



SPARKEN HILL
ACADEMY

Unacceptable Adult Behaviour on Site (incl trespass)

Adopted: September 2016

Reviewed: Bi- Annually

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Trespass

Trespass is not generally, a criminal offence. Academies are not public places and anyone who enters without permission of the Principal (who has day to day management of the Academy) is trespassing, unless there is a recognised "right of way" across the Academy site. Some groups of people, such as parents, have an "implied licence" to enter school premises.

A number of people may have good reason to be on the Academy premises and therefore possesses an "implied licence" i.e.

- Registered students of the Academy during Academy hours or by agreement of the Principal e.g. after Academy clubs and sports. Students who have been excluded could, however, be trespassers.
- Parents/carers responsible for a student at the Academy.
- Governors (Trust), OFSTED inspectors, contractors, those using facilities provided as part of an Academy "let" etc.

The Academy Governing body will post signs up to indicate that access to the site is restricted and that all visitors must report to reception. The existence of good Academy security measures will also assist in minimising the incident of trespass. Examples of security measures include: appropriate signs, reception area, signing system, badges for visitors, access control and maintaining boundary fences in good order.

Nuisance and Disturbance

If a trespasser refuses to leave Academy premises or enters after being required to leave or causes a disturbance, their behaviour may give rise to a criminal offence under Section 547 of the Education Act 1996. As a general rule, anything done by trespassers where it disrupts the routine of the Academy or the duties of its staff will be an offence.

Where an individual has an "implied licence" to enter Academy premises this can be withdrawn by the Principal: authority to do so is delegated to the Principal by the Local Academy Council. Recent case law (Wandsworth Borough Council v A. 2000) makes it clear that if the person to be barred has an "implied licence" to enter the premises, he or she should first be given an opportunity to make representation as to why a ban should not be imposed before a final decision is taken to withdraw the licence to enter. A ban will be effective immediately. A refusal to accept a ban from the Academy premises may lead to consideration being given to applying to the court for an injunction and/or to the taking of action under Section 547 of the 1996 Act.

Removing Trespassers from the Site

It is possible to remove from the Academy people who are suspected of committing an offence under section 547. Police constables and a person authorised by the Academy Governing Body may do this. The Academy Governing Body delegates the authority to do this to the Principal.

Principals need to use discretion in determining whether they or other staff are able to safely escort a trespasser from the site. Although they would be entitled to use reasonable force, this should be avoided and the police called if the situation is impossible to control. Academy staff should not put themselves at risk. Anyone taking this action must be able to justify their actions and show that the action taken was appropriate and proportionate in the circumstances. Therefore, there should be reasonable cause to suspect the person of committing, or having committed, an offence under Section 547.

Recording Events

It is very important to record by making a file note any event involving trespass that results in nuisance or disturbance. Witnesses, if any, should also make signed and dated statements of what they said and heard.

Warning Letter

Different considerations apply in relation to people such as parents/carers who can lawfully enter Academy premises as opposed to trespassers. With regard to those who have implied permission to enter, a two-stage approach will need to be taken when working with them. Section 547 will only become relevant once a parent/carers "lawful authenticity" to enter the premises has been terminated.

A parent/carer of a student registered at an Academy will not be on Academy premises "illegally" (i.e. a trespasser) until his or her "implied licence" to enter the Academy premises has been terminated and until then he or she cannot be guilty of an offence under this section.

For example, if a parent/carer causes a nuisance and the Principal thinks a ban should be imposed, the following steps should be taken:

- A warning should be given (in writing) and the parent/carer given the opportunity to answer the accusations made (see warning letter below).
- If a ban is then imposed (and it will only be at this point that the parent/carer will become a trespasser if he or she enters the premises). This should be confirmed in writing and notice given that a breach of the ban may result in an offence being committed under Section 547 and an action taken under that section to remove the person from the premises (though only if entry onto the premises is coupled with causing a nuisance) or in an application being made to the court for an injunction (see banning letter below).

If the nuisance or disturbance had been caused by an individual with no right implied or otherwise to enter the premises then immediate action can be taken

under Section 547 as that person is by definition a trespasser. No warning would need to be given.

Harassment, Threatening , Abusive or Disorderly Behaviour

Such offences are covered by the Public Order act 1986. The Protection from Harassment Act 1997 provides further safeguards with respect to incidents of harassment.

Principals are more likely to involve the police in such matters and the police may be able to take action under this Act.

However, Principals may not wish to involve the police in cases where the offender is very young. Individual cases therefore need to be considered before deciding on a course of action.

Warning Letter

The following is an example of a warning letter to be sent to a parent/carer who has caused a disturbance at the school. The actual wording would have to be varied according to the actual circumstances. In all cases the Principal must inform their Executive Principal of the case before deciding to send a warning letter. It is also advisable to discuss this with the Director of Human Resources before sending such a letter.



SPARKEN HILL
ACADEMY

To (the parent/carer)

Behaviour on Academy Site

It has been reported to me that you caused a disturbance at Sparken Hill Academy on (date) by _____.

This Behaviour has upset a number of staff and the students who were present.

Such behaviour is totally unacceptable and may result in you being banned from the site.

I would be grateful if you could contact me by telephone or in writing by _____ in order to answer these allegations.

I shall then consider what further action may be necessary including the possibility of imposing a ban on your entry to the Academy premises.

Yours sincerely



Banning Letter

The following is an example of a letter to a parent imposing a ban after the warning letter has been issued and subject to any response from the parent. In all cases the Chair of Governors must be informed of the case before any banning letter is issued.



SPARKEN HILL
ACADEMY

To (the parent/carer)

Further to my letter of _____, which warned you that you may be banned from the site, I have considered your responses to the allegation and have decided that they are insufficient.

I am therefore banning you from the premises with immediate effect. This will be reviewed on _____ **(it is recommended to limit a ban to no more than 1 term in the first instance).**

A breach of this ban may result in an offence being committed under Section 547 of the Education Act 1996 and an action taken under that section to remove you from the premises or in an application being made to the court for an injunction.

Yours sincerely

***Principals are strongly advised to contact Browne Jacobson Human Resources before issuing a letter banning an individual from the premises.**