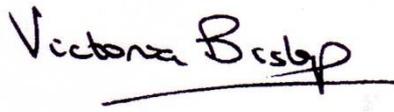




Sir Christopher Hatton Academy

A Member of Hatton Academies Trust



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| Title | Duty of Care for Staff Policy |
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| Associated Policies | |
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Purpose

This code of conduct is intended to reduce the risk of injury to staff and students and false or malicious allegations of misconduct by pupils against staff. It will be appreciated, however, that the code of conduct cannot totally remove those risks.

This code should be read in conjunction with the school's child protection procedures, and the safer working practices guidance with which staff must be familiar. Both documents and other relevant policies are in the Safeguarding Handbook issued to all staff.

Relationships with pupils

The relationship between a school employee and a student is a formal one, and an appropriate 'distance' should always be maintained. Teachers, in particular, are important role models and should conduct themselves accordingly. Employees must take care that the age, sex, maturity and cultural background of the pupils is taken into consideration in their relationships with pupils. All staff should be alert to the possibility that pupils may misinterpret, deliberately or innocently, adult behaviour or language and should be vigilant in this respect. Excessively informal or ambiguous language, or behaviour which may be interpreted as intimidatory or physically threatening should be avoided. Sarcastic, demeaning or insensitive comments towards a pupil, and haranguing and aggressive shouting are abusive and therefore unacceptable.

Emails should be used with care and in a school-related context as part of your professional relationship with pupils through the school email system rather than personal email addresses.

Mobile phones present new aspects to the student teacher relationship. The sharing of mobile phone numbers with students is rarely necessary or advisable. Staff are advised not to give mobile phone numbers to students or use text messaging. The academy has mobile phones for use by staff on field trips. These numbers can be shared with pupils (and their parents/carers) for emergency contacts etc.

Staff should be aware of any social media networks and use of these to include students is not advisable.

Safeguard against allegations

Even though staff behave professionally in their relationships with students, it is inevitable that tensions and misunderstandings will occur from time to time. All staff are potentially vulnerable to allegations of abuse and need good training and clear guidance on how to deal with this.

Guidance for Safer Working Practice for Adults who Work with Children and Young People was produced to help staff establish the safest possible learning environments. Its aims are also to safeguard young people and reduce the risk of staff being falsely accused of improper or unprofessional conduct. This guidance is issued to all staff in the Safeguarding Handbook

The guidance contains detailed advice on a useful set of underpinning principles:



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- the welfare of the student is paramount;
- staff are responsible for their own actions and behaviour and should avoid any contact that would lead any reasonable person to question their motivation and intentions;
- staff should work, and be seen to work, in an open way;
- staff should discuss and/or take advice promptly from their line manager or another senior member of staff over any incident that may give rise to concern;
- records should be made of any such incident and of decisions made or further actions agreed, in accordance with Academy's policy for keeping and maintaining records;
- staff should apply the same professional standards regardless of gender or sexuality;
- all staff should know the name of their designated person for child protection, be familiar with local child protection arrangements and understand their responsibilities to safeguard and protect young children and young persons; and
- staff should be aware that breaches of the law and other professional guidelines could result in criminal or disciplinary action being taken against them.

Physical contact

Any circumstance where physical contact is used increases the vulnerability of the employee. Physical contact is rarely appropriate or acceptable and must be avoided. It may, rarely, be appropriate for a member of staff to use physical restraint or intervention in order to prevent a student causing injury or harm to him/herself or others or damaging property. This must always be the minimum force required and the incident must always be reported.

Teachers of subjects where physical contact may occasionally be necessary, such as physical education or drama, should endeavour to demonstrate particular techniques by using competent students. Where the teacher uses physical contact, the contact should be planned and explained to students and must be demonstrably unavoidable, and/or a high risk health and safety issue.

Physical contact may be necessary where there is a life threatening or serious condition. Employees who administer first aid should ensure that, wherever possible, other children or another adult are present.

Corporal punishment and justifiable restraint

The law forbids a teacher or other employee to use any degree of physical contact which is deliberately intended to punish a student with a student's body or clothes, for example, shaking or holding the student by the lapels of his or her jacket. Corporal punishment is defined in s548 of the Education Act 1996 as doing anything to a child which would constitute battery. However, it is made clear in the same section that anything done to avert immediate danger of personal injury (including physical restraint), or damage to property, would not be considered corporal punishment. It is important that staff are aware that even in such circumstances there must not be any element of punishment in the restraint.

