

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

Important note

This document was produced jointly with the Department of Health (DoH) in 2002. We are in discussion with DoH on revising the document and incorporating it with 'Guidance on the Use of Restrictive Physical Interventions for Pupils with Severe Behavioural Difficulties'. A new version is expected to be available later this year (2012).

In the meantime, please note that the content of this document does not reflect current Government policy and also the following important changes:

- Section 93 of the Education and Inspections Act 2006 has replaced section 550A of the Education Act 1996
- Use of reasonable force – advice for head teachers, staff and governing bodies has replaced DfEE Circular 10/98 Section 550A of the Education Act 1996: The use of force to control or restrain pupils and the DfES letter to Chief Education Officers dated 24 April 2001.
- "Dealing with allegations of abuse against teachers and other staff: guidance for local authorities, head teachers, school staff, governing bodies and proprietors of independent schools" has replaced DfEE circular 10/95 "Protecting Children from Abuse – The role of the Education Service."



**All LEAs in England,
Health and Social
Services in England,
Special Schools**

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Act 1996 - Section 550A

DfEE Circular 10/98 "Section
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1996: The Use Of Force To
Control Or Restrain Pupils"

DfEE Circular 14/96 "Supporting
Pupils with Medical Needs in
Schools"

Superseded documents: None

Contents

	Page
Foreword from Jacqui Smith and Cathy Ashton	3
Action Points for Schools	4
Guidance	
1. Introduction	6
2. Who should read this guidance?	8
3. Definitions	9
4. Legal Considerations	12
5. Prevention	14
6. Medication	16
7. Risk Assessment	16
8. Proactive Use of Physical Interventions	17
9. Emergency Use of Physical Interventions	18
10. Policies	18
11. Recording	21
12. Post-incident Management	23
13. Staff Training	23
14. Implementation	24
15. Co-ordination	24
References	26
Appendix 1 - Letter to Chief Education Officers from Chris Wells on Positive Handling Strategies Sent 24th April 2001	27

Foreword

"We welcome this guidance, which has been carefully developed over the past 2 years with considerable help from the health, social care and education sectors.

For the first time, guidance covers all areas of service that children and adults with learning disabilities and difficulties will use throughout their lives.

It is vitally important for all staff to have effective training and support in the use of restrictive physical interventions. People with learning disabilities have a right to be treated with respect, care and dignity especially when they are behaving in ways which maybe harmful to themselves or others and as a result require physical intervention from staff. By using this guidance staff will be helped to act appropriately and in a safe manner, so ensuring effective responses in difficult situations.

We would like to thank all those who have been involved in the production of this material, particularly Professor John Harris and his colleagues at the British Institute of Learning Disability. We are indebted to them for a great deal of hard work since the mid 90's. We would also like to thank all those who responded so positively to the consultation process, including staff, service users and their families.

We hope that you will find this a useful document, which will bring benefits to the day to day lives of people with learning disabilities, their families and all staff who work with them."



Jacqui Smith

Cathy Ashton

Guidance on the Use of Restrictive Physical Interventions

Action Points for Schools and LEAs

The following points summarise the steps that schools and LEAs need to take to ensure that they have appropriate policies, practices and procedures in relation to the use of restrictive physical interventions.

Underpinning Principles

- The use of force should, wherever possible, be avoided
- There are occasions when the use of force is appropriate
- When force is necessary, it must be used in ways that maintain the safety and dignity of all concerned

Policies

1. Every agency included within the remit of the guidance should have a policy on the use of physical interventions. In general terms, policies will describe the context in which it is appropriate to use restrictive physical interventions
2. Policies should be part of a more general behaviour management strategy
3. Specific strategies and techniques for specific pupils should be outlined in that pupil's behaviour management plan
4. Policies should indicate how children and their families could participate in the planning, monitoring and review of the use of restrictive physical interventions
5. Policies should include reference to the following:
 - strategies for preventing and "de-escalating" behaviours that precipitate the use of physical interventions
 - descriptions of strategies staff are allowed to use when managing extreme behaviour
 - procedures for post-incident support
 - how the concept of reasonable force will be determined
 - the approach to risk assessment and risk management employed
 - distinctions between seclusion, time out and withdrawal
 - distinctions between planned and emergency physical interventions
 - descriptions of practices which carry elevated levels of risk

Recording

1. The DfES letter to Chief Education Officers dated April 24th 2001 describes the basic procedures and systems for recording incidents involving the use of restrictive physical interventions that schools are expected to follow. These should be taken as a minimum. Where the use of restrictive physical interventions can be anticipated, schools should also consider developing a written protocol that includes:
 - A description of behaviour sequences and settings which may require a physical intervention response
 - A risk assessment which balances the risk of using a restrictive physical intervention against the risk of not using a physical intervention
 - A record of the views of those with parental responsibility
 - A system of recording behaviours and the use of restrictive physical interventions using an incident book with numbered and dated pages
 - Previous methods which have been tried without success
 - A description of staff who are judged competent to use these methods with this child
 - The ways in which this approach will be reviewed, the frequency of review meetings and members of the review team.

