

## Rishworth School: Promoting Good Behaviour, Discipline and Sanctions Policy

Review Initiated by	PRS
Last Review	Lent 2020
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**Issued to: Parents and Prospective Parents via the website**  
**Available to: Teaching Staff via the School's Internal Policy Files**

This Policy is intended to cover discipline (including the promotion of good behaviour) as well as rewards and sanctions (from informal sanctions to exclusions). It should be read in conjunction with the Anti-bullying Policy and has the following 2 Appendices:

1. Guidelines on physical contact between staff and students (including guidance on the use of physical force to control or restrain)
2. Searches

In accordance with statutory regulation which requires a statement to this effect, the School confirms that corporal punishment is not used.

This Policy is to be understood in conjunction with the school rules as set out in the Parents' and Students' Handbook and which amount to the following ('the Five Cs'): *Behave with Care, Consideration, Courtesy, Co-operation and Common Sense.*

### Aim

The aim of all discipline is self-discipline.

Specific desired outcomes for the School of developing and sustaining self-discipline within the community include:

- an orderly, co-operative, purposeful atmosphere,
- high standards and expectations,
- the promotion of good behaviour,
- good relationships based on respect for other people and on courteous and considerate behaviour,
- an industrious approach to work,
- care for the school environment.

### **1. Roles and Means**

#### 1.1 The Student:

- a) In the Parents' and Students' Handbook, under 'School Rules', the opening paragraph (quoted below), addressed to students, delineates the behavioural expectations the School has of its students.
- b) "Rishworth is your school; respect it and take active interest in all your work and in the School generally. Your happiness and success, and its reputation, depend upon your efforts. Do all you can to make the School even happier and more successful. Do nothing to lower its reputation."

- c) Students are expected at all times , whether in or outside school and whether during a school activity or otherwise, to respect the School’s central rule, which is the “Five C’s”, as set out in the Parents’ and Students’ Handbook: “Behave with care, consideration, courtesy, co-operation and common sense”.
- d) In addition, students are expected to comply with requests, rules and regulations which are standing or which come into effect from time to time.
- e) Given that the core purpose of a student is to study, serious and/or persistent deficiencies in such areas as effort and application in academic work may also be considered as disciplinary matters.

## 1.2 The Parents:

- a) One of the reasons that many parents will have chosen Rishworth for their children is because they want them to grow up in an atmosphere conducive to learning where high standards of behaviour are expected and prevail. Should measures to apply disciplinary sanctions have to be taken in respect of a student, it is vital that the parents of that child support the School in its actions so that the message received by the pupil is consistent between school and home. Where there is no such, or inadequate, support from parents, not only can this give unsettling and confusing mixed messages to the child and reduce the chances of improvement, but it could also jeopardise the validity of the contract parents have signed with the School.
- b) Understanding and respecting what is set out in the section entitled “What about discipline?” in the Parents’ and Students’ Handbook is an essential part of the parents’ and guardians’ role. The section in question contains the following sub-sections:
  - Orderliness prevails!
  - How is orderliness at Rishworth nurtured?
  - The Educational Approach
  - When necessary, how does our community protect itself against the damage done by disorderly conduct?
  - Sanctions
  - What about my son or daughter?
  - What can I as a parent/guardian do to help?

## 1.3 The School:

- a) Discipline should:
  - be constructive and purposeful
  - be clearly defined and understood within a graduated framework
  - be preventive rather than reactive whenever possible
  - balance freedom and responsibility
  - be part of, not in conflict with, pastoral care
  - be explored and better understood through the academic, PSHCE and broader curricula

- be supported by, and reflected in, the standards expected and upheld day to day by the School
- be practised by the whole community, not just by a few individuals
- involve parents whenever necessary
- be systematic and consistent, but also flexible
- combine sensitively both rewards and sanctions
- be fair and, where possible, help students and parents to appreciate the fairness

## **2. Discipline Procedures**

2.1 The purpose of both rewards and sanctions is to promote good behaviour. A graduated structure of formal rewards and sanctions to complement less formal measures is necessary. The purpose of a reward is to recognise worthy achievement or effort, to motivate and encourage. The purpose of a sanction is to correct, to deter or, on occasion, to protect. The imposition of a sanction should never be an act of retribution.

## **3. Principles of Application**

- 3.1. It is important, in order that discipline is fair and meaningful, for there to be systematic and consistent use of rewards and sanctions throughout the School. It is equally important, however, for the same reasons that there is sufficient flexibility in the application of disciplinary procedures to allow differing circumstances, such as disabilities and particular learning needs, to be taken into account in individual cases. A balance needs to be struck between the need for consistency on the one hand and for flexibility on the other.
- 3.2. For this reason, few are the cases where a direct equation can *automatically* be made between a given offence and a particular punishment, although there needs to be a generally accepted view of the kind of misbehaviour that is likely to result in a certain type of punishment: it is important that students as well as staff understand, for instance, that throwing a snowball is (depending upon circumstances) likely to fall within the sanction range of verbal reprimand to detention, whereas stealing from another student's wallet would (depending upon circumstances) be more likely to warrant expulsion. The School's enforcement of its no chewing-gum rule is robust: a student can expect to be sent home if found to be in breach of this rule; an equivalent, appropriate sanction can be expected for boarders whose homes are a long way away.
- 3.3. It should be understood that, as one of the main purposes of any sanction is to correct behaviour, students are expected to learn from their mistakes (and from any sanctions imposed), and not to repeat them. Persistent misbehaviour, even of a kind that may, initially, and as a one-off, be relatively low level, can quickly become serious, if only as a mark of disobedience, and a student can in consequence quickly escalate through the graduated sanctions. This is an example of how a given misdemeanour in one instance can lead to a particular sanction, and ostensibly the same misdemeanour in another instance can lead to a more severe sanction.
- 3.4. That a misdemeanour in one set of circumstances might fairly lead to one course of action while ostensibly the same misdemeanour in another set of circumstances might fairly lead to a different course of action can be a point which both students and parents at times struggle to see as equitable. This difficulty can be made worse by the fact that the School, bound by confidentiality, is unlikely to be able to explain to a student or parent querying the justice of