Staff should refer to the Trust's Physical Restraint Policy.



Power to use reasonable force

S550A of the Education Act 1996 (inserted into that Act by s4 of the Education Act 1997) gives teachers the right, if authorised by the Principal, to use reasonable force. At Sir Christopher Hatton Academy staff are authorised by the Executive Principal and Board of Directors to use reasonable force to prevent a student from doing any of the following:

- committing a criminal offence;
- injuring themselves or others;
- damaging property, including their own; and
- behaving in a way which is prejudicial to the good discipline and order of the academy whether in the classroom or elsewhere where the teacher has lawful control of the student.

However, staff must ensure that their own health and safety are considered and should not act in any way that may result in injury or danger to themselves. If in doubt, staff are advised to seek additional help before intervening in the above actions. This is particularly the case if students are angry or distressed. Injury to staff may occur due to intentional or unintentional student reaction to the intervention.

Private meetings

Private meetings i.e. meetings with one student and one teacher should be viewed with care and avoided where possible. Where such a meeting is demonstrably unavoidable, then it must take place in an appropriate room with the door left open and/or with visual contact with others maintained. The use of a 'Meeting in Progress' sign is inappropriate.

Under no circumstances should meetings with individual students be arranged off the school premises, or on the school premises when the school is not in session, without the prior approval of the Executive Principal. This includes the transporting of individual children in private cars (See trips and visits guidance)

Pupils with Special Education Needs

Employees should seek specific guidance from their line manager in relation to students with special needs who require assistance with personal needs such as toileting.

Reference should be made to the Academy's Intimate Care policy.

Infatuations and crushes

Infatuations and crushes can involve students and staff of both sexes on both a heterosexual and homosexual basis. Staff in such a situation should inform a senior colleague without delay. The situation must be taken seriously and the member of staff should be careful to ensure that no encouragement of any kind is given to the student. Careless and insensitive reactions may provoke false accusations. Young, newly qualified teachers must recognise their particular vulnerability to adolescent infatuation.



Out-of-school and after-school activities

Staff should take particular care when supervising students, especially older students, in the less formal atmosphere of a residential setting, school holiday or out-of-school activity. The more relaxed relationships that may promote successful activities can be misinterpreted by young people. The standards of professional conduct and behaviour expected of employees are no different to those which apply when the school is in session.

Teaching and teaching materials

Teaching and teaching materials must be appropriate, having regard to the age, understanding and cultural background of the students concerned. The use of material such as books, videos and films of an explicit or sensitive nature, particularly in relation to language or sexual behaviour, must be given careful consideration to ensure that its selection is not subsequently misinterpreted. There should always, therefore, be a clear link with the targets of the teacher's planning. The content of lessons must also comply with the Academy's Sex and Education policy. Where DVDs are to be used to illustrate a topic the censorship rating must be appropriate to the age group of the audience.

Reporting incidents

Staff must report any concerns that they may have following any incident where they feel that their actions may have been misinterpreted, or where a student, parent and carer or third party has complained to them either about their own actions or the actions of another member of staff.

Duty of Care

Care and Safety of Students

The Health and Safety at Work etc Act 1974 (HSWA) implicitly covers schools and teachers as employers and employees. Students are implicitly covered in that they are persons who are affected by the employer's undertakings either on the Academy premises or elsewhere. The provisions of the Act are wide. As employers, in Community and Voluntary Controlled (VC) schools) or the Governing Body (in Foundation and Voluntary Aided schools) are legally responsible for securing the health, safety and welfare of employees and the health and safety of non-employees affected by the employer's undertaking. Under the Education Act 2002 (section 175) The Principal is normally charged with the implementation of HSWA and the associated Health and Safety at Work Regulations 1999, but schools will have a designated Health and Safety Officer who will work with the Principal. The designated Health and Safety Officer for Sir Christopher Hatton Academy is the Director of Finance and Operations.

As an employee, ***you have a responsibility to be aware of safety procedures and to draw attention to any shortcomings in safety arrangements or facilities.*** You should, for example, be clear about the Academy's policy on such matters as:

- the identity of the Health and Safety officer;



- the fire drill and other emergency procedures;
- medical facilities;
- reporting and recording accidents;
- PE equipment;
- health and safety routines;
- equipment and hazardous substances in specialist areas, such as science and design and technology
- school security;
- intruders;
- abusive and threatening visitors;
- trips and visits out of school.

