

Care and Control Policy

(Incorporating Physical Contact, Restriction and Restraint)

This policy has been prepared after staff discussion(s) on 12.09.2019 and adopted by the Principal on 12.09.2019. The person responsible for the implementation of the policy is the Principal, Karl Rogerson. The policy will be reviewed on 12.09.2020 by the Principal and the Governing Body.

The policy takes cognisance of relevant legislation, regulations and guidance, including the most recent examples from the Department for Education, Department of Health and the Health and Safety Executive. For young people over the age of 16 years, the Mental Capacity Act must also be considered.

The policy has been prepared to support all staff who will come into contact with children and for volunteers/workplace students working within the school to explain the school's arrangements for care and control. The purpose is to give staff the confidence to act in the best interests of the child. This policy should be made available to parents and pupils upon request. Within this policy there will be references to the most current government guidance and legislation and includes a glossary for reference.

Duty of Care
<p>All staff have a duty of care towards the children and young people they look after, their colleagues and others, under Health and Safety Legislation. They have a responsibility to familiarise themselves with policies and risk assessments, and participate in necessary training. They should look out for obvious hazards and reduce foreseeable risks wherever possible. Failure to exercise that duty of care includes omitting to take action when there is evidence that significant harm might occur. Employers also have a duty of care to employees to ensure that their working environment is safe and where risks are identified, that appropriate guidance is offered. (Management of Health and Safety at Work Regulations 1992). DfES Guidance (2013) advises that schools should not have a 'no contact' policy which could place a staff member at risk of breaching their duty of care towards a pupil.</p> <p>The Children Act 1989 makes clear that in any decision involving a child the paramount consideration must be the child's welfare. Paramount means it should be the first thing people think about and it should take precedence over all other considerations. For that reason, staff need to carefully consider what is in the best interest of the child, both in the short term and the longer term.</p> <p>In exceptional circumstances, staff may need to take action in the best interest of the child and the use of reasonable force may be required to achieve this. A member of staff needs to demonstrate that they have considered alternatives and that not acting could result in greater harm. Billesley Primary School acknowledges that physical interventions which use varying degrees of reasonable force are only a small part of a whole setting approach to behaviour management.</p> <p>It is useful when considering a Restrictive Physical Intervention to think about what the intervention may look like to others and how we would hope others would respond if it were a member of our family (social validity) i.e. What would I want somebody to do in similar circumstances if this was my child?' DFE/DOHSS (2017)</p>

Every effort will be made to ensure that all staff in this school/setting:

- (i) Understand their responsibilities in the context of their duty of care
- (ii) Understand that the paramount consideration is the welfare of the individual child
- (iii) Understand that 'reasonable' force means that it is necessary and proportionate
- (iv) Are provided with appropriate training to manage risk and this training is maintained at an appropriate level.

Legal Justification

The Education and Inspections Act 2006 gives examples of the types of circumstances in which the use of reasonable force may be legally defensible.

- self – injuring
- Causing injury to other children, staff, parents and visitors.
- Causing significant damage to property

The Children Act 1989: **The paramount consideration is for staff to work in the best interests of the child.** Reasonable force will only be used when no other effective alternatives are available. Any force used must be 'reasonable and proportionate' to the situation.

Reasonable adjustments need to be made for disabled children and those with Special Educational Needs.

The expectation is that staff act in good faith with the best intentions.

Identifying hazards and making risk assessments:

It is essential to make risk assessments when considering the use of reasonable force. Staff should balance the risk of taking action against the risk of not taking action. The Health and Safety Executive (HSE) has developed a 5 step approach to risk assessment in the workplace. This can easily be applied to situations where staff need to make a decision about whether to use physical contact.

1. Look for hazards
2. Decide who might be harmed and how
3. Validate the risk and decide on the necessary and proportionate action
4. Record your findings
5. Review and revise if necessary.

Hazards are the things that could hurt somebody (physical or physiological). Risk is the chance of it happening.

Risk Assessments

It is not always possible to predict all risks relating to a specific behaviour of a child. When an unforeseeable risk presents itself a **‘dynamic risk assessment’** can be undertaken. This means that staff do a mental risk assessment and then act in the best interests of the child. Once a risk has been identified, or if the risk is already known, then a **planned risk assessment** needs to be put in writing. If physical touch or restraint is required, a Risk/Restraint Reduction Plan can be recorded by staff who work closely with the child, using their knowledge of the child’s behaviour and the environment they are working in.

The Health and Safety Executive is keen to stress that risk assessment is a simple process. They should focus on the most likely and serious risks. Formal risk assessments should be clear and concise so that staff can recall useful information. Information should be explicit and honest. Parents need to be informed and involved with this process as they need to be notified of why and how reasonable force is being used in the best interests of their child. Where possible the child’s views should be sought and included in the risk assessment.