2. The use of a restrictive physical intervention, whether planned or unplanned (emergency) should always be recorded as quickly as practicable (and in any event within 24 hours of the incident) by the person(s) involved in the incident in a book with numbered pages. The written record should indicate:
 - the names of the staff and service users involved
 - the reason for using a physical intervention (rather than another strategy)
 - the type of physical intervention employed
 - the date and the duration of the physical intervention
 - whether the service user or anyone else experienced injury or distress and, if they did, what action was taken.

3. The views of the service user(s) involved in the incident should also be recorded.

4. Records should be reviewed on a half-termly basis.

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 DISORDER

1 Introduction

- 1.1 This guidance on the use of restrictive physical interventions in special schools, care and health settings, is issued jointly by the Department for Education and Skills/Department of Health. It stands as guidance under Section 7 of the Local Authority and Social Services Act 1970; and as advice to support the implementation of Section 550A of the Education Act 1996, in particular in special school settings catering for pupils with severe behavioural difficulties associated with learning difficulties and/or autistic spectrum disorders. Additionally, this guidance will have relevance for working with pupils with severe emotional and behavioural difficulties. Whilst the principles that underpin this guidance will have wider relevance and implications for children in mainstream schools (and LEAs may wish to bring the guidance to the attention of mainstream schools within their area), this guidance is not intended to cover all forms of extreme behaviours in all schools.
- 1.2 Many pupils for whom this guidance is intended use health and social care services both inside and outside the school setting, and many will continue to use health and social care services when they become adults and leave school. Consistency in approach is important, both to provide the most effective support for individual service users and to reduce the possibility of confusion or disagreements between staff employed by different agencies. This joint guidance is issued to help ensure that staff in schools and staff working in health and social care settings adopt consistent practices in the use of restrictive physical interventions, based upon a common set of principles. Where there is a clear justification for different practices being sanctioned in schools, compared with health and social care settings (for example, where different legislation applies), this is clearly indicated. In this guidance, the term 'service user' refers to adults and children who receive services in care establishments and/or educational settings.
- 1.3 The guidance will help staff in health and social services to address important outcomes for children and service users - rights, choice, independence and inclusion - described in the Learning Disability White Paper Valuing People and will contribute to the preparation of Joint Investment Plans.

- 1.4 Associated guidance on the care of adults with learning disability and/or autism can be found in the Department of Health guidance on the protection of vulnerable adults 'No Secrets' and in the report of the Task Force on Violence Against Social Care Staff 'A Safer Place: Combating Violence Against Social Care Staff. The Mental Health Act (1983, under review) and its associated Code of Practice provides relevant guidance in respect of people who have been detained.
- 1.5 Guidance for all schools on the use of physical intervention for pupils in school can be found in DfEE Circular 10/98 "Section 550A Of The Education Act 1996: The Use Of Force To Control Or Restrain Pupils", and in guidance issued to Chief Education Officers on Positive Handling Strategies in the letter from DfES dated April 24th 2001 (see appendix 1). Additionally, to assist Local Education Authorities and schools in developing local policies and to help schools establish risk assessment procedures, DfES has commissioned the British Institute of Learning Disabilities (BILD) to produce model policies on the use of physical interventions, together with a risk assessment proforma for pupils who present challenging behaviours.
- 1.6 In care settings, good practice in the use of physical interventions described in this guidance will be monitored as part of the implementation of the Care Standards Act.
- 1.7 In the case of children in residential care, the general Guidance and Regulations issued in respect of the Children Act 1989 (Volume 4 Residential Care) addressed the use of physical action such as restraint and holding in the context of good order and discipline. The Children Act Guidance states that in residential care settings 'physical restraint should be used rarely and only to prevent a child harming himself or others or from damaging property' (para 1.82). Section 550A of the Education Act 1996 sets out circumstances in which reasonable force may be used by members of staff in schools. These are when it is reasonable to use force for the purpose of preventing a pupil:
 - committing an offence
 - causing personal injury or damage to property
 - engaging in any behaviour prejudicial to the maintenance of good order and discipline in a school or among any of its pupils.