measures taken in their regard either what, or even that, action has been taken in respect of another student who they believe also might have offended and who they therefore believe should be treated in a given way.

- 3.5. The latter difficulty notwithstanding, the best way to ensure both consistency and flexibility is for staff to liaise, as necessary, with relevant parties and for parents to contact the appropriate member of staff at the appropriate stage/level. (See 'Chains of Communication' below)

#### **4. Informal Rewards and Sanctions**

- 4.1 These are frequently used as a natural and integrated part of a teacher's interaction with students: words of encouragement, smiles of approval and other approbatory demonstrations go hand in hand with the authoritative stance, the stern look, the cautionary gesture, the 'quiet word' and the firm rebuke.
- 4.2 A particularly effective way of recognising a student's good performance or conduct is not only for the teacher concerned to congratulate the student personally but also to mention this to a relevant member of staff (Tutor, Head of Department, etc.) who can then also congratulate the student. This creates a positive climate in which students feel their efforts are known and appreciated. Verbal praise and written praise are given for good work and examples of students' work is displayed in classrooms and around the School.
- 4.3 Such referral and feedback also work well as a semi-formal sanction in the case of poor effort or conduct, whereby students realise that 'being unsatisfactory' is noticed and taken seriously by more than just the teacher initially concerned.

#### **5. Formal Rewards and Sanctions**

##### **5.1 Rewards**

- a) **Credits:** These are awarded by the teacher and usually recorded in a student's exercise book and planner although they may take the form of a 'credit slip' or a 'Positive Comment Sheet'. Credits are collected from the student by the Tutor once a week and collated for the purpose of inter-team prizes. Students earn credit certificates for each multiple of 100 credits gained (a 1-star award for 100 credits; a 2-star award when 200 credits are gained, and so on). Credit certificates are normally presented in assemblies.
- b) **Commended Work:** Staff are invited to commend a student's good work to the Head who then congratulates the student in an assembly. Commendations may be given for academic work of a high standard, or for community activities. Major awards such as those in sports, and drama and concert achievements, as well as being announced in assembly, may be published on the School's web site and in the newsletter.
- c) **Prizes:** Subject and year group prizes are awarded each year on Speech Day to recognise success, academic or otherwise, over the year. Academic awards are given for both attitude to learning and achievement, as well as other accomplishments.
- d) **Letters of Commendation:** The Head may send such a letter to the parents of a student who has, for instance, received outstanding end-of-term reports.

## 5.2 Sanctions

- a) The member of staff should try to deal with any minor misdemeanours in the first instance. If appropriate, a note for parents and Tutor may be entered in the student's planner, which parents of students in Years 7 to 11 are asked to check regularly and to sign, as checked, each week (with or without comment in the space provided), the planner being a key point of contact between school, home and student.
- b) When warranted, a complaint should be recorded electronically where it will be picked up by the relevant tutor who should then take the appropriate action in accordance with established procedure. A complaint will remain on a student's record.
- c) More serious or recurring misdemeanours should be referred to the student's tutor and/or Head of School Section/Senior Member of Staff, and suitable action will be considered, again in accordance with established procedure, including whether or not parents should be contacted at a given stage and whether or not the pupil should be placed in any of the detentions listed below.
- d) Any apparently significant disciplinary matter will have been investigated as thoroughly as is appropriate before any sanction is imposed.

## 5.3 Complaint Slips

- a) Teachers may give a complaint for any appropriate misdemeanour, including:
  - Inappropriate or unacceptable behaviour
  - Poor classwork
  - Poor homework or homework not done
  - Inappropriate uniform or appearance
  - Chewing gum
  - Any other misdemeanour
- b) What are the consequences of being given a complaint?
  - The teacher giving the complaint may decide on a sanction to be applied (see below).
  - The student's Tutor will always be informed when a complaint is given. If the student is a boarder, his or her Housemaster/mistress will also be informed.
  - The student's Tutor records the number of complaints given and may decide on a sanction to be applied (see below).
- c) If a student is given three complaints in a 2-week period:
  - The student's Head of School Section will be informed.
  - The student's parents/guardians are very likely to be informed in the first instance of the student receiving three complaints in a 2-week period and will certainly be informed should there be any further occurrence of the student receiving three complaints in a 2-week period.
  - The student's Tutor or Head of School Section will decide on an appropriate sanction to be applied (see below)

5.4 Some offences have their own particular sanction e.g. a student caught chewing gum in school will be sent home.

5.5 **The Detention System:** The sanctions are outlined below and ordered in level of severity.

