

USE OF REASONABLE FORCE & RESTRICTIVE PHYSICAL INTERVENTION POLICY

July 2012

USE OF REASONABLE FORCE AND RESTRICTIVE PHYSICAL INTERVENTION POLICY

Introduction

This policy has been formulated with reference to the following documents:

Welsh Government Framework for Restrictive Physical Intervention Policy and Practice, March 2005.
Safe and Effective Intervention – use of reasonable force and searching for weapons, Welsh Assembly Government Circular 097/2013, March 2013.

Framework for Restrictive Physical Intervention Policy and Practice, March 2005.

European Convention on Human Rights, Fundamental Freedoms (1985), Human Rights Act 1998.

Department for Children and Families (2007) Use of Force to Control or Restrain Pupils

British Institute of Learning Disabilities (BILD), Code of Practice for the use and reduction of restrictive physical interventions.

Schools and Pupil Referral Units must have a policy for managing challenging behaviour that is agreed by the whole school community and which includes sections on restrictive physical Intervention.

This policy has been written collaboratively by:

Denbighshire Secondary Schools

Ysgol Plas Brondyffryn

Denbighshire Behaviour Support Service

Denbighshire Health & Safety Executive

Denbighshire Corporate Governance Department

A. Purpose of the Policy

To establish the legal requirements and responsibilities of the school and clarify their approach to the use of reasonable force and restrictive physical intervention for all staff, pupils, governors, parents/carers, external agencies and the wider community.

To enable staff to manage incidents with confidence and consistency, ensuring their response complements the overall approach to the values and the ethos of the school, whilst ensuring the best interests of those involved.

To reinforce and safeguard the health and safety of the whole school community and others who use the school.

B. The Agreed Definition of Challenging Behaviour:

‘describes behaviour of such frequency, duration or intensity that the safety of the person or others is placed in jeopardy or behaviour which is likely to limit or delay access to ordinary community facilities’, (Emerson 1995).

The most effective way to manage challenging behaviour is to use whole school approaches to positive behaviour management. Each school’s Behaviour Policy should give guidance on providing preventative strategies, before there is a need for reasonable force or restrictive physical intervention.

C. The Legal Position

Section 93 of the Education and Inspections Act 2006, replaced Section 550A of the Education Act 1996 and enables school staff to use such force as is reasonable in the circumstances to prevent a pupil from doing, or continuing to do, any of the following:

committing any offence (or, for a pupil under the age of criminal

responsibility, what would be an offence for an older pupil); causing personal injury to, or damage to the property of, any person (including the pupil himself); or 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.

Staff to which this power applies is defined in section 95 of the Act. They are

‘any teacher who works at the school, and any other person whom the head has authorised to have control or charge of pupils’

The use of this power also includes:

support staff whose job normally includes supervising pupils such as teaching assistants, learning mentors and lunchtime supervisors can also include people to whom the head has given temporary authorisation to have control or charge of pupils such as paid members of staff whose job does not normally involve supervising pupils (for example catering or premises-related staff) and unpaid volunteers (for example parents accompanying pupils on school-organised visits)

This power does not include:

administrative staff unless they had been given authorisation by the head teacher to have control or charge of pupils.

prefects

Those exercising the power to use force must also take proper account of any particular special educational need (SEN) and/or disability that a pupil might have.

Under the Equality Act 2010 schools have key duties:

not to treat a disabled pupil less favourably, because of his/her disability, than a non-disabled pupil;
not to treat a disabled pupil unfavourably because of a reason related to
their disability, without justification; and not to apply a provision, criterion or practice that puts or would put a disabled pupil at a particular disadvantage compared with a non-disabled pupil, without justification;
to take reasonable steps to avoid putting a disabled pupil at a substantial disadvantage in comparison with a non-disabled pupil (known as the reasonable adjustments duty).

D. What is reasonable force?

This describes the appropriateness of the physical intervention which must always be related to age, maturity, sex, understanding and capacity of the individual. Appropriateness will also be dependent on the risk factors associated with the individual, the staff and other individuals in the vicinity.

The term ‘reasonable force’ covers a broad range of actions used by most teachers at some point in their career that involve a degree of physical contact with pupils.

Force is usually used either to control or to restrain. This can range from guiding a pupil to safety by the arm through to more extreme circumstances such as breaking up a fight or where a pupil needs to be restrained to prevent violence or injury.

‘Reasonable in the circumstances’ means using no more force than is needed.

As mentioned above, schools generally use force to control pupils and to restrain them. Control means either passive physical contact, such as standing between pupils or blocking a pupils’ path, or active physical contact, such as leading a pupil by the arm out of a classroom.