This Section does not apply to Colleges of Further and Higher Education

- 1.8 Those concerned with, or responsible for, children in residential care, should read this document in conjunction with earlier Department of Health Guidance on Permissible Forms of Control in Children's Residential Care (1993).

- 1.9 Those concerned with or responsible for pupils with SEN in schools should read this guidance in conjunction with:
- section 550A of the Education Act 1996 and the associated guidance (DfEE Circular 10/98) 'Section 550A Of the Education Act 1996: The Use of Force To Control Or Restrain Pupils'.
 - the letter of 24th April 2001 from DfES to Chief Education Officers on Promoting Positive Handling Strategies for Pupils with Severe Behavioural Difficulties (see Appendix 1).
- 1.10 The book Physical Interventions: A Policy Framework (BILD 1996) provides additional advice and information on the use of physical interventions in different service settings.
- 1.11 This guidance has been prepared in the context of The Human Rights Act (1998) and The United Nations Convention on the Rights of the Child (ratified 1991). It is based on the presumption that every adult and child is entitled to :
- respect for his/her private life
 - the right not to be subjected to inhuman or degrading treatment
 - the right to liberty and security, and
 - the right not to be discriminated against in his/her enjoyment of those rights
- 1.12 All services should be designed to promote independence, choice and inclusion and to establish an environment that enables children and service users maximum opportunity for personal growth and emotional wellbeing.
- 1.13 Wherever possible, restrictive physical interventions should be used in a way that is sensitive to, and respects the cultural expectations of, children and service users and their attitudes towards physical contact.
- 1.14 Any restrictive physical Intervention should avoid contact that might be mis-interpreted as sexual.
- 1.15 Restrictive physical interventions should always be designed to achieve outcomes that reflect the best interests of the child or adult whose behaviour is of immediate concern and others affected by the behaviour requiring intervention. The decision to use a restrictive physical intervention must take account of the circumstances and be based upon an assessment of the risks associated with the intervention compared with the risks of not employing a restrictive physical intervention. A restrictive physical intervention must also only employ a reasonable amount of force - that is the minimum force needed to avert injury or damage to property, or (in schools) to prevent a breakdown of discipline - applied for the shortest period of time.

2 Who should read this guidance?

2.1 This guidance should be used by:

- Service commissioners in health and social care
- Managers of health and social care services
- LEAs
- Governing bodies
- Teachers and other staff working in schools catering for pupils with severe behavioural difficulties, for example, those with emotional and behavioural difficulties, autism and learning difficulties which can result in pupils displaying extreme behaviour
- Staff working in health and social care services
- Persons responsible for the operation of independent sector homes and hospitals
- Registration and Inspection staff
- Ofsted inspectors
- Those who provide training for staff on the use of physical interventions

Commissioning authorities will need to ensure that provider agencies follow this guidance. Registration and Inspection staff will monitor the implementation of this guidance within the terms of the Care Standards regulations.

2.2 The information in this guidance may also be helpful to:

- Parents and those with parental responsibilities
- Independent advocates
- Service users
- Pupils
- Staff working in colleges catering for students with severe behavioural difficulties, for example, those with emotional and behavioural difficulties, autism and learning difficulties which can result in pupils displaying extreme behaviour

3. Definitions

3.1 Different forms of physical intervention are summarised in the table below. It shows the difference between restrictive forms of intervention, which are designed to prevent movement or mobility or to disengage from dangerous or harmful physical contact, and non-restrictive methods. Restrictive physical interventions involve the use of force to

control a person's behaviour and can be employed using bodily contact, mechanical devices or changes to the person's environment. The use of force is associated with increased risks regarding the safety of service users and staff and inevitably affects personal freedom and choice. For these reasons this guidance is specifically concerned with the use of restrictive physical interventions.

	Bodily contact	Mechanical	Environmental change
Non restrictive	Manual guidance to assist a person walking	Use of a protective helmet to prevent self injury	Removal of the cause of distress, for example, adjusting temperature, light or background noise
Restrictive	Holding a person's hands to prevent them hitting someone	Use of arm cuffs or splints to prevent self injury	Forcible seclusion or the use of locked doors

3.2 Restrictive physical interventions can be employed to achieve a number of different outcomes:

- to break away or disengage from dangerous or harmful physical contact initiated by a service user
- to separate the person from a 'trigger', for example, removing one pupil who responds to another with physical aggression
- to protect a child or service user from a dangerous situation - for example, the hazards of a busy road.

