour when instructed by a member of staff – in such circumstances, schools can apply an appropriate disciplinary penalty.

E. Searching without consent

What the law says:

Minsthorpe Community College will conduct searches without consent if it is believed a student possesses:

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, or to cause personal injury to, or damage to property; and any item banned by the school rules which has been identified in the rules as an item which may be searched for.

Who can conduct a search at Minsthorpe Community College?

The head teacher authorises certain staff members who are permitted to conduct a search they are CCTL, SMT and Campus Supervisors.

Under what circumstances?

You must be the same sex as the student being searched; and there must be a witness (also a staff member) and, if at all possible, they should be the same sex as the student being searched.

There is a limited exception to this rule. You can carry out a search of a student of the opposite sex to you and without a witness present, but **only** where you reasonably believe that there is a risk that **serious harm** will be caused to a person if you do not conduct the search immediately and where it is **not reasonably practicable** to summon another member of staff.

When can I search?

If you have reasonable grounds for suspecting that a student is in possession of a prohibited item.

Also note:

The law also says what must be done with prohibited items which are seized following a search.

The requirement that the searcher is the same sex as the student and that a witness is present will continue to apply in nearly all searches. Where it is practicable to summon a staff member of the same sex as the student and a witness then the teachers wishing to conduct a search must do so.

F. Authorising members of staff

1) Head teachers should decide who to authorise to use these powers. There is no requirement to provide authorisation in writing.

2) Staff, other than security staff, can refuse to undertake a search. The law states that head teachers may not require anyone other than a member of the school security staff to undertake a search.

3) Staff can be authorised to search for some items but not others; for example, a member of staff could be authorised to search for stolen property, but not for weapons or knives.

4) A head teacher can require a member of the school's security staff to undertake a search.

G. Establishing grounds for a search

1) Designated staff at Minsthorpe Community College can only undertake a search without consent if they have reasonable grounds for suspecting that a student may have in his or her possession a prohibited item. They must decide in each particular case what constitutes reasonable grounds for suspicion. For example, they may have heard other students talking about the item or they might notice a student behaving in a way that causes them to be suspicious.

2) In the exceptional circumstances when it is necessary to conduct a search of a student of the opposite sex or in the absence of a witness, the member of staff conducting the search should bear in mind that a student's expectation of privacy increases as they get older.

3) The powers allow school staff to search regardless of whether the student is found after the search to have that item. This includes circumstances where staff suspect a student of having items such as illegal drugs or stolen property which are later found not to be illegal or stolen.

4) School staff can view CCTV footage in order to make a decision as to whether to conduct a search for an item.

H. Searches for items banned by the school rules

1) An item banned by the school rules may only be searched for under these powers if it has been identified in the school rules as an item that can be searched for.

2) The school rules must be determined and publicised by the head teacher in accordance with section 89 of the Education and Inspections Act 2006. In the case of Academies, the school rules must be determined in accordance with the School Behaviour (Determination and Publicising of Measures in Academies) Regulations 2012. Separate advice on school rules is available in 'Behaviour and Discipline' – a guide for head teachers and school staff via the link under Associated Resources.

3) Under section 89 and the School Behaviour (Determination and Publicising of Measures in Academies) Regulations 2012, the head teacher must publicise the school behaviour policy, in writing, to staff, parents and students at least once a year.

I. During the search

Extent of the search – clothes, possessions, desks and lockers

What the law says:

- The person conducting the search may not require the student to remove any clothing other than outer clothing.
- 'Outer clothing' means clothing that is not worn next to the skin or immediately over a garment that is being worn as underwear but 'outer clothing' includes hats; shoes; boots; gloves and scarves.
- 'Possessions' means any goods over which the student has or appears to have control – this includes desks, lockers and bags.
- A student's possessions can only be searched in the presence of the student and another member of staff, except where there is a risk that **serious harm** will be caused to a person if the search is not conducted immediately and where it is **not reasonably practicable** to summon another member of staff.

Also note:

The power to search without consent enables a personal search, involving removal of outer clothing and searching of pockets; but not an intimate search going further than that, which only a person with more extensive powers (e.g. a police officer) can do.

J. Use of force

1) Designated members of staff at Minsthorpe Community College can use such force as is reasonable given the circumstances when conducting a search for knives or weapons, alcohol, illegal drugs, stolen items, tobacco and cigarette papers, fireworks, pornographic images or articles that have been or could be used to commit an offence or cause harm. Such force **cannot** be used to search for items banned under the school rules.

K. After the search

The power to seize and confiscate items – general

What the law allows:

- Schools' general power to discipline, as set out in Section 91 of the Education and Inspections Act 2006, enables a member of staff to confiscate, retain or dispose of a student's property as a disciplinary penalty, where reasonable to do so.

Also note:

1) The member of staff can use their discretion to confiscate, retain and/or destroy 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.

2) 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, provided they acted lawfully.

