

LETHBRIDGE PRIMARY SCHOOL

POSITIVE HANDLING AND THE USE OF REASONABLE FORCE POLICY

1. Overview

1.1 Lethbridge Primary School takes seriously its duty of care towards children and young people, employees and visitors. Touch is a sensitive issue requiring careful judgement. *Remove this sentence – trainer advised that we shouldn't use the word judgement.* The School recognises that there are occasions when staff are required to make physical interventions both to help children and to prevent them from coming to harm. Whenever our staff act reasonably and act in good faith they will be supported. Any use of force should be proportionate to the consequences it is intended to prevent. It should be the minimum necessary to achieve the desired result and be deemed reasonable in the circumstances.

1.2 Children at Lethbridge Primary School deserve the best start in life and we want them to enjoy life, to achieve, to stay safe from harm, to be healthy and grow up to be successful adults in a loving, caring environment

1.3 The term 'Positive Handling' is used to describe the full range of strategies used to de-escalate, defuse and divert in order to prevent violence and reduce the risk of injury to staff, children, and others. The use of force only forms a small part of the Positive Handling Framework. All physical interventions, including restraint, are conducted within a framework of positive behaviour management. It is important to reward effort and application, encouraging children and young people to take responsibility for improving their own behaviour. Preventative approaches to risk reduction involve identifying and communicating early warning signs, situations, settings and other factors which may influence behaviour, then taking steps to divert behaviours leading towards foreseeable risk. Where possible, children and young people are encouraged to participate in the development of their own Positive Handling Plans by focusing on positive alternatives and choices. Parents are also encouraged to contribute.

1.4 The Children Act 1989 places a duty upon staff to consider the welfare of the child first, and for the welfare of the child to take precedence over every other consideration. The Children Act 2004 places a duty on key partners to cooperate in the safeguarding of children and young people. Section 93 of the Education and Inspections Act 2006 describes the circumstances in which staff and others may use reasonable force to control or restrain children and young people. Examples of when such action may be reasonable are: preventing injury to people, serious damage to property, the breakdown of discipline or persistent refusal to follow a reasonable instruction.

2. Glossary

2.1 Positive Handling

The term 'Positive Handling' includes a wide range of supportive strategies for managing challenging behaviour. Included in this framework are a smaller number of responses which involve the use of

force to control or restrain a child or young person. The term “restraint” is used whenever force is used to overcome active resistance.

2.2 Positive Handling Plans

Individual plans may result from a risk assessment. These should include a description of the nature of the hazard, identify who may be at risk and outline preferred risk reduction strategies (including non-physical, those involving touch and, where appropriate, more restrictive restraints).

2.3 Restraint / Restrictive Physical Interventions

This is the positive application of force with the intention of safeguarding people and property.

2.4 Risk Control Strategies

2.4.1 Non Physical Interventions ('No Touch'):

- Adaptations to the physical environment;
- Use of space;
- Body language;
- Facial expressions;
- Volume, pitch, pace and tone of voice;
- Choice of words;
- Use of visual cue cards for communication;
- Use of signing for communication;
- Offer time out in sensory room to support and allow pupil to calm down.

2.4.2 Physical Contact (Contingent Touch)

- Reassuring touch (for example: holding hands in the playground);
- Physical prompts and guides (for example: attracting attention or communicating with someone with sensory impairment, helping someone to learn physical skills, escorting a young child or someone with learning difficulties);
- Holding to reassure where there is little, if any, active resistance (for example: a comforting hug around the shoulder);
- Guiding and holding where there is little if any active resistance;
- Unobtrusive personal safety responses to low level risks (for example: taking an object away from a small child, releasing a grip or positive touch associated with treating a minor graze).

2.4.3 Restraint / Restrictive Physical Interventions

- Holding someone who is actively resisting to prevent them putting themselves at risk of significant harm;
- Holding someone who is actively resisting to reduce the risk of pain or injury;
- Holding someone who is actively resisting to reduce the risk of damage to property;
- Holding someone who is actively resisting to prevent the commission of a criminal offence;
- Moving someone who is actively resisting into a reduced-risk environment;

- Preventing a person who is actively resisting from moving into an increased risk environment.