3.3 It is helpful to distinguish between:

- *planned intervention*, in which staff employ, where necessary, pre-arranged strategies and methods which are based upon a risk assessment (see below) and recorded in care plans
- *emergency or unplanned* use of force which occurs in response to unforeseen events.

3.4 The scale and nature of any physical intervention must be **proportionate** to both the behaviour of the individual to be controlled, and the nature of the harm they might cause. These judgements have to be made at the time, taking due account of all the circumstances, including any known history of other events involving the individual to be controlled. The minimum necessary force should be used, and the techniques deployed should be those with which the staff involved are familiar and able to use safely and are described in the child or service user's support plan. Where possible, there should be careful planning of responses to individual children and adults known to be at risk of self-harm, or of harming others.

3.5 The use of force is likely to be legally defensible when it is required to prevent:

- self-harming
- injury to other children, service-users, staff or teachers
- damage to property
- an offence being committed and
- in school settings, any behaviour prejudicial to the maintenance of good order and discipline within the school or among any of its pupils

3.6 The use of force to restrict movement or mobility or to break away from dangerous or harmful physical contact initiated by a service user will involve different levels of risk. Good practice must always be concerned with assessing and minimising risk to children, service users, staff and others and pre-planning responses, where possible. Examples of physical intervention that might generally be considered low risk include:

- members of staff taking reasonable measures to hold a service user to prevent him or her from hitting someone
- A specially designed "arm cuff" to prevent someone self-injuring (see para 7.4)
- Accompanying a person who dislikes physical contact to a separate room where they can be alone for a few minutes while being continuously observed and supported.

3.7 Elevated levels of risk are associated with:

- the use of clothing or belts to restrict movement
- holding someone who is lying on the floor or forcing them onto the floor
- any procedure which restricts breathing or impedes the airways
- seclusion, where an adult or child is forced to spend time alone in a room against their will
- extending or flexing the joints or putting pressure on the joints .
- pressure on the neck chest abdomen or groin areas.

3.8 Planned physical intervention strategies should be:

- agreed in advance by a multidisciplinary or school team working in consultation with the child or service user, his or her carers or advocates and, in the case of a child, those with parental responsibility
- described in writing and incorporated into other documentation which sets out a broader strategy for addressing the service user's behavioural difficulties
- implemented under the supervision of an identified member of staff who has undertaken appropriate training provided by an organisation accredited by BILD.

- recorded in writing so that the method of physical intervention and the circumstances when it was employed can be monitored and, if necessary, investigated.
- 3.9 Where planned physical intervention strategies are in place, they should be one component of a broader approach to behaviour management, treatment or therapy.
- 3.10 Unplanned or emergency intervention may be necessary when a service user behaves in an unexpected way. In such circumstances, members of staff retain their duty of care to the service user and any response must be proportionate to the circumstances. Staff should use the minimum force necessary to prevent injury and maintain safety, consistent with appropriate training they have received.
- 3.11 To the extent that *seclusion* (where an adult or child is forced to spend time alone against their will) involves restricting a person's freedom of movement, it should also be considered a form of physical intervention. The use of seclusion for people detained under the Mental Health Act (1983;under review) is set out in the Code of Practice published in 1999.
- 3.12 The right to liberty and personal freedom is enshrined Article 5 of the Human Rights Act 1998 and is protected by the criminal and civil law. For these reasons the use of seclusion outside the Mental Health Act should only be considered in exceptional circumstances and should always be proportional to the risk presented by the child or service user.
- 3.13 Under the Children Act 1989 any practice or measure, such as 'time out' or seclusion, which prevents a child from leaving a room or building of his own free will, may be deemed a 'restriction of liberty'. Under this Act, restriction of liberty of children being looked after by a local authority or accommodated by NHS establishments is only permissible in very specific circumstances, for example when the child is placed in secure accommodation approved by the Secretary of State or where a court order is in operation.
- 3.14 In care settings, if seclusion is required other than in an emergency (for periods of longer than a few minutes or more frequently than once a week) then staff should seek advice regarding the use of statutory powers under mental health or child care legislation.

Legal considerations

The Human Rights Act 1998 sets out important principles regarding protection of individuals from abuse by state organisations or people working for those institutions. Implementation of this guidance will help to ensure that practice within services is consistent with this Act.