Restraint means to hold back physically or to bring a pupil under control. It is typically used in more extreme circumstances, for example when two pupils are fighting and refuse to separate without physical intervention.

School staff should always try to avoid acting in a way that might cause injury, but in extreme cases it may not always be possible to avoid injuring the pupil.

E. Definitions of Managing Behaviour

Positive Behaviour Management:

This is an holistic approach involving policy, guidance, management of the environment, and deployment of staff. It also involves personal behaviour, diversion, diffusion and de-escalation. Restraint is only a small part of the framework.

Restrictive Physical Interventions:

British Institute of Learning Disabilities (BILD) defines physical interventions as: the use of barriers: eg tables across door ways

the use of equipment: eg. the use of mittens, splints or walking reins direct physical contact:

- i. leading a pupil by the hand or arm
- ii. ushering a pupil away by placing a hand in the centre of the back
- iii. Restraint: in more extreme circumstances, physical intervention using appropriate restrictive holds or reasonable force may be necessary

‘Time Out’

The use of ‘Time Out’ can be an effective de-escalation strategy in positive behaviour management. This can be a planned or unplanned strategy, and can take place in a number of varying environments e.g. garden, library, playground, time out room. When electing to use ‘Time Out’ as a strategy, the following points need to be considered:

- i. the ‘Time Out’ environment - the child’s whereabouts must always be known to a supervising adult, although this supervision can be done from a distance, depending on individual pupil circumstances and professional judgement
- ii. the duration of ‘Time Out’ must be carefully considered and monitored to ensure that the child does not become unduly distressed

In no circumstances should a child be kept in a locked room as a ‘Time Out’ intervention.

(APPENDIX 1: SUGGESTED STATEMENT ON THE USE OF ‘TIME OUT’)

F. Use of Reasonable force & Restrictive Physical Intervention

Planned intervention:

This is the use of restrictive physical intervention based upon a level of foreseeable risk that has been planned in advance and is written into an Individual Reactive Strategy (IRS). When used as a planned response it must always be part of a much broader approach that includes proactive support and based on a clear rationale and risk assessment. In such circumstances, the school should, as far as possible, ensure that staff involved in planned intervention, have specific expertise and training in managing challenging behaviour and restrictive physical intervention.

Unplanned intervention:

This is the use of a restrictive physical intervention, in response to a behaviour that presents significant risk, where the behaviour had not been observed previously and no Individual Reactive Strategy (IRS) was in place.

Screening & Searching

Staff can legally use a restrictive physical intervention or reasonable force when conducting a search for:

knives or weapons alcohol, illegal drugs, cigarettes or cigarette papers stolen items fireworks pornographic images or materials or articles that could be used to commit an offence or cause harm.

The school's policy on Screening, Searching and Confiscation provides more detailed information on this.

G. Information to parents

A statement on the use of reasonable force and restrictive physical intervention, plus the use of 'Time Out' as strategies, should be conveyed to parents in the School Prospectus, Behaviour Policy, Safeguarding Policy and any other place where the school displays its policies.

H. Key Principles

1. All school staff members have a legal power to use reasonable force to prevent pupils committing a criminal offence, injuring themselves or others, damaging property, and to maintain good order and discipline amongst pupils.
2. The focus should be on preventing, as far as possible, the need for the use of reasonable force on pupils, by creating a calm, orderly and supportive school climate that lessens the risk and threat of violence of any kind. The use of force should only be a last and justifiable resort and schools should minimise the possibility of force being needed. However, this may not always be possible and in such circumstances staff need to be aware of sensitivities associated with any form of physical contact with pupils.
3. Schools should never seek to inhibit the ability of staff to use reasonable force by adopting a 'no contact' policy. The power to use reasonable force helps ensure pupil, staff and school safety and the risk with a no-contact policy is that it might place a member of staff in breach of their duty of care towards a pupil, or prevent them taking an action needed to prevent a pupil causing injury to others.
4. Under no circumstances, should any individual ever be restrained in a face down position. In all situations, behaviour and action must be reasonable and proportionate with regard to action, force and duration. It must also be intended to protect and safeguard individuals either from themselves or others.

I. The Exercise of Professional Judgement

Professional judgement is key to deciding upon the most appropriate course of action to ensure safer outcomes for individuals and others in situations that pose a risk of serious harm. Where the potential exists for the use of restrictive physical intervention, a number of important factors have to be balanced. These factors include:

knowledge of the individual and their history
knowledge of the impact and effects of restrictive physical intervention techniques and methods
ensuring the welfare and safety of all those involved
ensuring professional transparency and accountability
ensuring that all actions are appropriate and acceptable within recognised professional practice, civil law and criminal law.