3. The Legal Framework

3.1 Interest Principle

The overriding principle relating to positive handling is that the welfare of the child takes precedence over every other consideration. The first paragraph of the Children Act 1989 in the UK and the third paragraph of the United Nations Convention on the rights of the child state that the welfare of the child shall be the paramount consideration. Paramount in this context means that it is the first thing people should think about and it should take precedence over every other consideration. There are many other reasons why staff may be justified in using reasonable force but the best defence is to focus on the interests of the child. It may be in the best interests of the child to prevent them from doing something that they will later regret.

3.2 Duty of Care

The term “duty of care” is an important legal term. Anyone who is paid to work with children has a duty of care. We do not need to wait for damage or injury. A responsible approach is to anticipate what could go wrong and try to prevent it. A breach of duty of care may involve either taking unreasonable action or failing to take reasonable action to prevent harm to another person (Commission or Omission). The School takes seriously their duty of care towards staff and endeavour to provide information and training to enable them to carry out their duties. Staff also have a duty to cooperate with the Senior Leadership Team over all Health and Safety matters.

3.3 Section 93 Education and Inspections Act 2006

This section describes the circumstances in which staff and others authorised by the headteacher in school, may use reasonable force to control or restrain children and young people.

Examples of when such action may be reasonable are to prevent injury to people, serious damage to property or the breakdown of discipline. The term “physical restraint” is used when force is used to overcome active resistance. These are referred to as ‘Restrictive Physical Interventions’ in National guidance (DfES/DoH 2002).

3.4 Risk Assessment and Risk Control

Health and Safety legislation applies to children who may present a hazard to themselves or others. Wherever a hazard can reasonably be foreseen there should be an assessment of the risk and a plan to reduce the risk. It is not always possible to eliminate risk and staff will need to be able to show that they have attempted to control it. Children and young people who present a risk should have a positive handling plan. Staff likely to come into contact with a child or young person presenting a risk should be given guidance and training to enable them to assess and reduce the risk.

3.5 Reasonable and Proportionate

Common law hangs on the word “reasonable” yet the meaning can change depending on the circumstances of each case. For example, an action taken in response to an attack with a baseball bat might be deemed reasonable by a court, whereas exactly the same action taken in response to a verbal assault could be judged to be excessive and unreasonable. What determines the reasonableness of a particular intervention is often governed by whether or not it was “proportionate”. Staff should always use minimum force necessary for the shortest time to keep people safe. Use of force should be in proportion to the consequences it is intended to prevent. It

should be the minimum necessary to achieve the desired result. Good training provides techniques which rely on a combination of psychology and biomechanics to reduce the amount of force required.

3.6 Absolutely Necessary

3.6.1 The United Kingdom adopted the United Nations Convention on the Rights of the Child in 1991 and incorporated European Human Rights legislation into the legal framework. Institutions have to consider the human rights implications of their policies. Sometimes staff are obliged to take action which would, in other circumstances, be unreasonable or even illegal. In normal life people do not normally touch other people unless invited; they do not interfere with their property, move them from place to place or restrict their movement. Yet for staff there may be times when such actions are reasonable and necessary. If a member of staff takes any action that could be seen as restricting the child's or young person's human rights it must be 'absolutely necessary.'

3.6.2 There are times when those with a duty of care believe that they must take action to protect the interests of the child or young person. If they fail to take action, and as a result negligently allow a child to come to harm, they could be liable for any damage which ensues. When staff are honest in their attempts to do the right thing they are said to be acting in 'good faith.' It is important to emphasise that the School will support members of staff who act in good faith in the best interests of the children. This will include the act of searching a pupil's property, which will only be done with the pupil's knowledge.

3.7 Key Questions

It can help staff to maintain their focus on values and principles if they keep three questions in mind whenever they consider using force to control a child's behaviour. It may be true that staff are legally empowered to use force to prevent injury, damage, the commission of criminal offences or even to prevent serious disruption. However, rather than focus on the rights of staff, it is better to focus on the rights and interests of the child or young person. Whenever a member of staff chooses to use a physical intervention they should consider three key questions:

- Is this intervention in the best interests of the child or young person?
- Is it absolutely necessary?
- Is it reasonable and proportionate?

