

Warwickshire Safeguarding Children Board Policy and Guidance Statement on Physical Intervention and Restraint

Purpose of Statement:

- To provide a set of unifying principles governing the use of physical intervention and restraint by staff in partner agencies, coming into contact with children and young people who exhibit challenging behaviour, aggression or violence that could jeopardise their own or another's safety.
- It is intended that the 10 principles identified in this Statement should all feature in policies and procedures drafted by agencies in respect of physical intervention and restraint. They will also apply in situations where children are in foster care.
- These principles should be seen as providing the "benchmark" against which the agency or institution concerned, and WSCB, should appraise policies and guidance provided to staff, and the practice demonstrated in the setting.
- The Statement may also be used by children, young people, parents, carers, staff and managers to undertake such an appraisal.

The 10 Principles:

- **Compliance with the Law**
- **Prevention, Risk Analysis and Management Strategy**
- **Disability and Special Needs**
- **"De-escalation"**
- **Appropriate Use of Force**
- **Post Incident Management**
- **Complaints and Allegations**
- **Staff Training**
- **Physical Contact in Other Circumstances**
- **Overview and Monitoring**

In identifying these principles, this document has drawn upon three sources, which are listed in *Appendix 1*:

- The Law
- Other Relevant Legislation
- Guidance

Each of the 10 Principles are set out below with an accompanying guidance note.

In *Appendix 2*, a Model Policy on Physical Intervention and Restraint derived from these

principles and guidance notes is provided to assist agencies and institutions in constructing and appraising their own policies. Audit activity commissioned by WSCB will be assisted by reference to this model policy.

Principle 1 - Compliance with the Law:

- The use of physical intervention and restraint in any setting must comply with the law and government guidance (See Appendix 1).
- There is also general criminal and civil law to consider as liability might be said to apply in situations of restraint. For example, where it is considered that unreasonable or excessive force was used or where it is considered improper techniques were used which resulted in injury. However, where reasonable force was used to prevent a crime and this can be evidenced, a person would be covered by the Criminal Law Act 1967 (s3) which states that a person may “use such force as is reasonable in the circumstances of the prevention of crime”.
- The assessment of what is reasonable and when it is reasonable to use force is a matter of judgment and depends upon the precise circumstances of individual cases. There is no legal definition. This underlines the need for policies and procedures that are developed by partner agencies to be scrutinised by their legal advisors before being put into operation, and for staff training to incorporate awareness of the following legal dimensions:
 - To be judged lawful, the force used would need to be proportionate to the consequences it is intended to prevent;
 - The degree of force used should be the minimum required to achieve the desired result;
 - Use of force could not be justified to prevent trivial behaviour (though determining trivial also depends on circumstances).

It needs also to be kept in mind that the “duty of care” that applies to all those working with children means that “doing nothing” may be construed as “negligence” in terms of this duty.

Principle 2 – Prevention/Risk Analysis and Management Strategy:

- Prevention of violence or aggression should be the primary aim thus avoiding the need to use any force wherever possible.
- The majority of incidents of violence and aggression are triggered (usually unwittingly) by the behaviour of others.
- Stressing to staff the importance of recognition and awareness of behaviours or circumstances which can trigger or indicate a heightened risk of challenging

behaviour, violence and aggression should be a key component of an agency's policies and procedures.

- These aspects should be addressed in staff training, with the aim of enabling staff to recognise that challenging behaviours are often foreseeable, and to develop skills associated with positive behaviour management and managing conflict.
- Risk assessments; risk management plans and/or individual behaviour plans should be set in place in circumstances where a heightened risk of challenging behaviour, violence and aggression has been identified in respect of a particular child or young person.

