

# Guidance on the Use of Force and Physical Intervention

## **A. Value statement**

It is Warwickshire's vision that every child and young person, including those who are vulnerable and disadvantaged, should have the greatest possible opportunity to be the best they can be. That includes being safe from harm.

The safety and well-being of children is paramount. Plans and interventions should be based on a clear assessment of the child's developmental progress and the difficulties the child may be experiencing.

The purpose of all interventions should be to achieve the best possible outcomes for each child, recognising that each child is unique.

Children must be listened to and every effort made to understand their wishes and feelings. Professionals and volunteers should do everything possible to develop co-operative working relationships with children and their parents or caregivers.

Action and services should be provided according to the identified needs of the child and the impact of service provision and interventions on the child's developmental progress should be reviewed.

Practice with children must be based on sound professional judgement underpinned by a rigorous evidence base and the practitioner's knowledge and experience. New information should be taken into account.

All staff and volunteers that work with children and young people have a Duty of Care to keep children, young people, colleagues and themselves safe. All staff and volunteers should therefore take note of this guidance.

## **B. Introduction**

This guidance reviews and updates the WSCB Policy and Guidance Statement dated February 2009.

It is produced by Warwickshire County Council and endorsed by Warwickshire Safeguarding Children Board.

In order to keep children, young people, families, staff and services safe, there may be occasional circumstances in which children's behaviour is so challenging that there is no alternative other than to use force

However, the use of force in managing challenging behaviour should only be used when **necessary**, should be **reasonable and proportionate**, and should always be in the **best interests of children and young people**.

Behaviour is always about communication. Seeking to understand what any behaviour is about is the first step in choosing an effective response.

Professionals working with children and young people should seek to utilise a full range of strategies for positive and proactive responses to behaviour in order to promote and teach appropriate and socially acceptable ways of communicating.

Professionals should utilise strategies to diffuse and de-escalate challenging situations as a matter of course before any physical intervention takes place.

### **C. The Purpose of this document**

- To provide a set of unifying principles governing the use of force, physical intervention and restraint by all staff in partner agencies who come 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 principles identified in this guidance should be visible in policies and procedures drafted by agencies (including maintained and non-maintained schools, alternative providers of education, FE colleges working with children under 18 years of age, all Early Years providers, foster care agencies, statutory and non-statutory youth settings, sport and recreation providers and all other settings working with children and young people) in respect of force, physical intervention and restraint. They apply in situations where children are placed by another Local Authority in a Warwickshire school or setting.
- Professionals responsible for placing children outside Warwickshire in any of the following circumstances should ensure that the placement provider's policy and procedure in respect of the use of force and physical intervention are compliant with the principles in this guidance and that the principles are reflected in commissioning arrangements, contracts, placement agreements and care plans:
  - Out of county foster placements.
  - Residential schools
  - Specialist day schools.
  - Residential children's homes.
  - Long-term hospital placements.
  - Registered adolescent mental health units.
  - In the care of parents in residential family assessment facilities.

- Secure accommodation

Professionals responsible for the welfare and supervision of young people serving a custodial sentence or sectioned under the Mental Health Act should also ensure that the principles are applied in those circumstances.

- 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.
- A policy designed to support behaviour should be reviewed annually and be shared with all employees and volunteers of the service it applies to (with evidence that they have read and understood it) and other stakeholders including parents/carers, children and young people and governing bodies/management committees/boards of trustees. It should be included in any written agreement where it applies (e.g. home/school agreements). It should include the setting’s policy on the use of force.

## **D. Principles**

1. Compliance with the Law
2. Prevention, Risk Analysis and Management Strategy
3. Disability and Special Needs
4. “De-escalation”
5. Appropriate Use of Force
6. Post Incident Management
7. Complaints and Allegations
8. Staff Training
9. Physical Contact in Other Circumstances
10. Overview and Monitoring

### **1. Compliance with the law**

- All employees and volunteers working in schools/settings and all agencies that provide services for children and young people are required to work within the law and in accordance with statutory guidance.
- Relevant legislation and guidance is listed at Appendix 1.
- Assessments of what is reasonable and when it is reasonable to use force are matters of judgment and depend 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 and 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;
  - Key legal words to be noted are **reasonable**, **proportionate** and **necessary**. Any action taken should always be **in the best interests of the child/client**.
- 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.
  - Establishments should therefore not have a ‘no touch’ policy.

## **2. Prevention/Risk Analysis and Management Strategy**

- Prevention of injury, 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 and carers to recognise that challenging behaviours are often foreseeable and developing 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.

### 3. Disability and Special Needs

- In cases involving children who 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 and are 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 a physical or learning disability) are associated with extreme behaviour.
- An individual risk assessment and management plan will be essential for children and 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.
  - Social, emotional and mental health needs
- 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 child and 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 the school/setting/agency's Duty of Care in respect of both the child and the employee.
- A risk assessment should be accompanied by a risk reduction plan and those should be shared with all involved in supporting the child/young person concerned including parents/carers.

#### 4. De-escalation

- Schools/settings/agencies' policies, procedures and plans should underline the importance of **employing de-escalation strategies in the first instance** whenever there is a threat of violence or aggression towards an individual or property.
- Communicating calmly with children, 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' and 'early warning signs' will be important components of a de-escalation strategy developed in respect of a particular child.

#### 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 intervene physically or restrain children and young people.

#### Definitions

- Restrictive Physical Intervention - the use of force to control a person's behaviour. It involves the use of force to:
  - ✓ restrict movement
  - ✓ restrict mobility
  - ✓ disengage from dangerous or harmful physical contact
- Low Arousal Area - a modified area identified within a school or setting that offers a low sensory working environment (please refer to separate guidance '*The use of Low Arousal Areas in Warwickshire Schools*').  
**N.B. Low Arousal Areas should never be used as a restrictive physical intervention.**
- Quiet Room - a room within a school or setting that offers a pupil an opportunity to calm during the school day (please refer to separate guidance '*The use of Quiet Rooms in Warwickshire Schools*').
- Time Out – the restriction of positive reinforcement as part of a planned behavioural programme. Its use must be subject of an agreed written plan.