3.8 Reasonable and Proportionate

3.8.1 Any response to extreme behaviour should be reasonable and proportionate. People should make every effort not to react in anger. If they feel they are becoming angry they should consider withdrawing to allow someone else to deal with the situation. Where staff act in good faith, and their actions are reasonable and proportionate, they will be supported.

3.8.2 When physical controls are considered, staff should think about the answers to the following questions:

- Do I have to act now?
- Am I the best person to be doing this?
- Is my intervention likely to reduce risk?

3.8.3 If staff can answer 'yes' to these questions it is more likely that a physical intervention will be judged to be reasonable and proportionate. Whenever a physical intervention has to be made there should be a verbal warning. In some cases urgent action is necessary and this may not be possible.

Where possible, staff should always attempt to use diversion or defusion in preference to physical interventions.

3.9 Seclusion

Other than as a one-off emergency measure to protect health and safety, force should not be routinely used to keep a child or young person secluded. Seclusion is only lawful by specific court order in a licensed secure unit and cannot become part of a planned strategy.

4. Health & Safety

4.1 If dangerous behaviour presents a significant risk of injury to people, there is a Health and Safety issue to be addressed. Dangerous behaviour should be regarded just as seriously as dangerous equipment. Dangerous occurrences should be reported to the person responsible for Health and Safety. We all have a shared responsibility to identify risk, communicate potential risks and take active steps to reduce risk wherever possible. We recognise that it is not possible to entirely remove risk. Sometimes things go wrong even when we make our best efforts to do the right thing. Sometimes we are faced with unpalatable choices. In these circumstances we have to try to think through the outcomes of the options available, balance the risks and choose whatever course of action seems to involve the least risk.

4.2 As a minimum requirement, in order to comply with Health and Safety legislation, each employee has a responsibility to ensure that they are conversant with School policy and guidance, and to cooperate to make the institution safer. It is also a requirement that they participate in training if they are directed to do so. This does not necessarily mean that all staff can be involved in all the physical activities. The non-physical aspects of positive handling training are crucially important too.

4.3 When considering a child behaviour staff should think about the following questions:

- Can we anticipate a Health and Safety hazard related to this child's behaviour?
- Have we got all the information we need to conduct a risk assessment?
- Have we produced a written plan as a result?
- What further steps can we take to prevent dangerous behaviour from developing?

4.4 A Health and Safety Accident/Incident Form should be completed and returned to the Headteacher in situations where injury requiring medical treatment has occurred to either members of staff or children. Where staff have been involved in an incident involving reasonable force they should have access to counselling and support.

5. Risk Assessment

5.1 Informal risk assessments should be a routine part of life for staff working with children who may exhibit extreme behaviour. These are often described as dynamic risk assessments. Responsible staff should think ahead to anticipate what might go wrong. If a proposed activity or course of action involves unacceptable risk the correct decision is to do something else. Factors which might influence a dynamic risk assessment, and therefore a decision about how to intervene, might include the state of health and fitness of the staff member, their physical stature, competence, confidence and relationships with the children concerned.

5.2 Confidence and competence are often related to the level of staff training. Other than in an emergency, staff should only attempt physical controls when they are confident that such action will result in a reduction of risk. When faced by extreme behaviour, or even in a fight situation, the judgement may be that by becoming physically involved the member of staff will increase the chance of somebody getting hurt. In this case the correct decision is to hold back from physical controls. However, this does not mean that staff can do nothing. There are a number of other things a person can do. They can make the environment safer, give clear directions to children and young people, remove the audience and get help.

6. Positive Handling Plans

Risk management is an integral part of positive behaviour management planning. All children who have been identified as presenting a risk should have a Positive Handling Plan. This is in effect a risk assessment. The plan details the settings and situations which increase risk. It also details any strategies which have been found to be effective in reducing risk for that individual, along with any particular responses which are not recommended. If particular physical techniques have been found to be effective they should be named, along with alerts to any which have proved ineffective or which caused problems in the past. Positive Handling Plans should be considered alongside the Statement of Special Educational Need or Education & Health care Plan (EHCP) and any other planning documents which relate to the child or young person. They should take account of age, sex, level of physical, emotional and intellectual development, special needs and social context. Positive Handling Plans should result from multi-professional collaboration, including contributions where possible from parents, carers and the children and young people themselves. Positive Handling Planning and risk assessment may form part of the Pastoral Support Plan. See Appendix 1 for proforma.