J. Duty of Care

When dealing with situations requiring protective action, duty of care does not imply that the needs of one individual automatically override the safety needs of others (including staff members) placed at risk. Threatening or reckless behaviour needs to be managed to minimise harm to all concerned. Any action that involves the restriction of choice and movement must be commensurate with a professional duty of care and proportionate to the level of risk presented.

The professional's duty of care extends to ensuring that an individual is monitored and cared for throughout any incident. Autonomy, commensurate with their age and understanding, is returned to them as soon as it is safe to do so. The expectations placed upon staff using reasonable force or

restrictive physical intervention should not contravene health and safety requirements by placing themselves or others in unnecessary risk

K. Children Looked After

Any child Looked After should have relevant information around the possible use of reasonable force or restrictive physical intervention made available to them, and their carers, as well as information about the complaints system and the support available from an advocate.

If reasonable force or a restrictive physical intervention has been used, it should be discussed during any statutory review process when considering if a placement is able to meet a child's needs and this discussion should be reflected in the child's care plan. There should be a clear written record of these events in the social work file in accordance with the authority's recording procedures.

L. Training

Like other forms of professional development, decisions about training in the use of reasonable force and restrictive physical intervention are best made by individual schools in the light of their particular needs and circumstances. However, all school staff, including those who are temporary or on supply, have the right to use reasonable force or restrictive physical intervention, as a last and justifiable resort, regardless of whether they have received training.

Schools should make it clear to staff that unreasonable or inappropriate use of force may lead to disciplinary action.

As indicated in the legal position (page 3), there will be particular training needs for staff working closely with pupils with SEN/ALN and/or disabilities. Risk assessments will help inform decisions about staff training. They will also inform the circumstances in which schools would temporarily authorise staff or volunteers to have control or charge of pupils.

Schools are advised to ensure that training covers techniques for avoiding or defusing situations in which reasonable force or restrictive physical intervention might become necessary, as well as the actual methods of restrictive physical intervention. It is advisable for all staff to receive such training but is of particular importance for those staff who work closely with pupils with SEN/ALN, and/or disabilities associated with challenging behaviour or complex needs.

Schools should ensure that the training needs of these staff are identified and appropriately met through a recognised and accredited training programme.

Denbighshire County Council recommends the use of:

'Timian Training: Managing Challenging Behaviour and Restrictive Physical Interventions' and offers training in this programme through the Behaviour Support Service.

A number of other organisations offer training in the use of restrictive physical intervention and related techniques such as de-escalation. Information about this is available at www.bild.org.uk.

M. Action Following Incidents Involving the Use of Reasonable Force and Restrictive Physical Intervention

1. Reporting to Health & Safety:

Under the RIDDOR regulations (1995) it is mandatory that all incidents involving Restrictive Intervention must be reported on line within 3 working days to DCC Health and Safety Executive on: DCC Intranet/HRDirect/Health and Safety/Reporting-Accidents and Incidents.

2. Recording for Internal School Systems WG guidance states:

‘There must be a clear audit trail which is accessible to all involved, including pupils and their parents/carers and those agencies with a legal right to access such information.’

(WG Guidance, Safe and Effective Intervention – use of reasonable force and searching for weapons, October 2010).

The recording for internal school systems should include:

i. Significant Incident Record which must include:

a description of the type of behaviour displayed by the pupil
a description of the way the incident developed reasons for the decision to use physical intervention strategies
description of any restrictive physical intervention if used signed witness statements by pupil(s), staff or any other witnesses
details of outcomes of the incident including injuries and damage actions taken by the school
when the parent/carer was told and how names of external agency officers who were informed of the incident

It is recommended that when recording incidents involving the use of reasonable force or physical intervention, schools use the DCC templates: ‘Significant Incident Record’ and ‘Witness Statement’.

(APPENDIX 2: SIGNIFICANT INCIDENT RECORD)

(APPENDIX 3: WITNESS STATEMENT)

ii. Mandatory Restraint Log:

It is a legal requirement that schools keep a log of all incidents of Restraint. This log should be completed as soon as possible and within 24 hours of the incident.

It is recommended that schools use the DCC template ‘Mandatory Restraint Log’.