- Seclusion – a situation in which an individual is forced to spend time alone against her or his will. **N.B. the use of seclusion requires statutory powers other than in an emergency.**
  - Withdrawal – is where an individual is removed from a situation but observed and supported until they are ready to resume normal/routine activities.
- 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. **Consideration of the risks of employing an intervention will be balanced against the risks of not doing so. Though ideally a last resort it should not be an act of desperation but a conscious decision to act in the best interests of the child in question and other children who may be affected.**
  - 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 a young person threatening to hit someone with a dangerous object, a member of staff would be justified in taking any necessary action to prevent harm to the child, other children or staff. However, even in those 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, e.g. preventing a child from running off a pavement onto a busy road, 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.

## 6. Post Incident Management and Notifications

- 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 that 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.

- Where an incident is deemed to be recordable, then parents/carers should be informed as soon as possible after the incident, and details confirmed in writing later.
- Where a recordable incident concerns a looked after child, the placing Local Authority must also be notified in writing as soon as possible after the incident.
- In schools and other settings this recording will be essential in helping to initiate or update the risk assessment concerning the child and to determine whether changes need to be made to their individual plan.
- There will be a need for post incident debriefing for staff 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 hear their perception and understanding of the incident, to link experiences, thoughts, feelings, behaviour and to decide upon next steps; and to 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 or other independent/external agencies.
- 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.
- Schools and settings should also follow their own employer's procedure for reporting and recording accidents and incidents. This includes meeting statutory reporting requirements for relevant incidents that fall under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR)'.

## **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. Schools, settings and 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.



- Schools, settings and agencies should ensure that they have a robust and up to date Whistle Blowing policy that is available and familiar to staff, service users and parents/carers.
- Any complaints or allegations should be dealt with in line with the school/setting/agency's complaints procedure.
- Allegations of a safeguarding nature against any individual who works or volunteers with children should be referred to the Local Authority Designated Officer (LADO) within one working day, as required by Working Together to Safeguard Children and Young People 2013.

## 8. Staff Training

- Policies and procedures must include a commitment by the school, setting or agency 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 school/setting/agency but also in all other aspects of behavior management, physical intervention and restraint to include positive reinforcement of appropriate behavior, prevention, de-escalation and post-incident management.**
- It should be noted that the DfE and the DoH charge BILD (British Institute of Learning Difficulties) with the task of accrediting all training for physical intervention. It is therefore a pre-requisite of any training approach that it is accredited by BILD. Schools/settings and agencies seeking training need to be aware that BILD is a resource for finding accredited programmes.
- **Warwickshire County Council supports the TeamTeach approach (accredited by BILD) in providing training for schools and other settings.**
  - Information about TeamTeach is available via [www.team-teach.co.uk](http://www.team-teach.co.uk).
  - A team of accredited TeamTeach tutors - including a strategic lead and a co-ordinator - is available to provide training for schools, settings and agencies across Warwickshire. The team also maintains a record of schools, settings and members of staff that have attended training and provides summary evaluations and consultation in respect of particularly challenging situations.

- Any training approach to physical intervention must be clear about the dangers of positional asphyxia, which can result in the compromise of an individual's breathing.

## **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 that may come into contact with those children or groups of children have the relevant information about them in order to respond to their needs as sensitively as possible. In addition, the school, setting or agency will need to develop a clear and consistent practice towards those children that is understood and implemented by all members of staff.
- Staff should take particular care when undertaking physical contact with children and young people of the opposite gender.
- 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.

## **10. Overview and Monitoring**

- Schools, settings and agencies 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.
- In schools, senior leadership teams should report to boards of governors, which have a responsibility to monitor policy and practice.

## **E. Understanding behaviour**

- Behavioural interventions which seek only to control behaviour, rather than understand its meaning, are likely to prevent individuals from making the most of their potential.
- Challenging behaviour is often the result of a breakdown in communication.

- Staff teams involved in supporting individuals should aim to understand what function the behaviour serves and to teach the individual a more socially acceptable means of expressing their need for support.

## **Appendix 1**

- 'Use of Reasonable Force' - advice for head teachers, staff and governing bodies (DfE July 2013)
- 'Guidance on the Use of Restrictive Physical Interventions for Pupils with Severe Behavioural Difficulties' (DfE September 2003)
- Code of Practice for the use and reduction of restrictive physical interventions, third edition (BILD 2010)
- Education and Inspection Act 2006 (section 93) - sets out teachers' statutory powers of discipline and restraint and gives all members of school staff a legal power to use reasonable force and do not need specific authorisation to do so
- Education Act 1996 (Appendix 1) - sets out a general power enabling head teachers to authorise staff to use such force as is reasonable given the circumstances to conduct a search for prohibited items
- Letter to Chief Education Officers dated 24/4/01 - describes procedures and systems for recording incidents
- 'Behaviour and Discipline in Schools' - sets out the use of reasonable force, behaviour and discipline in schools. Provides power to use reasonable force to prevent pupils committing an offence, injury to themselves or others, damaging property and maintaining good order and discipline in the classroom; and when conducting a search without consent 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 (DfE February 2014).
- Health and Safety at Work Act 1974 – sets out responsibilities of employers to take reasonable steps to ensure the health, safety and welfare of employees and others such as children and young people, who are affected by their undertakings/activities.

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**To be reviewed by 31/03/15**