7. Responding to Unforeseen Emergencies

Even the best planning systems cannot cover every eventuality and the School recognises that there are unforeseen or emergency situations in which staff have to think on their feet. The key principles are that any physical intervention should be:

- In the best interest of the child or young person;
- Reasonable and proportionate to the consequences it is intended to prevent;
- Intended to reduce risk;
- The minimum necessary to achieve the desired result.

8. Training

8.1 Staff who are expected to use planned physical intervention techniques should be trained. All training courses should be fully accredited by the British Institute of Learning Disabilities (BILD) in accordance with the Department for Children, Schools and Families (DCSF) and Department of Health guidance. Positive handling training should be provided by qualified instructors according to the BILD code of practice. Swindon Borough Council recommends 'Team Teach' training as the preferred training model.

9. Recording

Whenever overpowering force (restraint) is used the incident must be recorded using the approved forms. Where possible it is encouraged that more than one person is available for corroboration. All staff involved in an incident should contribute to the record which should normally be completed within 24 hours. Staff should read through the recording form carefully, taking time to think about what actually happened and explain it clearly. Names should be completed in full and all forms should be signed and dated. Bear in mind these records will be retained and cannot be altered. They will be kept for many years and could form part of an investigation at some time in the future. Serious incident reports should not be completed until the individuals concerned have recovered from the immediate effects of the incident. They should not be rushed. A concise record should be written into the Bound and Numbered Book, which can refer to supporting incident sheets and other relevant information. A copy of the current Positive Handling Policy and relevant sections of the Staff Practice Guide are archived alongside the individual records each year, so that in the future records can be considered in context.

10. Monitoring and Evaluation

The headteacher should ensure that each incident is reviewed at least termly to identify trends and instigate further action as required. The incident log should be open to external monitoring and evaluation.

11. Positive Behaviour Management

The policy is intended to reward positive social and emotional skills and encourage children and young people to take responsibility for improving their own behaviour. Part of our preventative approach to risk reduction involves looking for early warning signs, communicating any factors which may influence behaviour and taking steps to divert behaviours which might lead towards foreseeable risk. Children are encouraged to participate in the development of their own Positive Handling Plans by focusing on positive alternatives and choices.

12. Alternatives to Physical Controls

A member of staff who chooses not to make a physical intervention can still take effective action to reduce risk. They can:

- Show care and concern by acknowledging unacceptable behaviour;
- Request alternatives using negotiation and reason;
- Give clear directions to the pupils to stop;
- Use visual cue cards where appropriate;
- Use signing where appropriate;
- Remind them about rules and likely outcomes;
- Remove an audience or take vulnerable children or young people to a safer place;
- Make the environment safer by moving furniture;
- Make the environment safer by removing objects that could be used as weapons;
- Use positive touch to guide or escort children to somewhere less pressured;
- Ensure that colleagues know what is happening;
- Get help.

13. Modifications to the Environment

Ideally staff will not be waiting until a crisis is underway before conducting a risk assessment of the environment. We know that some children and young people exhibit extreme and possibly dangerous behaviours. In general, it is a good rule to keep the environment clutter free. This may mean giving consideration to secure storage for a range of everyday objects when they are not being used. For example:

- How is the availability of pointed implements controlled? (Including pens, pencils, compasses and darts)?
- What small items are available to be used as missiles?
- What objects are available to be used as blunt instruments?
- Do they all need to be left out all the time?
- Are there sharp edges or corners that present a risk?
- Is the design and arrangements of furniture safe?
- Is the choice of furniture appropriate for pupils who exhibit extreme behaviour?
- Is there a comfortable and safe place to sit with an agitated child or young person?
- Are protocols in place to encourage angry children or young people to take themselves to a safer place?
- Is there somewhere safe for the child or young person to be taken?