3) The designated staff member carrying out the search should then complete the '**Student Search Record Sheet**' with details of the incident. This should be **forwarded to the Assistant Principal Progress and Aspiration and the Assistant Principal Wellbeing and Safety**

It is then good practice for the CCTL or an agreed senior leader at the college to inform parents/carers of the search on the same date as the incident

L. Items found as a result of a 'without consent' search

What the law says:

- A person carrying out a search can seize anything they have reasonable grounds for suspecting is a prohibited item (that is the items identified in paragraph 3 (1-4) on page 4) or is evidence in relation to an offence.
- Where a person conducting a search finds **alcohol**, they may retain or dispose of it. This means that schools can dispose of alcohol as they think appropriate but this should not include returning it to the student.
- Where they find **controlled drugs the SSPO must be consulted**, these must be delivered to the police as soon as possible but may be disposed of if the person thinks there is a good reason to do so.

- Where they find **other substances** which are not believed to be controlled drugs these can be confiscated where a teacher believes them to be harmful or detrimental to good order and discipline. This would include, for example, so called 'legal highs'. Where staff suspect a substance may be controlled they should treat them as controlled drugs as outlined above.
- Where they find **stolen items the SSPO must be consulted**, these 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 person thinks that there is a good reason to do so.
- Where a member of staff finds **tobacco or cigarette papers** they may retain or dispose of them. As with alcohol, this means that schools can dispose of tobacco or cigarette papers as they think appropriate but this should not include returning them to the student.
- **Fireworks** found as a result of a search may be retained or disposed of but should not be returned to the student.
- If a member of staff finds a **pornographic image**, they may dispose of the image unless its possession constitutes a specified offence (i.e. it is extreme or child pornography) in which case the SSPO must be consulted and 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.
- Where an **article that has been (or could be) used to commit an offence or to cause personal injury or damage to property** is found it may be delivered to the police or returned to the owner. It may also be retained or disposed of.
- Where a member of staff finds **an item which is banned under the school rules** they should take into account all relevant circumstances and use their professional judgement to decide whether to return it to its owner, retain it or dispose of it.
- Any **weapons or items which are evidence of an offence** must be passed to the police as soon as possible and the school SSPO advised immediately.

M. Statutory guidance on the disposal of controlled drugs and stolen items

1) It is up to the designated staff to decide whether there is a good reason not to deliver stolen items or controlled drugs to the police after consultation with the school SSPO. In determining what is a "good reason" for not delivering **controlled drugs or stolen items** to the police the member of staff must have regard to the following guidance issued by the Secretary of State:

2) **In determining what is a 'good reason' for not delivering controlled drugs or stolen items to the police, the member of staff should take into account all relevant circumstances, consult with the School SSPO and use their professional judgement to determine whether they can safely dispose of a seized article.**

3) Where staff are unsure as to the legal status of a substance and have reason to believe it may be a controlled drug they should treat it as such and contact the SSPO immediately to seek advice.

4) With regard to stolen items, it would not be reasonable or desirable to involve the police in dealing with low value items such as pencil cases. However, school staff may judge it

appropriate to contact the police and/or SSPO if the items are valuable (iPods/laptops) or illegal (alcohol/fireworks).

N. Statutory guidance for dealing with electronic devices

1) Where the person conducting the search finds **an electronic device** they may examine any data or files on the device if they think there is a good reason to do so. Following an examination, if the person has decided to return the device to the owner, or to retain or dispose of it, they may erase any data or files, if they think there is a good reason to do so.

2) The member of staff must have regard to the following guidance issued by the Secretary of State¹² when determining what is a “good reason” for examining or erasing the contents of **an electronic device**:

- **In determining a ‘good reason’ to examine or erase the data or files the staff member must reasonably suspect that the data or file on the device in question has been, or could be, used to cause harm, to disrupt teaching or break the school rules.**

3) If inappropriate material is found on the device it is up to the teacher to decide whether they should **delete** that material, **retain** it as evidence (of a criminal offence or a breach of school discipline) or whether the material is of such seriousness that it requires the involvement of the police.

Also note:

Teachers should also take account of any additional guidance and procedures on the retention and disposal of items that have been put in place by the school.

O. Telling parents and dealing with complaints

1) Schools are not required to inform parents before a search takes place or to seek their consent to search their child.

2) There is no legal requirement to make or keep a record of a search.

3) Schools should inform the individual student’s parents or guardians where alcohol, illegal drugs or potentially harmful substances are found, though there is no legal requirement to do so.

4) Complaints about screening or searching should be dealt with through the normal school complaints procedure.

5) It is good practice for the CCTL or an agreed senior leader at the college to inform parents/carers of the search on the same date as the incident

MINSTHORPE COMMUNITY COLLEGE
PHYSICAL INTERVENTION

Name of student: _____ P& Group _____

Form completed by: _____

Name/s of member/s of staff involved: _____

Date: _____

Time: _____

Place: _____

Disciplinary measures taken: _____

Witness/es: _____

Full details of any physical contact and intervention with the student, including the build up, attempts to defuse the situation, and any outcome. Please continue over the page if necessary.