#### **Level 1 Detention**

These take place in classrooms, usually at lunchtime. A student receiving three Level 1 detentions in any one half-term period will, in addition, receive a Level 2 detention.

#### **Level 2 Detention**

This takes place in the Library after school on Monday, Tuesday, Wednesday and Thursday afternoons from 16:00 – 17:00 and is supervised by the member of staff on duty. A form must be collected by the pupil from the appropriate Head of School Section or Senior Member of Staff concerned, to be signed by the parents/boarding staff at least 48 hours before the detention. The signed form will then be kept in the student's file. A student receiving two Level 2 detentions in the same term will, in addition, receive a Level 3 detention.

#### **Level 3 Detention**

This takes place under the supervision of a member of Senior Staff on Friday afternoon from 16:00 – 17:30. The procedure for giving notice is identical to that set out in **Level 2 Detention** above.

#### **Level 4 - Head's Detention**

This is held on Saturday morning, from 09:15 to 12:00. The detention is supervised by the member of Senior Staff on duty and the work done is set by a Senior Member of Staff. A letter to parents/guardians is issued by either the Head of School Section or a Senior Member of Staff.

#### 5.6 **Suspension**

a) Authorised only (and rarely) by the Head or the Deputy Head for severe disciplinary breaches such as certain kinds of bullying, or for a repetition of less serious offences, any one of which, on its own, may warrant a lesser sanction but which, taken together, form a graver picture. As with any apparently-significant disciplinary matter, the case will have been thoroughly investigated before any disciplinary action is taken. This will normally include the offender and other relevant parties being interviewed. Parents will also normally be contacted by the Head or Deputy Head or other senior colleague and invited into school for consultation.

b) A formal letter confirming the School's action will be sent.

#### 5.7 **Rustication**

a) Authorised only by the Head or the Deputy Head, rustication is the release of the Student to his/her home or to an education guardian for a specified period of time but without

further disciplinary consequences. Rustication is only temporary, and after a period of reflection, the student can resume his or her studies.

## **5.8 Requirement to Leave and Expulsion**

- a) Authorised only by the Head and always after extensive consultation with staff concerned, these are the School's ultimate sanctions and their use is very rare. The offence will be very serious or will be the culmination of less serious offences that have already led to repeated sanctions, usually (but not necessarily) including suspension.
- b) The difference between 'expulsion' and 'requirement to leave' is very significant indeed, even if both share the same central outcome: that the student has to leave the School permanently.
- c) Expulsion implies an enforced departure in disgrace, with a permanent stain left on that pupil's disciplinary record; 'requirement to leave' enables the School to provide a supportive (truthful) reference for the student. (Parental 'agreement to withdraw' in such a situation, in addition to allowing the School to provide a supportive (truthful) reference, implies a level of co-operation on the part of the parents, which tends to be a particularly well-received sign on the part of schools that may be considering an application from a student in such circumstances. Parental 'agreement to withdraw' is therefore a way not only of avoiding the stigma of expulsion or the unpleasantness of a student's being required to leave but also of improving a student's prospects of joining a school of his or her choice).
- d) Examples of behaviour that could warrant Requirement to Leave or Expulsion include the following. It should be noted that this is not an exhaustive list:
  - Drug abuse
  - Alcohol abuse
  - Theft
  - Fraud
  - Gambling on school premises
  - Bullying, including racist, sexist or discriminatory bullying or abuse
  - Physical assault/ threatening behaviour
  - Fighting
  - Sexual harassment
  - Sexual misconduct
  - Violence
  - Arson
  - Disobedience
  - Improper behaviour towards a member of staff or another pupil
  - Using pornography in school
  - Jeopardising the health, safety and/or well-being of others
  - Damage to property
  - Persistent, or one (or more) very serious instance(s) of, disruptive behaviour
  - Refusal to do work or to apply sufficient effort
  - Damaging the School's reputation or acting in such a way as this might happen or might have happened
  - Infringing school rules
  - Acting in ways which are at variance with the School's values

- Where the continued presence of the student is incompatible with the interests of the School
  - Unacceptable or unsupportive parental behaviour
  - Any activity that is illegal under English Law
  - Interfering with the work of the School
  - Misuse of Information Technology
  - Some other substantial reason
- e) As with any apparently significant disciplinary matter, the case will have been properly investigated before any disciplinary action is taken. This will normally include the offender and other relevant parties being interviewed. Parents will also normally be contacted by the Head or Deputy Head or other senior colleague and invited into school for consultation. A formal letter confirming the School's action will be sent.
- f) Students who persistently fall below the standards expected of a student at Rishworth School can expect to be moved up through these sanctions. For example, not doing homework is likely to result in a Level 1 detention. A student receiving three Level 1 detentions in any one half-term period will, in addition, receive a Level 2 detention. The student's Tutor keeps a record of all of complaint slips and all detentions at all levels for all students in his or her Form and so can monitor easily how students in that Tutor Group move through the different sanctions. Some offences will result in a higher level sanction being applied straight away, therefore bypassing the lower level sanction.
- g) At Rishworth School a record is kept by the Deputy Head of serious offences, which are entered onto the student's record. Examples of serious offences include those listed above (under 'Requirement to Leave and Expulsion').