(APPENDIX 4: MANDATORY RESTRICTIVE PHYSICAL INTERVENTION LOG)

3. Debrief

It is good practice to hold a debrief for all parties concerned in any significant incident. It is advised that any such debrief should be recorded and copies placed in pupil/staff files.

N. Complaints Procedures

WG guidance states that pupils and parents/carers:

‘must have clear information about how to have their views known, how to make a complaint and how to access the services of an advocate.’ (WG Guidance, Safe and Effective intervention – use of reasonable force and searching for weapons, October 2010).

After an incident in a school, there is always the possibility of a formal complaint. A number of persons might feel aggrieved by the incident, whether they are pupils, parents, teachers, other employees, or even visitors to the school and members of the public. Any of these persons can lodge a complaint and expect it to be investigated diligently and fairly.

As a precursor to such a possibility, head teachers should be aware of the need to review and monitor the reactions of all parties involved in an incident, to consider the effects on current school policies, and have a total awareness and understanding of all aspects of the case. The general complaints procedures adopted by the governing body must always be followed.

If a complaint is received which alleges some form of abuse or injury, whether inflicted during the use of reasonable force or restrictive physical intervention or not, the head teacher or designated person, must record the complaint in writing. The recorded information must include where and when the incident occurred. It should include as much detail of the alleged injuries or abuse as possible. At this point, it is important that the head teacher confirms to the complainant that the matter will be dealt with in line with the All Wales Child Protection Procedures (www.awcpp.org.uk) which will require referral to Children's Services and the police.

O. Accountability and Monitoring

Accountability and transparency are essential in any setting. Policies on the use of reasonable force and restrictive physical intervention, good practice guidance, training arrangements, arrangements for the recording of incidents and complaint processes must be accessible and known by staff, service users and their advocates/representatives.

Systems and processes must be put in place to monitor, evaluate and ensure that written policies and procedures continue to:

- be relevant
- be fully complied with
- ensure the recording of incidents clearly, promptly and comprehensively
- ensure that complaints are followed up promptly and in accordance with statutory timescales where appropriate.

P. Policy Development Process

This policy will be made available to:

- Parents
- Teachers
- Support Staff
- Behaviour / Inclusion Team
- Support Groups
- School Nurse
- ESW
- Police School Liaison Officer

SUGGESTED STATEMENT ON THE USE OF 'TIME OUT'

It is recommended that the statement below be included in the:

School Prospectus

Behaviour

Safeguarding

and anywhere else where school policies are displayed.

USE OF REASONABLE FORCE, RESTRICTIVE PHYSICAL INTERVENTION AND 'TIME OUT'.

In order to ensure the safety of all members of the school community and visitors, the school may on occasion have to resort to the use of reasonable force, a restrictive physical intervention, or 'Time Out'.

Section 93 of the Education and Inspections Act 2006, replaced Section 550A of the Education Act 1996, and enables school staff to use such force as is reasonable in the circumstances to prevent a pupil from doing, or continuing to do, any of the following:

- committing any offence (or, for a pupil under the age of criminal responsibility, what would be an offence for an older pupil);
- causing personal injury to, or damage to the property of, any person (including the pupil himself); or
- 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.

The complete policy on the use of reasonable force and restrictive physical intervention is available on the school's web site or as a hard copy on request.

SIGNIFICANT INCIDENT RECORD

SIGNIFICANT INCIDENT RECORD

Child's name:	Year:
Record completed by:	Designation:
Location of incident:	Date:
Staff involved:	Duration of incident:

Behaviour (please tick)

Persistent refusal to comply		Verbally abusive		Disruption to lesson	
Property damage		Pushing		Kicking	
Hitting		Spitting		Head butting	
Biting		Self-harm		Other (detail below)	

Other: _____

Details of child's behaviour

Reason for intervention (please tick)

Immediate danger to:	Pupil		Other pupils		Staff	
Avoid damage to property			To prevent or disrupt a criminal act			
Behaviour prejudicial to good order			In response to a known trigger			
Other (please detail)						

Intervention strategies used (please tick)

None		Diversion		Elective 'Time out'	
Shepherding by the arm		Directed Time out		Flat hand on the back	

Take hold and walk		Take hold and stand		Take hold and sit	
--------------------	--	---------------------	--	-------------------	--

Total duration of all holds: _____ Effectiveness of holds: _____

Names of staff involved in intervention:	Signature
1.	
2.	
3.	
4.	
Witnesses to action taken:	
1.	
2.	
3.	
4.	

Details of injuries sustained:

Staff:

Pupils:

Has an injury report form been completed? YES/NO Report no.

Have details of First Aid been completed?