Assistance can be sought from other members of staff to help reduce the risk. Physical intervention is seen as a proactive response to meet individual pupil needs and any such measures will be most effective in the context of the overall ethos of the school, the way that staff work together as a team, share their responsibilities and the holistic behaviour management strategies that are used.

Physical Contact

There are a range of circumstances in which positive physical contact occurs between staff and pupils in order to support equal opportunities to access to a broad and balanced curriculum such as using PE equipment. Examples of physical contact covers a wide range of positive physical interactions ranging from light touch to firm pressure. Physical contact is necessary to provide provision of care, to give comfort, convey communication, reassurance and safety. Physical contact should be considered positive and part of the adult role-modelling what good touch or contact is. The purpose of any physical contact should be to meet the needs of the child. Where children have special needs, autism or sensory differences their individual requirements should be detailed in an individual plan such as a behaviour management, health or toileting plan. Staff must consider the young person’s age and level of understanding, individual characteristics and history and the location – not in private.

Physical Contact is never used as a punishment or to inflict pain.

Restrictive Physical Intervention

There needs to be a gradual and graded approach from staff when considering the use of reasonable force. Examples of low risk physical interventions could be guiding or escorting a child to a safer place. Medium to high risk physical intervention could be separating a fight or using a standing or seated restraint.

Restrictive Physical Interventions:

- Use the minimum degree of force for the shortest period of time necessary to achieve the desired result.

- The scale and nature of any physical intervention must be reasonable and proportionate to both the behaviour of the individual and the nature of the harm they might cause.
- Techniques are intended to ensure the safety and wellbeing of the child, maintain dignity for both adult and child and allow for communication.

Restraint

Restraint involves the restriction of freedom and movement in circumstances in which the child is resisting. The DfE (2017) acknowledge that sometimes restraint is necessary 'Staff must have reasonable grounds for believing that restraint is necessary in order to justify its use.' (DFE/DHSS 2017) It is reasonable to use proportionate force when there is a significant risk to children, staff or property. It should only be used as a last resort when no effective alternatives are available. All incidents involving restraint must be recorded and reported. The level of force and/or positive handling techniques used towards the child determines whether or not it is classified as restraint. Staff need to reassure and comfort pupils whilst involved in restraint to try to calm, comfort and divert attention to manage and reduce the duration of restraint. Restraint is a safeguard, not a sanction.

Planned and Unplanned interventions

Restrictive Physical Interventions can be categorised as a planned response, unplanned response or in an emergency.

- Planned – based on risk assessments that have been clearly recorded on Risk/Restraint Reduction Plans.
- Unplanned (Dynamic Risk Assessments) – an action used in response to unforeseen hazardous events where there is no alternative. DFE/DHSS (2017) advise clear distinction between planned and unplanned interventions.
- Emergency – where staff may consider the use of a non-Team-Teach response due to immediate risk of significant injury or potential loss of life.

Consideration must be made to clarify the distinction between:

- Seclusion: the term used where a child is forced to spend time alone against their will in a locked room or restricted space which they cannot leave. Staff are advised to follow guidance on the use of seclusion. Seclusion of a child should only be considered as an emergency response and where it is in the best interests of the child. Staff working with young people aged 16 years and older should consider an application to the Court of Protection under the Mental Capacity Act (2005) if they believe that planned use of seclusion may be required in the future.
- Time Out: This is a planned positive behavioural approach that needs to be part of the child's Positive Behaviour Plan. This method usually involves a child accessing a safe space/place, usually with less intense adult supervision but always monitored. Time out is not to be considered as a punishment for the child.

- **Withdrawal:** This strategy is implemented to support a child during a situation which may be causing anxiety or distress with continuous adult supervision/observation, which allows the child to resume the activity, task or routine at a later time.

Staff Training and Authorised staff

The Principal or Manager is responsible for providing all staff with accredited training from a provider and for which staff authorisation has been given to use restrictive physical interventions. The Principal/Manager must consider the training needs for all staff and then retain a list of all staff that have been trained and when the training needs to be refreshed. This list is reviewed within a regular time-frame and consideration given to new members of staff and to supply staff.

Training for all staff will be made available and will be the responsibility of the Principal. Training needs should be assessed in relation to foreseeable risks. Training that contains physical interventions should be accredited.

Records should be kept about which staff have been trained and in which techniques. Staff training undertaken will require staff to demonstrate competence in techniques. DFE/DHSS (2017)

Reporting and Recording

Records of restraint should be clear and accurate. Whenever a restraint has been used a record of the incident needs to be kept and needs to be recorded in a 'Bound and Numbered Book'. This can be in the form of a paper based bound book, with numbered pages, retained by the Head Teacher/Principal/Manager or an electronic equivalent. It should be considered reasonable and good practice for staff to collaborate when recording an incident in order to ensure the most accurate and honest record possible. If staff do not agree on details of an incident, they should write separate reports. The aim is to promote clear, accurate, honest and concise records. If a physical intervention does not involve restraint it needs only to be recorded on the child's risk/restraint reduction plan e.g. guiding.