- 4.1 It is a criminal offence to use physical force, or to threaten to use force (for example, by raising a fist or issuing a verbal threat), unless the circumstances give rise to a 'lawful excuse' or justification for the use of force. Similarly, it is an offence to lock an adult or child in a room without a court order (even if they are not aware that they are locked in) except in an emergency when for example the use of a locked room as a temporary measure while seeking assistance would provide legal justification. The use of double or high door handles in classrooms or locking outside doors, as a safety measure and/or security precaution when children are supervised by an adult would be considered a reasonable measure to prevent a significant risk of harm within a school's duty of care to its pupils. Use of physical intervention may also give rise to an action in civil law for damages if it results in injury, including psychological trauma, to the person concerned.
- 4.2 Under health and safety legislation, employers are responsible for the health safety and welfare of employees and the health and safety of persons not in employment, including service users and visitors. This requires employers to assess risks to both employees and service users arising from work activities, including the use of physical interventions. Employers should also establish and monitor safe systems of work and ensure that employees are adequately trained. Employers should also ensure that all employees, including agency staff, have access to appropriate information about adults and children they are working with.
- 4.3 Schools owe a duty of care to their pupils. Providers of health and social care services owe a duty of care towards all service users. The duty of care requires that reasonable measures are taken to prevent harm. Therefore, the use of "high handles" that are beyond the reach of a child and the use of locks or other security measures on outside doors to control visitor entry are permissible, if the child is supervised by an adult. It may be appropriate to employ restrictive physical intervention to prevent a significant risk of harm, for example:
- to prevent an adult or child running toward a busy road
 - to prevent an adult or child self-injuring
 - to prevent an adult or child injuring another person
 - to prevent an adult or child committing an offence.
- 4.4 Planned physical interventions should only be used as part of a holistic strategy when the risks of employing an intervention are judged to be lower than the risks of not doing so. The use of unplanned or emergency physical intervention is addressed in paragraph 3.10 above and in Section 9 below.
- 4.5 Any physical intervention should employ the minimum reasonable force to prevent injury or serious damage to property, to avert an offence being committed and, in school settings, to prevent a pupil engaging in extreme behaviour prejudicial to the maintenance of good order and discipline at school or among any of its pupils (see DfEE Circular 10/98 "Section 550A of the Education Act 1996: The Use of Force to Control or Restrain Pupils" for more details).

- 4.6 Records of incidents involving particular pupils and service users sometimes show that there are set patterns to their behaviour which, if unchecked, will lead to it becoming dangerous or exceptionally disruptive. In these circumstances, it might be necessary to use restrictive physical interventions at an early stage. (see Section 10 on Policies and Section 11 on Recording below).

5. Prevention

- 5.1 The use of restrictive physical interventions should be minimised by the adoption of primary and secondary preventative strategies.

Primary prevention is achieved by:

- ensuring that the number of staff deployed and their level of competence corresponds to the needs of children and service users and the likelihood that physical interventions will be needed. Staff should not be left in vulnerable positions
- helping children and service users to avoid situations which are known to provoke violent or aggressive behaviour, for example, settings where there are few options for individualised activities
- care plans or, for school pupils, Positive Handling Plans, which are responsive to individual needs and include current information on risk assessment
- creating opportunities for children and service users to engage in meaningful activities which include opportunities for choice and a sense of achievement
- developing staff expertise in working with children and service users who present challenging behaviours
- talking to children, service users, their families and advocates about the way in which they prefer to be managed when they pose a significant risk to themselves or others. Some children or service users prefer withdrawal to a quiet area to an intervention which involves bodily contact

Secondary prevention involves recognising the early stages of a behavioural sequence that is likely to develop into violence or aggression and employing 'defusion' techniques to avert any further escalation.

Where there is clear documented evidence that particular sequences of behaviour rapidly escalate into serious violence, the use of a restrictive physical intervention at an early stage in the sequence may, potentially, be justified if it is clear that:

- primary prevention has not been effective, and
- the risks associated with *not* using a restrictive physical intervention are greater than the risks of using a restrictive physical intervention, and
- other appropriate methods, which do not involve restrictive physical interventions, have been tried without success.