## **6. Chains of Communication**

- 6.1. When disciplinary action relates to academic matters, the typical chain of communication is: Subject Teacher – Head of Department – Tutor – Head of School Section – Senior Staff – Deputy Head.
- 6.2. When disciplinary action relates to non-academic matters, the typical chain of communication is: Teacher – Tutor – Head of School Section – Senior Staff – Deputy Head.
- 6.3. Where a student is a boarder, his or her Housemaster or Housemistress is kept informed of disciplinary issues and, when appropriate, the disciplinary issue and any subsequent allocation of a sanction may be dealt with by the Housemaster or Housemistress.
- 6.4. Most (though not necessarily all) problems should follow this 'chain'. There will be times when this does not happen and a disciplinary matter is 'fed' in at the middle of a chain, at the far end of it or beyond it altogether: typically, this occurs when a parent, perhaps unwittingly, effectively 'short-cuts' proper process – for example, by seeking to speak to the Deputy Head or Head about a matter which should be dealt with (or is indeed being dealt with) by another member of staff. The important principles here are:
- a) that staff should communicate with each other, each piece in the chain 'linking' securely with the next – and be prepared to refer a matter to the correct colleague in the system;

- b) that parents should accept that a matter which they may, for any number of understandable reasons, bring to the attention of a particular member of staff may be best referred on to another, or others, by that member of staff, so as to ensure proper process and the best outcome.

## **7. Prefects**

- 7.1 Prefects, who are appointed in part to help the staff run the School, are a part of its discipline structure. They receive training and on-going advice from the Head, Deputy Head and Head of Sixth Form who monitor their progress. Prefects do not impose sanctions but may require students to take certain actions (which include requiring students to see a member of staff in order for a disciplinary matter to be dealt with). Students are expected to comply.

## **8. Expulsion / Requirement to Leave: Governor's Review**

- 8.1 Where a student is expelled or required to leave, parents may ask for a panel of Governors to review the decision made by the school. If they choose to do this they should:
  - a) Submit the grounds for review and the outcome that they seek in writing to the Clerk to the Governor's within 7 days of the decision to expel or be required to leave
  - b) The Chair of Governors will consider the grounds for review and the outcome that they seek. For the avoidance of doubt, a mere disagreement with the Head concerning the decision would not normally form sufficient grounds for review
  - c) A panel of three Governors will be convened to hear the review. They will have no prior knowledge of the individuals involved or the incident or matter that has led to the decision to expel or be required to leave
  - d) The role of the panel would be to consider the information and arguments presented by the parties (the Head and/or other Senior Staff and the parents or people who requested the review) and to decide whether to uphold the decision to expel or be required to leave, or refer the decision to expel or be required to leave back to the Head with recommendations so that he may consider the matter further.
  - e) Should the Review Panel refer the matter back to the Head for reconsideration, the decision to expel or be required to leave will be reconsidered. The Head's decision will be final.

# Promoting Good Behaviour, Discipline and Sanctions Policy

## Appendix 1: Pupil Contact

*Distribution: as per the Promoting Good Behaviour, Discipline and Sanctions Policy*

### 1. Aims

- To provide a workable framework for healthy and constructive staff-pupil relations
- To protect pupils from awkward and dangerous situations and from genuine exploitation
- To shield members of staff from misunderstandings of their intentions and from allegations
- To help define parameters of acceptability in staff-pupil interactions as a reference point in dealing with any complaints

### 2. Policy

- 2.1 As a general rule, physical contact between staff and a pupil is not encouraged unless such contact is necessary for the proper professional discharge of that member of staff's specific responsibilities and/or general duty of care.
- 2.2 It is not illegal to touch a pupil. There are occasions when physical contact, with a pupil is proper and necessary.
- 2.3 Where legitimate physical contact occurs staff should ask a pupil for permission to do so first and, to avoid misunderstanding, do so in the presence of others.
- 2.4 Examples of where touching a pupil might be proper or necessary include:
  - a) When comforting a distressed pupil;
  - b) When a pupil is being congratulated or praised;
  - c) To demonstrate how to use a musical instrument;
  - d) To demonstrate exercises or techniques during PE lessons or sports coaching
  - e) To give first aid; and
  - f) To use reasonable force to control or restrain a pupil
- 2.5 If a member of staff has to use physical force to control or restrain a pupil, such force should be applied within the guidance given within this document and the details of the circumstances should be brought to the immediate attention of the Deputy Headmaster or Headmaster and before parents or guardians are informed.
- 2.6 Any incident involving the use of physical force to control or restrain should be documented in line with the School's incident-reporting procedures. This should include a record of the circumstances and justification for the use of the physical force to control or restrain.

- 2.7 Any incident involving the use of physical force to control or restrain should be reported to the affected pupil's parents or guardians as soon as possible after the Headmaster or Deputy Head has been informed, unless there are reasonable grounds for believing that to do so might subject that pupil (or any other(s)) to risk of harm, in which case the Child Protection and Safeguarding Policy and accompanying documentation should be referred to.
- 2.8 Any incident involving the use of physical force to control or restrain should be followed up, as necessary, by guidance and support for the pupil and staff involved.
- 2.9 The use of reasonable force to control or restrain is a power not a duty. Staff should use their professional judgement before exercising the power. Lawful use of the power **will** provide a defence in any related criminal prosecution or other legal action.
- 2.10 Where a serious incident has occurred, parents will be contacted, in line with general policies relating to pastoral care and good practice.