Principle 3 - Disability and Special Needs:

- In cases involving children who are disabled and/or may have special needs, a risk assessment should be undertaken as a matter of course to address the specific issues involving the child and any foreseeable issues that may arise, likely to warrant the use of force to restrain them.
- This would include risk assessments and behaviour management plans. An example where this may be necessary is where a child whose Special Education Needs (SEN) and/or disability (whether physical or a learning disability) is associated with extreme behaviour.
- An individual risk assessment and management plan will be essential for children or young people whose SEN and/or disabilities are associated with:
 - Communication impairments that make them less responsive to verbal communication;
 - Physical disabilities and/or sensory impairments;
 - Conditions that make them fragile, such as haemophilia, brittle bone syndrome or epilepsy; or
 - Dependence on equipment such as wheelchairs, breathing or feeding tubes.
- Those involved in the care and management of these children should ensure they are as well informed as possible about the child's behavioural characteristics or patterns stemming from their special needs or disability, and make use of the knowledge and insight that the child, their parents and other professionals involved with the family can provide.
- Any risk assessments should take into account the skills and abilities required of staff in dealing with the child and address any training required. This is relevant in terms of ensuring that suitably qualified and trained staff are available to deal with the child and ensure that the staff member is prepared to deal with the situation; thus meeting our duty of care in respect of the individual and for the

employee.

Principle 4 - “De-escalation”:

- Policies and procedures should underline the importance of employing de-escalation strategies as a first-line strategy whenever there is a threat of violence or aggression towards an individual or property.
- Communicating calmly with the child, using non-threatening verbal and body language and helping them to see a way out of a situation are examples of this approach.
- Helping children to recognise their own “triggers” will be an important component of a “de-escalation” strategy developed in respect of a particular child.

Principle 5 - Appropriate Use of Force:

- Having emphasised the importance of attempting to de-escalate situations, policies and procedures should provide staff with clear guidance on the types of force and techniques that may be used to physically intervene or restrain the child or young person.
- Some agencies (such as the Coventry and Warwickshire Partnership Trust) will use recognised and approved “breakaway” or physical intervention strategies in which staff are properly trained. Examples of the types of force that may be used are also given in the government’s non-statutory guidance to schools (the term “pupil” is replaced with “child” for the purposes of this document):
 - *passive physical contact resulting from standing between children or blocking a child’s path;*
 - *active physical contact such as:*
 - *leading a child by the hand or arm;*
 - *ushering a child away by placing a hand in the centre of the back;*
 - ***in more extreme circumstances, using appropriate restrictive holds, which may require specific expertise or training (our emphasis).***
- In all settings, the decision to intervene using physical restraint should be a professional judgment taken calmly and in full knowledge of the desired outcome. Though likely to be a last resort it should not be an act of desperation but a conscious decision to act in the child or other’s best interest.
- In extreme circumstances, where there is a high and immediate risk of death or serious injury such as a child running off a pavement onto a busy road or

preventing a young person from hitting someone with a dangerous object such as a glass bottle or hammer, a member of staff would be justified in taking any necessary action. However, even in these more extreme circumstances, the principle of minimum force to achieve the desired result should be applied.

- Every effort should be made by staff to avoid acting in a way that might reasonably be expected to cause injury. However, in the most extreme circumstances it may not always be possible to avoid injuring a child. Staff should always avoid touching or restraining a child in a way that could be interpreted as sexually inappropriate conduct.

Principle 6 - Post Incident Management:

- The first consideration needs to be whether medical attention is required for the child or anyone else involved.
- Policies and procedures should then specify the requirements for recording and reporting incidents. Schools for example, have been strongly advised in government guidance to keep full and systematic records of every significant incident in which force has been used. The purpose of recording is to ensure policy guidelines are followed; to inform parents; to inform future planning as part of school improvement processes; to prevent misunderstanding or misinterpretation of the incident, and to provide a record for any future enquiry.
- The government guidance lists a number of questions to assist agencies and institutions to assess whether an incident is significant or not. The guidance also states that where an incident is deemed as recordable, the parent or carer should be informed as soon as possible after the incident, and that the details are confirmed in writing later.
- In schools and other settings this recording will be essential in helping to initiate or update the risk assessment concerning the child and whether changes need to be made to their individual care plan.
- There will be a need for post incident debrief for staff or carers, and an incident review led by designated staff within set timescales. Time and space will also be needed to talk through the incident with the child or young person to allow for the expression of feelings and decide upon next steps, and identify any post incident support which may be necessary.
- Policies should recognise that any restraint is a restriction of liberty and an invasion of personal space which may have a lasting impact on the well-being of the child or young person. Consideration needs to be given as to who is best placed to undertake this work. There may be a need to involve services provided by other WSCB partners (e.g. Child and Adolescent Mental Health Services

[CAMHS]).