- 5.2 All prevention strategies should be carefully selected and reviewed to ensure that they do not constrain opportunities or have an adverse effect on the welfare or the quality of life service users (including those in close proximity to the incident), unnecessarily. In some situations it may be necessary to make a judgement about the relative risks and potential benefits arising from activities which might provoke challenging behaviours compared with the impact on the person's overall quality of life if such activities are proscribed. This is likely to require a detailed risk assessment - see section 6 above.
- 5.3 Devices which are required for a therapeutic purpose, such as buggies, wheelchairs and standing frames (including any supporting harness) may also restrict movement. Such devices should never be provided for the purpose of preventing problem behaviour, although, in extreme circumstances, they might be used to manage risks as defined in section 6. A decision to use therapeutic devices to prevent problem behaviour (for example, strapping someone into a wheelchair) must be agreed by a multi-disciplinary team in consultation with service users, their families (and in the case of children, those with parental responsibility) and advocates, and recorded within an individual's care plan/Positive Handling Plan.
- 5.4 Devices that are designed specifically to prevent problem behaviours should be considered a form of restrictive physical intervention, even if the service user does not resist the use of such devices. For example, arm splints or protective garments might be used to prevent self-injury. They should only be introduced after a multidisciplinary assessment which includes consultation with service users their families (and in the case of children, those with parental responsibility) and advocates. If used, they should be selected carefully to impose the least restriction of movement required to prevent harm while attempts should continue to be made to achieve the desired outcomes with less restrictive interventions. Such devices should only be used by teachers and carers who have received specific training in their usage. The rationale for using any devices and the circumstances in which they may be used must be clearly recorded within an individual's care plan/ Positive Handling Plan.

6 Medication

- 6.1 In certain situations, the use of medication may be indicated as a method of managing extreme behaviour. Medication must only be administered upon medical advice and must only be used as a routine method of managing difficult behaviour where it is included within an individual's care plan and agreed by a qualified medical practitioner. The use of medication should comply any regulations or national minimum standards issued under the Care Standards Act. Under their duty of care, staff should not give tranquillisers to service users who have contra- indications and any contra indications should always be recorded in their care plan. Except in an emergency, (see Section 9) where there is a significant risk of personal injury or a serious risk of an offence being committed, rapid tranquillisation should not be used as a method of gaining control over adults or children who display violent or aggressive behaviour. Even in an emergency, if force is required to administer a tranquilliser, the degree of force must be reasonable. For further information on managing medication in schools please see DfEE Circular 14/96 "Supporting Pupils with Medical Needs in School".

7 Risk Assessment

7.1 When the use of a restrictive physical Intervention is sanctioned, it is important that appropriate steps are taken to minimise the risk to both staff and service users. Among the main risks to children and service users are that a physical intervention could:

- be used unnecessarily, that is when other less intrusive methods could achieve the desired outcome
- cause injury
- cause pain, distress or psychological trauma
- become routine, rather than exceptional methods of management
- increase the risk of abuse
- undermine the dignity of the staff or service users or otherwise humiliate or degrade those involved
- create distrust and undermine personal relationships

7.2 The main risks to staff include the following:

- As a result of applying a physical intervention they suffer injury
- As a result of applying a physical intervention they experience distress or psychological trauma
- The legal justification for the use of a physical intervention is challenged in the courts
- Disciplinary action

7.3 The main risks of not intervening include:

- staff may be in breach of the duty of care (see 4.3 above)
- children, service users, staff or other people will be injured or abused
- serious damage to property will occur
- the possibility of litigation in respect of these matters

7.4 Whenever it is foreseeable that a service user might require a restrictive physical intervention, a risk assessment should be carried out which identifies the benefits and risks associated with the application of different intervention techniques with the person concerned (see BILD's risk assessment proforma). Where the use of self-harm prevention devices is indicated, staff should be fully trained in their usage. This should always be recorded and incorporated with individual care plans or Positive Handling Plans for school pupils (See DfES letter of April 24 2001 to Chief Education Officers on Promoting Positive Handling Strategies for Pupils with Severe Behavioural Difficulties) and other documents that describe a broader strategy for responding to behavioural difficulties. Where incidents are foreseeable, service users should only be exposed to restrictive physical intervention techniques which are described in their individual records/ Positive Handling Plans following a risk assessment.