### 3. Definitions, circumstances, guidelines

- 3.1 Out of context it is impossible either to provide water-tight definitions of the key terms in the Policy or to catalogue all possible circumstances and responses (acceptable and unacceptable) to such circumstances. This advice takes note of the non-statutory advice entitled the 'Use of Reasonable Force' (Department of Education, July 2013 (updated July 2015)).
- 3.2 It is the responsibility of every member of staff to have read, and to act in accordance with, this policy and to consult these guidelines as necessary.

### 4. What is reasonable force?

- 4.1 The term 'reasonable force' covers the broad range of actions used by most teachers at some point in their career that involve a degree of physical contact with pupils.
- 4.2 Force is usually used either to control or restrain. This can range from guiding a pupil to safety by the arm through to more extreme circumstances such as breaking up a fight or where a student needs to be restrained to prevent violence or injury.
- 4.3 'Reasonable in the circumstances' means using no more force than is needed in the circumstances that the power is exercised.
- 4.4 Where force is used in schools generally it is invariably to control pupils and to restrain them.
- 4.5 **Control** means either passive physical contact, such as standing between pupils or blocking a pupil's path, or active physical contact such as leading a pupil by the arm out of a classroom.
- 4.6 **Restraint** means to hold back physically or to bring a pupil under control. It is typically used in more extreme circumstances, for example when two pupils are fighting and refuse to separate without physical intervention.

- 4.7 School staff should always try to avoid acting in a way that might cause injury, but in extreme cases it may not always be possible to avoid injuring the pupil.
- 4.8 The failure of a particular intervention to secure a child's compliance should not automatically signal the immediate use of another more forceful form of intervention. Escalation should be avoided if possible, especially if it would make the overall situation more destructive and/or unmanageable
- 4.9 In some circumstances (e.g. where it is clear that feasible physical intervention would be likely to avoid serious personal injury) it could be construed as a failure in the duty of care on the part of the teacher (or other responsible adult) not to restrain physically, or not to attempt further feasible restraint where one method has been unsuccessful.
- 4.10 The age, competence and particular needs of the child should be taken into account in deciding what degree/type of intervention is necessary.

## **5. Who can use reasonable force?**

- 5.1 All members of school staff have a legal power to use reasonable force to control or restrain where it is necessary.
- 5.2 *In extremis*, and where serious consequences are judged to be likely if intervention does not occur, volunteers or parents, accompanying students on a school organised visit within an official capacity, for example, may also exercise the power.

## **6. When can reasonable force be used?**

- 6.1. Reasonable force can be used to prevent pupils from hurting themselves or others, from damaging property, or from causing disorder.
- 6.2. The decision on whether or not to physically intervene is down to the professional judgement of the staff member concerned and should always depend on the individual circumstances.
- 6.3. The following list is not exhaustive but provides some examples of situations where reasonable force cannot be used:
  - a) remove disruptive children from the classroom where they have refused to follow an instruction to do so;
  - b) prevent a pupil behaving in a way that disrupts a school event or a school trip or visit;
  - c) prevent a pupil leaving the classroom where allowing the pupil to leave would risk their safety or lead to behaviour that disrupts the behaviour of others;
  - d) prevent a pupil from attacking a member of staff or another pupil, or to stop a fight in the playground; and
  - e) restrain a pupil at risk of harming themselves through physical outbursts.

6.4. In addition to the general power to use reasonable force as described, the use of such force may also be applied, given the right circumstances, to conduct a search for 'prohibited items' (as listed below) without consent. Any such search must be conducted in line with the **School Search Policy** (Appendix 3 to this policy).

- a) knives and weapons
- b) alcohol
- c) illegal drugs
- d) stolen items
- e) tobacco and cigarette papers
- f) fireworks
- g) pornographic images
- h) any article that has been or is likely to be used to commit an offence, cause personal injury or damage to property

## **7. When can force NOT be used?**

- 7.1 **It is unlawful to use force as a punishment.** Corporal punishment is not practised or condoned at Rishworth School.
- 7.2 Whilst force may be used in a search for prohibited items it **cannot** be used to search for other items banned under the school rules. Any such search must be executed under the guidelines in line with the **School Search Policy** (Appendix 3 to this policy).
- 7.3 When force is used, it must be proportionate (as described within section 4 of this guidance) to the circumstances.

## **8. What happens if a pupil complains when force is used on them?**

- 8.1 In most instances, where reasonable force to control or restrain has been used within appropriate circumstances as defined within this policy, it is highly unlikely that a complaint will be made.
- 8.2 If a complaint is made, however, the matter will be investigated appropriately and as speedily as possible, in line with existing policies. In most instances, this will lead to a swift resolution.
- 8.3 In the rare or extreme instance of a child or a parent decide to take legal action against a member of staff as a result of the use of force to control or restrain, it should be understood that the lawful use of force, i.e. reasonable force has been used in order to prevent injury, damage to property or disorder, will provide a defence in law.
- 8.4 When a complaint has been made the onus is on the person making the complaint to prove that his or her allegation is true. It is not for the member of staff to show that they have acted reasonably.

8.5 Where an allegation is made against a member of staff the **Allegations Against Staff Policy** will be followed.

**9. Pre-empting difficulties regarding physical contact with a pupil**

9.1 Every member of staff should be conscious of the risks of, and should try to avoid or risk-manage situations which could be awkward or compromising for either the member of staff or pupil(s) concerned.