- Support for other service-users witnessing or otherwise involved in the incident will need to be considered. This may involve giving the child who has been restrained the opportunity to recognise and help repair the damage or harm that has resulted from their behaviour, and enable them to develop their emotional and social skills.

Principle 7 - Complaints and Allegations:

- Children, young people and parents have the right to complain about actions taken by staff. This might include the use of force. Agencies need to ensure that their complaints procedures are able to deal with such allegations and that their policies on physical intervention and restraint signpost this route.
- Any complaints or allegations should be dealt with in line with the agency's or institution's complaints procedure, and the guidance set out in *Safeguarding Children and Safer Recruitment in Education*.

Principle 8 - Staff Training:

- Policies and procedures will need to underscore a commitment by the agency or institution to ensure that staff identified as requiring training are appropriately trained and regularly updated not only in the safe and effective use of the type of force sanctioned by the agency, but also in all other aspects of physical intervention and restraint - from prevention and de-escalation through to post incident management. It may be appropriate to develop a training matrix to indicate the type and frequency of training for individual staff members according to their role and responsibility.
- It should be noted that the DfES (now DCSF) and the DoH charged BILD (British Institute of Learning Difficulties) with the task of accrediting all training for physical intervention. A pre-requisite of any training approach therefore, is that it should be accredited by BILD. Services seeking training need to be aware that BILD is a resource for finding accredited programmes.
- Any training approach to physical intervention must be clear about the dangers of positional asphyxia, which has resulted in various settings in situations where an individual's breathing has been compromised.

Principle 9 - Physical Contact in Other Circumstances:

- Policies and procedures need to reflect that there may be some children and young

people for whom touching of any description is particularly unwelcome.

- Some children may be particularly sensitive to physical contact because of their cultural background or because they have been abused.
- Experiences of abuse may be an important factor behind their demonstration of challenging, violent and aggressive behaviour.
- It is important that staff who may come into contact with these children or groups of children have the relevant information about them. In addition, the agency will need to develop a clear common practice towards them.
- There should be a common approach where staff and children are of different sexes.
- Physical contact with children and young people becomes increasingly open to question as they go through adolescence.
- Staff should be encouraged to bear in mind that even innocent and well-intentioned physical contact can sometimes be misconstrued.

Principle 10 - Overview and Monitoring:

- Agencies and institutions need to have processes in place for monitoring incidents of violence and aggression, the use of restraint, and commissioning reviews and investigations where appropriate. It should be possible to demonstrate the action that has been taken to reduce the frequency and severity of incidents.

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February 2009

Appendix 1 - Sources

- **Common Law**
The common law recognizes that there may be circumstances in which one person may inflict violence on another without committing crime. It recognises as one of these circumstances the right of a person to protect him/herself from attack and to act in defence of others and if necessary to inflict violence on another in doing so. If no more force is used than is reasonable to repel the attack such force is not unlawful.

- **Section 3 of the Criminal Law Act 1967**
Use of force in making arrest, etc
(1) A person may use such force as is reasonable in the circumstances in the prevention of crime, or in effecting or assisting in the lawful arrest of offenders or suspected offenders or of persons unlawfully at large.

(2) Subsection (1) above shall replace the rules of the common law on the question when force used for a purpose mentioned in the subsection is justified by that purpose.

- **Section 3 Children Act 1989**
Parental Responsibility
A person who—
(a) does not have parental responsibility for a particular child; but
(b) has care of the child,

may (subject to the provisions of this Act) do what is reasonable in all the circumstances of the case for the purpose of safeguarding or promoting the child's welfare.

- **Sections 88-95 of the Education and Inspections Act 2006**
93 Power of members of staff to use force
(1) A person to whom this section applies may use such force as is reasonable in the circumstances for the purpose of preventing a pupil from doing (or continuing to do) any of the following, namely—
(a) committing any offence,
(b) causing personal injury to, or damage to the property of, any person (including the pupil himself), or
(c) prejudicing the maintenance of good order and discipline at the school or among any pupils receiving education at the school, whether during a teaching session or otherwise.