8 Proactive use of restrictive physical interventions

- 8.1 In most circumstances, restrictive physical interventions will be used reactively. Occasionally, it may be considered in the best interests of the child or adult to accept the possible use of a restrictive physical intervention as part of a therapeutic or educational strategy that could not be introduced without accepting that reasonable force might be required. For example, the best way of helping a child to tolerate other children without becoming aggressive might be for an adult to 'shadow' the child and to adjust the level of any physical intervention needed according to the child's behaviour. Similarly, staff might be sanctioned to use a restrictive physical intervention, if necessary, as part of an agreed strategy to help a person who is gradually learning to control their aggressive behaviour in public places. In both examples, the physical intervention is part of a broader educational or therapeutic strategy.
- 8.2 Where this approach is employed it is important to establish in writing a clear rationale for the anticipated use of the restrictive physical intervention and to have this endorsed by a multidisciplinary meeting which includes, wherever possible, family members (or those with parental responsibility) and an independent advocate. In schools, the possible use of restrictive physical interventions, as part of a broader educational or therapeutic strategy, will be included within the pupil's Positive Handling Plan.

9 Emergency use of restrictive physical interventions

- 9.1 Emergency use of restrictive physical interventions may be required when service users behave in ways that have not been foreseen by a risk assessment. Research evidence¹ shows that injuries to staff and to service users are more likely to occur when physical interventions are used to manage unforeseen events and for this reason great care should be taken to avoid situations where unplanned physical interventions might be needed.
- 9.2 An effective risk assessment procedure together with well planned preventative strategies will help to keep emergency use of restrictive physical interventions to an absolute minimum. However, staff should be aware that, in an emergency, the use of force can be justified if it is reasonable to use it to prevent injury or serious damage to property and, in schools, to prevent a pupil engaging in any behaviour prejudicial to the maintenance of good order and discipline in the school or among any of its pupils.
- 9.3 Even in an emergency, the force used must be reasonable. It should be commensurate with the desired outcome and the specific circumstances in terms of intensity and duration. Before using restrictive physical intervention in an emergency, the person concerned should be confident that the possible adverse outcomes associated with the intervention (for example, injury or distress) will be less severe than the adverse consequences which might have occurred without the use of a physical intervention.

¹Hill, J. and Spreat, S. (1987) - "Staff injury rates associated with the implementation of contingent restraint" *Mental Retardation*, 25, 3, 141-145

Spreat, S.; Lipinski, D.P.; Hill, J. and Halpin, M. (1986) - "Safety indices associated with the use of contingent procedures." *Applied Research in Mental Retardation*, 7, 475-481

10 Policies

- 10.1 The starting point for establishing good practice in the use of restrictive physical interventions is the development of organisational policies which reflect current legislation and case law as well as government guidance, professional codes of practice and local circumstances, including the characteristics of the children or adults within particular services. Policies on physical interventions are expected to be developed in collaboration with local Adult Protection and Area Child Protection Committees.
- 10.2 Every agency included within the remit of this guidance is expected to have a policy on the use of restrictive physical interventions. The amount of detail needed will depend upon local circumstances but would be expected to cover the areas described in section 10.8 below. In general terms, policies will describe the context in which it is appropriate to use restrictive physical interventions.
- 10.3 Policies are expected to emphasise that restrictive physical interventions should always be used as part of a more general behaviour management strategy.
- 10.4 A school's Behaviour Policy and the related Physical Interventions Policy will set out the broad range of strategies staff are allowed to use when attempting to defuse an incident of extreme behaviour.
- 10.5 Individual Care Plans and, in schools, Positive Handling Plans (see DfES letter of April 24th 2001 to Chief Education Officers on Positive Handling Strategies for Pupils with Severe Behavioural Difficulties) are expected to set out, in detail, the specific strategies and techniques which should, if necessary, be used with each named service user who has been assessed as being at risk of needing restrictive physical interventions. Plans are also expected to list any specific techniques which it would not normally be appropriate to use (whether because the service user has experienced abuse in the past or for some other reason. See Section 6 on Risk Assessment)
- 10.6 The policy is expected to explain how service users, their families (and in the case of children, those with parental responsibility) and advocates participate in planning, monitoring and reviewing the use of restrictive physical interventions.
- 10.7 LEAs are also expected to develop their own policies on the use of restrictive physical interventions using this guidance as a framework. LEAs are also expected to inform schools when new pupils who are identified as being at risk of displaying extreme behaviour are due or likely to be placed there. Other important points of reference will be the letter from DfES to Chief Education Officers on Promoting Positive Handling Strategies for Pupils with Severe Behavioural Difficulties and the materials on policy development and implementation being produced by BILD.