9.2 Staff should be mindful of how appropriate physical contact might be in relation to the age of a child.

*Example:* Comforting (especially young) pupils when they are injured or distressed may well form part of a member of staff's proper duty of care in certain circumstances. However, the risks of the teacher's 'comforting arm' being unwelcome – or misconstrued - tend to grow in proportion with the age of the pupil and the privacy of the circumstances. Male members of staff should be aware of the implications of a perceived gender imbalance here: there seem to be more potential problems with a male member of staff putting a 'comforting arm' around a girl's shoulder than when the gender-roles are reversed.

# Rishworth School: Promoting Good Behaviour, Discipline and Sanctions Policy

## Appendix 2: Pupil Search

*Distribution: same as the Policy to which this is an appendix*

### **1. General Approach**

- 1.1 Rishworth School is committed to safeguarding the welfare of all children and cultivating an environment of mutual respect where students and staff are treated fairly and sensitively. In the unusual event of a pupil, or a pupil's room, locker, bag or other repository for possessions, being searched, the School and its agents will take all reasonable steps to maintain the usual high standard of safeguarding. Professional judgement will be exercised in all cases: if in any doubt, advice should be sought from a senior member of staff, unless the urgency or another overriding aspect of a situation makes such referral impractical.
- 1.2 The fundamental principles that need to be kept in mind are as follows:
  - a) Act with due care, consideration and sensitivity and remain mindful of the need to respect privacy; particular thought should be given to boarders for whom, during term time, the School is their 'home'
  - b) Remember that the need to protect persons/property from injury/damage and from loss is paramount and that this duty of care can in certain circumstances override all other protocols
- 1.3 At all times a balance should be retained between, on the one hand, professional judgement rightly exercised within a particular situation and, on the other, the desirability of following step-by-step written guidelines which, however helpful, stand in isolation of a specific context and cannot embrace every eventuality. Specifically, there may or may not, in the assessment of such risk in a particular case, be good grounds for the member of staff who is dealing with the matter to deviate from guidelines.
- 1.4 Whilst a search may be required for suspected dangerous/illegal items, a search may also be justified for other reasons – for items that are simply not allowed in school, for instance, but which are not necessarily of themselves dangerous (or illegal), or items which are allowed in school but which are not being properly used.

### **2. Confiscation**

- 2.1 The same applies to confiscation: such items found in school or on a pupil's person may be confiscated for a time. An example may be a laptop which a boarder persists

in using after 'lights out' or a mobile phone used when it should not be or in an inappropriate way during school hours.

- 2.2 Any item confiscated, should be kept safe and the details of the confiscation (item, date, time, location, owner, reason, etc) logged. An indication should be given at the time of confiscation to the pupil by the member of staff who has confiscated an item of when the item is likely to be returned.
- 2.3 The duration of a confiscation should be reasonable and proportionate and, as in all matters, not unduly (or necessarily at all) punitive. 48 hours might be a reference-point for a confiscation period. Consideration should be given to the possible consequences of keeping the item and the pupil apart.

### **3. General Principles**

- 3.1 School staff can search a pupil for any item if the pupil consents to the search.
- 3.2 The Headmaster and staff authorised by the Headmaster have a statutory power to search pupils or their possessions, without consent, where they have reasonable grounds for suspecting that a pupil may have a prohibited item. Prohibited items are:
  - a) knives or weapons
  - b) alcohol
  - c) illegal drugs
  - d) stolen items
  - e) tobacco and cigarette papers
  - f) fireworks
  - g) pornographic images
  - h) any article that the member of staff reasonably suspects has been, or is likely to be, used to commit an offence, or cause personal injury to, or damage to the property of, any person (including the pupil)
  - i) any item banned by the school rules which has been identified in the rules as an item which may be searched for
- 3.3 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.
- 3.4 All schools have obligations under the European Convention of Human Rights. Under article 8 of the European Convention on Human Rights pupils have a right to respect for their private life. In the context of these particular powers, this means that pupils have the right to expect a reasonable level of personal privacy. However, the right

under Article 8 is not absolute; it can be interfered with but any interference with this right by a school or any public authority must be justified and proportionate.

- 3.5 Irrespective of any action taken or not taken by external agencies such as the Police, the School may take its own action, such as rusticating or suspending the pupil, in the first instance, if they refuse permission for the search to take place.
- 3.6 Any subsequent decision related to any or to further disciplinary actions from the School would take into account any co-operation, or lack of it, on the pupil's part and what might reasonably be inferred from that.