Section 8 of the Act states that employees must not

'intentionally or recklessly interfere with or misuse anything which is provided in the interests of health, safety or welfare in pursuance of any of the relevant statutory provisions'.

If a teacher or other member of staff were to obstruct access to a fire door or extinguisher with an elaborate display or a large item of sports equipment, for example, this might be considered to be reckless interference with safety provisions.

There are particular matters of which schools need to take account when administering medicines to pupils and it is important to adhere to school and LA guidelines, which will usually be comparable with the national guidelines.

What is my 'common law' duty of care to students?

Civil law evolved the concept of 'in loco parentis'. In a civil case (where a parent and carer sues a school or teacher) the judge may use precedent casework to assess whether a teacher has acted as a reasonably prudent parent would. But this is not the same as the duty of care imposed by HSWA that employers ensure health and safety insofar as that is reasonably practicable. Neglect of this duty could lead to criminal not civil proceedings.

All staff have to ensure that students are healthy and safe on school premises and during teacher-led educational visits. Accidents, including serious ones, can happen, but the duty of care demands that you take steps to prevent what might reasonably be foreseen. The school as the employer must assess the risks of all student activities. If you are asked to undertake the actual task then you should ensure that you are competent in the task and that you are trained in risk assessment if that is necessary. A risk assessment will consider what the hazards are, what measures are in place to remove or avoid the assessed risk, and what further measures need to be effected. The assessment should also consider, amongst other things, the students' age, known health problems, skills, and the level and competence of the supervisors.

Note that for adventure activities the task of risk assessment is highly specialised and you are unlikely to have the competence without some formal training from, for example, a national governing body. Core adventure activities are often provided to schools by outside bodies, which have been inspected and licensed by the DCFS-sponsored Adventure Activities Licensing Authority. The school's Educational Visits Co-ordinator will advise you.



Schools and LAs should have explicit guidelines for many activities, which carry some obvious risk, such as swimming, outdoor activities or the use of sharp tools. You should adhere to these, both for the safety of students and for your own protection. If you are in **any** doubt as to the safety of an activity, you should err on the side of caution and seek appropriate advice. Note that one of the OFSTED inspection points is an evaluation of 'To what extent does the school ensure that pupils work in a healthy and safe environment?'. The Health and Safety Executive (HSE) is the Inspectorate for investigating breaches of Health and Safety legislation. This warning might seem rather alarmist, given that most teachers go through their careers without serious incident but, if something does go wrong, you might have to explain in court that the risk was reasonable or entirely unforeseeable and that you were not negligent. Section 3(5) of the Children Act, 1989, recognises that teachers might need to react in emergency situations, such as on a school trip, to safeguard children's welfare. The key principle is that they should act reasonably.

You should always adhere to the school's policies and procedures, which would normally include obtaining parental consent for non-routine visits especially those including a residential element or which go abroad.

How am I covered for liability?

a) Insurance for Employee Liability

As your employer the Academy has adequate liability insurance in place to cover all employees and governors. Provided that you have not behaved deliberately illegally or dishonestly, you would normally not be personally liable for any claim against you in your capacity as an employee of the school. However, if you have been negligent in some way, or have breached school policy, the school as your employer can take disciplinary action against you.

b) Insurance for Pupils' Property

Staff must actively encourage pupils to leave valuables at home. This will be reinforced in pupil induction, the Academy prospectus and contact with parents and carers. If you take pupils' property into your safekeeping (including through confiscation) then you should ensure that it is stored securely until it is returned e.g. at reception or a locked office. If an item is held for any length of time it must be taken to reception and stored in a labelled envelope and logged as received. When property is returned to the student or their parent/carer then they must sign the log book to as proof of receipt.

c) Insurance for Travel with Pupils

If you travel with students as passengers in your **own** car, you have a duty of care to ensure their safety. You must ensure that your vehicle is roadworthy, that you have an appropriate valid license and insurance. These aspects must be considered before the journey takes place. To ignore these requirements would amount to negligence on your part. Staff are advised to put in place adequate insurance cover for transporting students for school activities. However insurance cover for carrying pupils or other passengers on school-related business or in emergencies is also covered by the school's insurance policy. The first part of any claim would normally be against your personal car insurance policy.



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There are specific regulations governing the driving of a school minibus or the driving of a hired minibus / bus / coach. No employee can drive a minibus/ bus/coach on school business without the required license e.g. Midas/PSV.

These are referred to in the Academy's Health & Safety Policy.