- **Section 45-47 of the Violent Crime Reduction Act 2006**
45 Power of members of staff to search school pupils for weapons
After section 550A of the Education Act 1996 (c 56) insert—
“550AA Power of members of staff to search pupils for weapons

- (1) A member of the staff of a school who has reasonable grounds for suspecting that a pupil at the school may have with him or in his possessions—
- (a) an article to which section 139 of the Criminal Justice Act 1988 applies (knives and blades etc), or
 - (b) an offensive weapon (within the meaning of the Prevention of Crime Act 1953),

may search that pupil or his possessions for such articles and weapons.

- **Human Rights Act 1998, schedule 1 Part 1, Article 2**

- **Right to life**

1 Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

2 Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:

- (a) in defence of any person from unlawful violence;
- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- (c) in action lawfully taken for the purpose of quelling a riot or insurrection.

- **Section 17 Children's Home Regulations 2001**

Other relevant legislation

- **Criminal Law**

Common Law – Common Assault
Offences Against the Person Act - Assault / Battery
Common Law - False Imprisonment

- **Civil Law – Law of Tort**

Negligence

The breach of a legal duty to take care, resulting in damage to the claimant which was not desired by the defendant

“Negligence is the omission to do something which a reasonable man, guided upon those considerations which ordinarily regulate the conduct of human affairs, would do, or doing something which a prudent and reasonable man would not do.” Blyth v Birmingham Waterworks Co. (1865)

- **Health and Safety**

Duty of care owed to employees
Duty of care owed to children in your care

Guidance

- The Use of Force to Control or Restrain Pupils: Non Statutory guidance for schools in England (Department for Children, Schools and Families);
- Interim Management of Violence and Aggression Policy (Coventry and Warwickshire NHS Partnership Trust);
- Physical Intervention for Children (Warwickshire Directorate for Children, Young People and Families);
- Joint DfES/DoH Guidance on Physical Interventions (2002).

Acknowledgments: Thanks are due to Peter Allen and Rashid Begum for their help in developing this document.

Appendix 2 – A Model Policy for Physical Intervention and Restraint

1. Compliance with the Law:

The policy makes it clear to staff that the use of physical intervention and restraint must comply with the law. When it is applied it must be:

- Reasonable
- Proportionate
- Necessary
- In the best interests of the child

2. Prevention, Risk Assessment and Management Strategy:

The policy makes it clear to staff that the prevention of violence or aggression is the primary aim, with the emphasis through sound risk assessment and behaviour management on avoiding the need to use any force.

The policy describes the steps to be taken to help achieve this.

3. Disability and Special Needs:

The policy makes clear to staff the requirement that a risk assessment should be undertaken and management plans devised as a matter of course in these circumstances, to address foreseeable issues likely to warrant the use of force.

The policy describes the steps that will be taken to achieve this.

4. De-Escalation:

The policy makes clear the use of de-escalation strategies as a first-line strategy whenever there is a threat of violence. It will underline the nature of these strategies to staff.

5. Appropriate Use of Force:

The policy provides staff with clear guidance on the types of force techniques that are sanctioned by the agency/institution for use when physical restraint of a child or young person becomes necessary.

6. Post Incident Management:

The policy makes clear that the first consideration post incident is whether medical attention is required for the child and anyone else involved.

Clear arrangements for assessing the significance of the incident; recording

the incident, and informing parents and carers as soon as possible are specified. There are also clear arrangements for post incident support for the child and anyone else involved.

7. Complaints and Allegations:

The policy makes it clear to staff that children, young people and parents have the right to complain about actions taken by staff in the agency/institution, including the use of force, and the policy signposts the routes for making complaints.

8. Staff Training:

The policy makes clear that staff will be equipped with the skills and knowledge needed to deal with situations involving violent and aggressive behaviour by children – from awareness of legal provisions and prevention through to de-escalation techniques and the correct application of agency sanctioned physical restraint methods. The policy will commit the agency/institution to training staff in awareness of post incident requirements.

The policy will make clear the dangers of positional asphyxia in compromising an individual's breathing and ensure that training programmes address this.

9. Physical Contact in Other Circumstances:

The policy makes clear to staff more general issues relating to physical contact between staff and children and the agency/institution expectations in relation to this. This may involve signposting staff to other relevant policies and procedures.

10. Overview and Monitoring:

The policy will specify the arrangements the agency/institution has in place for monitoring incidents of violence and aggression; the use of restraint, and the commissioning of reviews and investigations where appropriate.

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