14. Help Protocols

The expectation is that all staff should support each another. This means that staff always offer help and always accept it. Help does not always mean taking over. It may mean just staying around in case you are needed, getting somebody else or looking after somebody else's group. Supporting a colleague does not always mean agreeing with their actions and offering sympathy when things go wrong. Real support sometimes means acting as a critical friend to help colleagues become aware of possible alternative strategies. Good communication is necessary so that colleagues avoid confusion when help is offered and accepted. They need to agree scripts so that all parties understand what sort of assistance is required and what is available. When somebody offers help a member of staff should tell them clearly how they can help.

15. Well Chosen Words

A well-chosen word can sometimes avert an escalating crisis. When children or young people are becoming angry there is no point in getting into an argument. Repeatedly telling people to calm down can actually wind them up. Pointing out what people have already done wrong can make things even worse. The only purpose in communicating with an angry person is to prevent a further escalation. Sometimes it is better to say nothing. Take time to choose your words carefully, rather than say the wrong thing and provoke a further escalation. The time to review what has happened and look at ways of putting things right, is after everyone has completely calmed down and recovered.

It should be recognized that for some pupils verbal interaction is stressful and is likely to escalate rather than de-escalate a situation. For these pupils use of signing and/or visual cue cards may be a better way of communicating.

16. The Last Resort Principle

Physical restraint should only be used when there is no other realistic alternative. This does not mean that we always expect people to methodically work their way through a series of failing strategies before attempting an intervention in which they have some confidence. Nor does it mean always waiting until the danger is acute and imminent, by which time the prospect of safely managing it may be significantly reduced. Reasonable use of force is the minimum necessary to achieve the desired result. It does mean that we expect staff to conduct a risk assessment and choose the safest alternative available. This includes thinking creatively about any alternatives to physical intervention which may be effective.

17. Proactive Physical Interventions

It is sometimes reasonable to use physical controls to prevent extreme behaviour from becoming dangerous. If this is part of a planned response it should be an agreed part of the Positive Handling Plan. Examples of proactive approaches might be where a child or young person has shown ritual patterns of behaviour, which in the past have led to the child becoming more distressed and violent. In such circumstances it may be reasonable to withdraw the child or young person to a safer place when the pattern of behaviour begins, rather than wait until the child is distressed and out of control. The paramount consideration is that any action is taken in the interest of the child or young person and it that it reduces, rather than increases, risk.

18. The Post Incident Support Structure for Pupils and Staff

18.1 Following a serious incident it is the policy to offer support to all involved. People take time to recover from a serious incident. Until the incident has subsided the priority is to reduce risk and calm the situation down. Staff should avoid saying or doing anything which could inflame the situation during the recovery phase. Immediate action should be taken to ensure medical help is sought if there are any injuries which require more than basic first aid. All injuries should be reported and recorded using the school systems.

18.2 It is important to note that an injury in itself is not evidence of malpractice. Even when staff attempt to do everything right things can go wrong. Part of the post-incident support for staff may involve reminding them of this, as people tend to blame themselves when things go wrong.

18.3 Time needs to be found to repair relationships. When careful steps are taken to repair relationships a serious incident does not necessarily result in long term damage. This is an opportunity for learning for all concerned. Time needs to be given to following up incidents so that children and young people have an opportunity to express their feelings, suggest alternative courses of action for the future and appreciate other people's perspective. When time and effort are put into a post-incident support structure the outcome of a serious incident can be learning, growth and strengthened relationships. Children and young people should come to an understanding that the reason staff hold them is to keep them safe. The concept of restorative justice can help in this process.

18.4 Where necessary the institution should be able to direct staff to sources of further emotional support.

19. Complaints

19.1 It is not uncommon for children and young people to make allegations of inappropriate or excessive use of force following an incident. The School has a formal complaints procedure and will ensure all such allegations are investigated appropriately and appropriate action can then be taken. Children and young people will be reminded of the procedure and encouraged to use the appropriate formal and informal channels.

19.2 The complaints policy is also designed to assist staff and they will be supported through this process as set out in paragraph 20.2 below. The School is an open organisation and promotes transparent policy and practice in order to protect the interests of pupils and staff alike. Any staff concerns regarding the welfare of children and young people should be referred to the designated person for child safeguarding in the school. Any safety concerns should be reported to the designated person for Health and Safety in the school.