Records should be completed within 24 hours, but the welfare of those involved takes precedence over paperwork. If this is not possible the Principal/Head teacher needs to be informed as soon as possible with the reason for the delay. School records should be kept for at least 25 years. After the review of the incident, a copy of the details will be placed on the pupil's file. Parents/carers of the child need to be informed following the use of reasonable force. A record of this communication should be kept.

A Health and Safety Accident/Incident Form will be completed and returned to the Authority in situations where injury has occurred to either members of staff or pupils. Where staff have been involved in an incident, they should be given time to recover and have access to support such as counselling and debriefing. Debriefing must be given to the child who has been restrained in line with their Behaviour Support Plan.

Support for staff and children after an incident

The Head Teacher / Manager will ensure that each incident is reviewed and take action as necessary, such as:

- Reviewing the child's risk assessment.
- Reviewing curriculum access.
- Reviewing staffing levels.
- Considering the Involvement of outside agencies
- Reviewing provision.

Remember, the priority after a significant incident is to look after the people involved.

Listening and Learning

Incidents provide opportunities for teaching and learning. Staff should explain the reasons for any use of reasonable force according to the level of understanding of the child. They should clearly distinguish between restraint, which is designed to keep people safe, and sanctions or consequences. Staff should reinforce simple messages:

- We hold children to keep them safe from harm.
- We hold children to prevent them from doing something they will regret.
- We care about children too much to let them be out of control.
- What would I want somebody to do in similar circumstances if this was my child?'

Complaints

The availability of an accessible policy about physical interventions and early involvement of parents should reduce the likelihood of complaints but may not eliminate them.

All allegations need to be investigated thoroughly; however, *it is the responsibility of the person making the allegation/complaint to prove any inappropriate actions by the staff member.*

Staff members who have allegations made against them need to receive comprehensive support from the Principal or Manager of the setting.

The author of this policy is: Steve Brown: (Senior Team-Teach Tutor for Birmingham, Dudley, Solihull and Walsall). December 2018

Glossary

Child: In this policy the legal definition of "child" to mean a person up to and including the age of 18 years. However, staff should be aware that the provisions of the Mental Capacity Act come into effect from the age of 16 years. The 1988 Mental Health Act defines Children as up to the age of 16 and Young People aged 16-17 years.

Controls – the positive application of reasonable force to overcome moderate resistance, guiding and directing a person’s movement.

Positive Behaviour Supports: the full range of Team-Teach strategies used to remove identify triggers, remove stress, calm, de-escalate and divert attention in order to prevent hazardous behaviour.

Positive Behaviour Support Plans – individualised plans

Risk assessment: The process of identifying and controlling potential hazards. Risk assessments consist of a simple process rather than elaborate paperwork. It is a process to determine a level of risk. Once a risk has been observed, staff need to make a formal plan to reduce it. Dynamic risk assessments allow staff to consider the risk in real time that requires an urgent response in the best interests of the child.

Guides or prompts: The use of assertive touch to move or direct a child usually in a low risk situation. The positive application of reasonable force to overcome minimum resistance prompting and encouraging a person’s free movement.

Restraint: The use of force to overcome rigorous resistance; completely directing, deciding and controlling a person’s free movement in order to keep people safe. Restriction: ranging from minimal temporary restrictions of movement to significant deprivations of liberty under section 5 of the Human Rights Act.

Risk, Restraint and Restriction Reduction Plans – a balanced approach to reducing risk, restraint and restriction wherever possible.

References

Legislation

The Children Act 1989 and 2004 http://www.opsi.gov.uk/acts/acts1989/Ukpga_19890041_en_1.htm

The Education and Inspections Act (2006) Section 93. (90 91)

The Equality Act (2010) – Replacing DDA 1995
<https://www.gov.uk/rights-disabled-person/education-rights>

The Human Rights Act 1998 (European Convention on Human Rights Article 3)
 Health and Safety at Work Act (1974)

The Mental Capacity Act (2005).

HSE: Management of Health and Safety at Work Regulations 1992

Guidance

DFE (2013) Use of Reasonable Force. [Advice for headteachers, staff and governing bodies](#)

DFE (2016) Behaviour and Discipline in Schools

DFE (2019) Keeping Children Safe in Education (Statutory)

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Department of Health (2014), Positive and Proactive Care: reducing the need for restrictive interventions

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Other reading

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HSE (2007) 5 Steps to Risk Assessment. Health and Safety Executive.

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Ofsted (2018) Positive environments where children can flourish - A guide for inspectors about physical intervention and restrictions of liberty