Action taken by Head Teacher/Manager:

Signed:

Date:

Discussed with child: YES/NO Child's signature:

Discussed with staff involved: YES/NO

Parents informed (please indicate method, by whom and the date) :

Other agencies informed of the incident:

LAC		CAMHS		Social Services	
Police		DCC H&S		Fostering Agency	

Others (Please detail)

Additional forms completed:

Witness statements: YES / NO

Restrictive Physical Intervention log: YES / NO

DCC Injury/Incident report: YES / NO

Electronic Reference Number: _____

Accident / Incident Reporting

Representation of the intranet report form

*Person Reporting (completing the form)

*First Name	*Surname	Employee No:
*Job Title	E-mail	*Tel No:
*Building Name or number	*Street	*Town
*County	Postcode	*Service, Department, School

*Injured person, witness Details or Asset Damage

Status			
☐ Injured person		☐ Witness	
☐ No person involved			
*Type			
☐ Member of staff		☐ Service user	
☐ Pupil		☐ Agency worker	
☐ Member of the public		☐ Contractor	
☐ Other.....		☐ Work experience	
*First Name		*Surname	
*Gender		*Date of Birth	
*House Number or name		*Street	
*Town		*Tel:	
*Incident category			
Injury		Asset damage	
Vehicle			
☐ Fatality ? Fire ? Road number..... ? Major injury ? Flooding ? Registration No..... ? Minor injury ? Vandalism ? Third party registration No..... ? Non injury ? Other..... ? Police reference.....			
*Injury Type			
☐ Abrasion	☐ Contusion	☐ Laceration	☐ Skull fracture
☐ Amputation	☐ Crush \ impact	☐ Loss of consciousness	☐ Soft tissue injury
☐ Asphyxiation	☐ Dislocation	☐ Loss of sight	☐ Spinal fracture \ injury
☐ Bite (human)	☐ Eye injury	☐ Near drowning	☐ Swelling
☐ Bite (animal)	☐ Fracture	☐ Nose bleed	☐ Whiplash
☐ Bump \ lump	☐ Hernia	☐ Penetrating wound	☐ N/A
☐ Burn (chemical)	☐ Incised wound	☐ Puncture \ stab wound	☐ Other.....
☐ Burn (hot or cold)	☐ Ingestion of substance	☐ Scald	☐ Concussion
☐ Inhalation of substance	☐ Scratch		
*Body Part			
☐ Abdomen	☐ Elbow	☐ Hands	☐ Neck
☐ Ankle	☐ Eye	☐ Head	☐ Nose
☐ Knee	☐ Pelvis	☐ N/A	☐ Whole body ?
☐ Back and spine	☐ Feet	☐ Leg above knee	☐ Shoulder
☐ Other.....	☐ Buttocks	☐ Fingers	☐ Leg below knee
☐ Upper arm	☐ Toes	☐ Chest	☐ Mouth

?	Animal	?	Fall	?	Property damage
?	Assault verbal	?	Falling objects	?	Slip, trip, fall
?	Assault physical	?	Faint \ seizure	?	Sports injury
?	Bullying	?	Fire \ explosion	?	Strike against
?	Challenging behaviour	?	Hand tools	?	Trap pinch or entanglement
?	Chemical \ substance	?	Hot material \ equipment	?	Transport \ vehicle
?	Contact with moving machinery	?	illness	?	Thrown object
?	Environmental – dust, noise, fume	?	Loss or theft of property	?	Ejected object (e.g. from machinery)
?	Electricity	?	Manual handling	?	Work equipment or machinery
?	Equipment for lifting	?	Needle stick injury	?	N \ A
?	Lifting equipment	?	Playground injury	?	Other.....

If there is more than one person involved in the incident or more than one witness, include the personal details for each. This is a selectable facility on the electronic intranet form

APPENDIX 3:

WITNESS STATEMENT

WITNESS STATEMENT	
Name of person making statement:	
Please tick designation:	
Pupil:	Staff: Parent: Visitor:
Form (if pupil):	
Date of incident:	Date witness statement given:
Details of incident:	
(Please use additional sheet if necessary)	
Please complete below:	
Statement written by pupil:	Dictated to member of staff:
Signed (pupil):	Signed (pupil):
	Signed (member of staff):
Signed (if witness other than a pupil or member of staff):	
Signed (if witness a member of staff):	

APPENDIX 4

MANDATORY RESTRICTIVE PHYSICAL INTERVENTION LOG

DATE	PUPIL	STAFF INVOLVED	RESTRAINTS USED	DURATION	COMPLETED BY