20. Follow Up

20.1 Following an incident consideration may be given to conducting a further risk assessment and reviewing the Positive Handling Plan, Behaviour Management Policy or this Positive Handling and Restraint Policy. Further action in relation to a member of staff, or an individual child, may involve a formal pupil or staff disciplinary procedure. If this is the case the member of staff or child/young person will be kept informed of any action taken.

20.2 In the case of any allegation against a member of staff the school will, in the first instance, contact the Swindon Child Protection investigation and referral support coordinator to ensure the best practice is followed at all times. The School will ensure that the member of staff concerned will be offered appropriate support and advised to seek advice from his/her professional association/union.

21. Parents

Where restraint has been used on a child, the incident will be recorded in the log kept in the Headteacher's office, and the parents will be informed. Where this becomes a persistent issue, a meeting will be held with all stakeholders to discuss ways to manage the child's behaviour. The opinion of behaviour specialists will be sought at this stage.

21. Links to Swindon Borough Council

The Corporate Health, Safety and Wellbeing Adviser has been involved in the formulation of this policy. Helpful guidance has been produced by the Council specifically in the document 'Guidance on the reporting and investigating of accidents and incidents at work.' The contact person is Leigh Simmonds on 01793 464887 or lsimmonds@swindon.gov.uk.

References

1. Department of Health – 1997 – “The Control Of Children In The Public Care: Interpretation Of The Children Act 1989” - London: H M S O
2. Department for Education & Employment – 1998 – “Guidance On Section 550A Of The Education Act 1996: The Use Of Reasonable Force To Control Or Restrain Pupils” - London: H M S O

3. Department for Education & Employment – 2001 - ‘Positive Handling Strategies for Pupils with Severe Behaviour Difficulties’ - Letter sent from Chris Wells, Head of SEN Division to Chief Education Officers (Same title but nothing like the same document)
4. Department for Education and Skills – July 2002 – “Guidance On The Use Of Restrictive Physical Interventions For Staff Working With Children And Adults Who Display Extreme Behaviour In Association With Learning Disability And/Or Autistic Spectrum Disorders” - London: Department for Education and Skills (DfES version of the “joint” guidance – different title but same document)
5. Department of Health – July 2002 – “Guidance For Restrictive Physical Interventions: How To Provide Safe Services For People With Learning Disabilities And Autistic Spectrum Disorder” - London: Department of Health (DoH version of the “joint” guidance - different title but same document)
6. LEA/0264/2003 - September 2003 - “Guidance on the Use of Restrictive Physical Interventions for Pupils with Severe Behavioural Difficulties”
7. Birmingham LEA – May 2003 – “The Use of Reasonable Force to Control or Restrain Pupils – Guidance for Birmingham Maintained Schools and the City Council Education Service – Model Policy
8. West Midlands SEN Regional Partnership – January 2005 – “Care and Control – a toolkit to support the West Midlands SEN Partnership in the development of a shared approach to fulfilling the LEA duty of care”
9. HMSO – 2004 – The Children Act
10. National Association of EBD Schools – March 2005 – “NAES Model Policy”
11. Steaming Publications – March 2005 – “NAES Bound and Numbered Book”
12. DfES 2007 – April 2007 - “School Discipline and Pupil Behaviour Policies”

***New Policy March 2013
Reviewed September 2015
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Appendix One – Positive Handling Plan proforma

Lethbridge Primary School – Positive Handling Plan				
Name	DOB	Class	Plan date	Medical information
Triggers/Behaviours/Situations likely to result in unwanted behaviour <i>What is the behaviour like? When does it occur? Where does it occur?</i>				
Possible de-escalation strategies:- Please highlight				
Chill out time eg sensory room	Distraction	State alternatives or choices	State consequences	Take up time
Give space	Reassure or give success reminder	Other staff involvement	Repeat request	Classroom organisation
Talk calmly	Give a count	Planned ignoring	Remove stimulus	Environment factors
Verbal advice & support	Negotiation	Contingent touch	Humour	Time out OR Time in
Staff withdrawal	Peers withdrawal			
Preferred Handling Strategies to be used:				
De-briefing process following incident:				
Signatures: Headteacher: Date:				
Parent/ carer Date:				
Other Date:				