#### **4. Searching with Consent**

- 4.1 If a pupil is suspected of carrying or possessing within school, an unauthorised item a member of staff should ask the pupil to turn out, for example, his or her pockets, bag, desk or locker. This should be done, where feasible, in the presence of another member of staff. Staff should be vigilant for any attempt by a pupil to dispose of any suspected item during the search.
- 4.2 Consent does not need to be formal written consent. It is sufficient for staff to ask a pupil to turn out their pockets or for the pupil to agree verbally to a member of staff looking in a pupil's bag or locker.
- 4.3 In most instances this sort of search will be very low key and dealt with swiftly and amicably.
- 4.4 If the pupil refuses to co-operate, the member of staff should refer the matter to a senior member of staff. If a pupil continues to refuse to co-operate, consideration should be given to whether or not parents can be contacted with a view to persuading the pupil to agree to the search taking place.
- 4.5 Under these circumstances consideration must be given to whether or not the pupil should be subject to disciplinary action in line with school policy.
- 4.6 If the matter is of major concern and the pupil still refuses to agree to the search, then the Police may be contacted or a search without consent considered.
- 4.7 Any search without consent will be conducted by two members of staff. It is a requirement that staff conducting any search should be of the same gender as the pupil being searched (see 5.8).
- 4.8 For 'lost' items of relatively low value, a pupil should be asked to search his or her own belongings to see if the item has been 'misplaced'. If more than one pupil is included, the scope of the search and the number of pupils involved should reflect the nature of the loss and be legitimately targeted. Kit inspections fall into this category. Members

of staff (one as witness) might watch the pupil(s) search, but this may not be deemed necessary or appropriate.

- 4.9 Where a boarder's room is to be searched, the boarder should be given the opportunity to conduct the search personally by emptying out drawers, opening the safe etc. Where such a search is required it will be conducted / directed by two members of staff of the same gender as the pupil being searched.
- 4.10 If a boarder refuses to co-operate, and the circumstances are deemed to warrant a search by staff, then a 'without consent' search must be conducted within the guidelines described in this policy. Any suspicious items found should be deposited in a plastic bag and sealed.

## **5. Searching without Consent**

- 5.1 The law states that the Headmaster and staff authorised by the Headmaster have a statutory power to search pupils or their possessions, without consent, where they have reasonable grounds for suspecting that a pupil may have a prohibited item.
- 5.2 A search without consent may only occur where there are reasonable grounds to suspect that a pupil is in possession of a prohibited item. Such grounds may include overhearing pupils talking about an item or observing a pupil acting in a way that causes the member of staff to become suspicious. CCTV footage may be viewed in order to form the decision to search a pupil.
- 5.3 Prohibited items that may be searched for are: knives or weapons, alcohol, illegal drugs and stolen items; tobacco and cigarette papers, fireworks and pornographic images; any article that a 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; any item banned by the prevailing school rules.
- 5.4 The power to search without consent may be exercised within the limits described in this policy regardless of whether the pupil is found, after that search to have the suspected item.
- 5.5 Any search will be conducted by two members of staff where one will be a member of the senior management team or, in the case of boarding, a senior member of the boarding staff. It is a requirement that staff conducting any search should be of the same gender as the pupil being searched.
- 5.6 No member of staff will be compelled to conduct a search.
- 5.7 Where a senior member of staff or a senior member of the boarding staff cannot be contacted or circumstances do not allow for a senior member of staff or a senior member of the boarding staff to be summoned any member of staff may, *in extremis*,

conduct a search without consent but should do so in the presence of another member of staff. Staff conducting any search should be of the same gender as the pupil being searched.

- 5.8 Within the law a search may **exceptionally** be conducted by a member of staff of the opposite gender to the pupil and / or without a witness but **only** where the member of staff has a reasonable belief that a failure to conduct the search may result in serious harm to the individual involved **and** where it is not reasonably practicable to summon another member of staff. In such circumstances the member of staff needs to bear in mind that a pupil's expectation of privacy increases as they get older.
- 5.9 A search without consent may only occur on school premises or on a trip within England where a member of staff has lawful charge of the pupil subject to the search.

## **6. During the Search**

- 6.1. The member of staff conducting the search may not require the pupil to remove any clothing other than outer clothing which is defined as 'clothes that are not worn against the skin or immediately over a garment that is being worn as underwear'.
- 6.2. The power to search without consent enables a personal search involving the removal of outer clothing and searching of pockets within the limits described within this policy. They do not permit any further intimate search. If a member of staff believes that such a search is required it will have to be conducted by the Police or someone with similar authority to do the same.
- 6.3. A pupil's possessions, defined as 'any goods over which the pupil has or appears to have control' and which includes desks, lockers and bags, can only be searched in the presence of the pupil 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 practicable to summon another member of staff.
- 6.4. Members of staff 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. Any use of force or restraint will be **in extremis** and in line with school policy on the Use of Physical Restraint which forms Appendix 2 to this policy
- 6.5. Such force cannot be used to search for items banned under the School rules.

## **7. After the Search: Confiscation and Disposal following a 'with consent' search**

- 7.1 Within Rishworth School's general power to discipline, as set out in Section 91 of the Education and Inspections Act 2006, a member of staff may confiscate, retain or dispose of a pupil's property as a disciplinary penalty, where it is reasonable to do so.
- 7.2 Where any item found is thought to be a weapon, the Deputy Headmaster or the most senior member of staff, if the Deputy Headmaster is unavailable, must be notified and the item passed to the Police. In the meantime the Deputy Headmaster will store the item in a secure location.
- 7.3 A member of staff may 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 to do so within the circumstances and is not a prohibited item.
- 7.4 Members of staff can also seize any item, however found, which they consider harmful or detrimental to school discipline.
- 7.5 In practice, members of staff should consult a senior member of staff such as the Deputy Headmaster, Head of Section or senior member of the boarding staff before retaining or destroying an item.

## **8. After the Search: Confiscation and Disposal following the discovery of a prohibited item**

- 8.1 A member of staff carrying out a search can seize anything they have reasonable grounds for suspecting is a prohibited item or is evidence in relation to an offence.
- 8.2 Common sense says that any member of staff who discovers a prohibited item as defined within this policy will as a matter of routine refer the matter immediately to the Headmaster, Deputy Headmaster or a senior member of staff or Head of Section.
- 8.3 Where a member of staff conducting a search finds alcohol, they may retain or dispose of it. The Deputy Headmaster or other senior member of staff if not already involved in the situation, should be informed immediately. The Deputy Headmaster or senior member of staff will dispose of the alcohol as they deem fit but this will not include returning it to the pupil.
- 8.4 Where a member of staff finds controlled drugs they will refer the matter immediately to the Headmaster or Deputy Headmaster. The School will make contact with the Police for both advice and to arrange for their disposal. Staff should take regard the separate '**Drugs and Substance Abuse Policy, Appendix B: Guidance for Staff**'. Any controlled drugs that are discovered during a search will be stored in a locked and secure location up to that point. In every case, a record should be made regarding the suspected nature of the confiscated material, from whom the material was taken, the

time and date and any other significant information. In serious cases it is likely that the Police will be involved as a matter of course.<sup>1</sup>

- 8.5 Where a member of staff finds other substances which are not believed to be controlled drugs these should be confiscated as they are likely to be both harmful and detrimental to good order and discipline. This will include, for example, so called 'legal highs'. The Headmaster or Deputy Headmaster should be informed immediately. Where a member of staff suspects a substance may be controlled they should treat them as such. In every case, a record should be made regarding the nature of the confiscated material, from whom the material was taken, the time and date and any other significant information.
- 8.6 Where a member of staff finds stolen items, 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 Deputy Headmaster thinks that there is a good reason to do so. Clearly where any stolen item is a low value item such as a pencil case, it will not be appropriate to involve the Police. In practice valuable stolen items will be given to the Deputy Headmaster or Headmaster. The School will make contact with the Police where their involvement is warranted and dispose of the items as directed by the Police.
- 8.7 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 if the items are valuable (iPods/laptops) or illegal (alcohol/fireworks). In every case, a record should be made regarding the nature of the confiscated material, from whom the material was taken, the time and date and any other significant information.
- 8.8 Where a member of staff finds tobacco or cigarette papers they may retain or dispose of them. The Deputy Headmaster or senior member of staff will dispose of the tobacco or cigarette papers as they deem fit but this will not include returning it to the pupil.
- 8.9 Fireworks found as a result of a search should be retained or disposed of but may not be returned to the pupil.
- 8.10 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 it must be reported to the Deputy Headmaster and delivered to the Police as soon as reasonably practicable. If the image is electronic and discovered on mobile

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<sup>1</sup> Statutory guidance from the Secretary of State indicates that it is possible where there is 'good reason' for a stolen item or controlled drug, not to be presented to the Police. *"In determining what is 'good reason' for not delivering controlled drugs or stolen items to the Police, the member of staff should take into account all relevant circumstances and use their professional judgement to determine whether they can safely dispose of a seized article."* (Secretary of State, February 2014)

phone or other electronic device it must not be forwarded via any electronic means or saved on any other device by the member of staff leading the search as this in itself, although well-meaning with regard to preserving evidence, would constitute an offence. The device upon which the image is found should be retained and the matter referred to the appropriate Head of Section or to senior boarding staff who may in turn refer the matter to the Deputy Headmaster. Images found on a mobile phone or other electronic device can be deleted unless it is necessary to pass them to the Police.

- 8.11 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 the matter must be referred to the Deputy Headmaster as soon as practicable. Any such item may also be returned to a parent or retained or disposed of, or delivered to the Police for disposal.
- 8.12 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.
- 8.13 If a search uncovers weapons or items which are evidence of an offence the matter must be referred to the Deputy Headmaster in the first instance and passed to the Police as soon as possible.

## **9. Statutory Guidance for dealing with Electronic Devices (DfE February 2014)**

- 9.1 Where a member of staff conducting any 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 member of staff conducting the search 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.
- 9.2 The member of staff must have regard to the following guidance issued by the Secretary of State when determining what is a “good reason” for examining or erasing the contents of an electronic device.
- 9.3 In determining a ‘good reason’ to examine or erase the data or files the member of staff 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.
- 9.4 If inappropriate material is found on the device it is up to the member of staff 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 serious enough to warrant Police involvement.

## **10. Informing Parents and dealing with Complaints**

- 10.1 The School is not required to inform parents before a search takes place or seek their consent to search their child but may, in certain circumstances, choose to do so.
- 10.2 Where a complaint is raised following any search this will be dealt with through the School's complaints procedure – see Concerns and Complaints Policy.
- 10.3 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.
- 10.4 When a search has taken place the following items should be noted and kept on the relevant pupil's file:
  - The reason for the search taking place
  - The date and time of the search
  - The results of the search
  - All staff involved
  - Other agencies involved
  - The outcome (including any disciplinary action taken in respect of the pupil)

**References:**

1. DfE Guidance, 'Searching, Screening and Confiscation: Advice for Headteachers, School Staff and Governing Bodies', February 2014.

**Linked Policies / Documentation:**

1. Child Protection and Safeguarding Policy
2. Drugs and Substance Abuse Policy, Appendix B: Guidance for Staff