10.8 Policies on restrictive physical interventions are expected to include reference to the following:

- Strategies for preventing the occurrence of behaviours which precipitate the use of a physical intervention.
- Strategies for 'de-escalation' or 'defusion' which can avert the need for a physical intervention.
- Procedures for post incident support and de-briefing for staff, children, service users and their families
- The concept of reasonable force where 'reasonableness' is determined with reference to all the circumstances, including
 - The seriousness of the incident:
 - The relative risks arising from using a physical intervention compared with using other strategies.
 - The age, cultural background, gender, stature and medical history of the child or service user concerned.
 - The application of gradually increasing or decreasing levels of force in response to the person's behaviour.
- The approach to risk assessment and risk management employed.
- The distinction between:
 - *seclusion* where an adult or child is forced to spend time alone against their will
 - *time out* which involves restricting the service user's access to all positive reinforcements as part of the behavioural programme
 - *withdrawal* which involves removing the person from a situation which causes anxiety or distress to a location where they can be continuously observed and supported until they are ready to resume their usual activities.
- The distinction between *planned* physical interventions (where incidents are foreseeable) and the use of force in *emergency* situations (which cannot reasonably be anticipated).
- First aid procedures to be employed and those responsible for implementation in the event of an injury or physical distress arising as a result of a physical intervention.
- Policies should clearly describe *unacceptable* practices that might expose service users or staff to foreseeable risk of injury or psychological distress.

10.9 Policies will need to recognise situations where breakaway or disengagement strategies, which involve minimal use of pain or discomfort, may be sanctioned as the least intrusive method which is consistent with the safety of staff and service users. Such methods will be based upon a risk assessment, will be fully documented and will employ only the minimum amount of force required.

- 10.10 Policies should include a clear statement about the safeguards needed to protect the rights of service users who need constant supervision. Children and service users who lack an awareness of danger may present a risk to themselves or others in public places and for this reason the use of locked doors may be considered. In these circumstances a court order should be obtained. This does not apply to the use of high or double handles in classrooms as a safety measure, or to locking or providing security on outside doors to control visitor entry, provided that children are supervised by an adult.
- 10.11 Employers and managers are responsible for ensuring that staff receive training, including updates and refresher courses, appropriate to their role and responsibilities within the service. There should be a policy on staff development and training which includes reference to training in the use of physical interventions.
- 10.12 Normally, only staff who been trained to an appropriate level should be sanctioned to use restrictive physical interventions. In schools, under Section 550A of the Education Act 1996, this will be a teacher or someone who, with the head's authority, has lawful control of pupils. However, in an emergency the use of force by other people can be justified if it is the only way to prevent injury or to prevent an offence being committed. In these circumstances, the use of force should be reasonable and proportionate and, whenever possible, it should reflect the person's previous training in the appropriate use of restrictive physical interventions.
- 10.13 Employers and managers wishing to engage trainers or training organisations should seek evidence to support the suitability of particular approaches. The BILD Code of Practice for Trainers in the Use of Physical Interventions is an important point of reference for trainers and service providers.
- 10.14 Policies should be reviewed, evaluated and amended at least every 12 months.
- 10.15 Agency policies on restrictive physical interventions should be explained to service users, including those who might be exposed to physical interventions. All those who experience physical interventions should be offered the opportunity to discuss the way in which staff have responded to their behaviour and to express their concerns and preferences about future management.

11 Recording

- 11.1 For schools: Clarifying the text of DfEE Circular 10/98, the DfES letter to Chief Education Officers dated April 24th 2001 describes the basic procedures and systems for recording incidents involving the use of restrictive physical interventions that schools are expected to follow. These should be taken as a minimum. The protocol described below, although designed for care settings, includes much which schools might consider drawing on.

11.2 For health and care settings: If it is foreseeable that a child or adult will require some form of restrictive physical intervention, for each service user, there must be a written protocol which includes:

- A description of behaviour sequences and settings which may require a physical intervention response
- The results of an assessment to determine any contra indications for use of physical interventions
- A risk assessment which balances the risk of using a restrictive physical intervention against the risk of not using a physical intervention
- A record of the views of those with parental responsibility in the case of children and family members in the case of adults
- A system of recording behaviours and the use of restrictive physical interventions using an incident book with numbered and dated pages (see 11.2 below)
- Previous methods which have been tried without success
- A description of the specific physical intervention techniques which are sanctioned, the dates on which they will be reviewed
- A description of staff who are judged competent to use these methods with this person (see section 11 on Staff Training below)
- The ways in which this approach will be reviewed, the frequency of review meetings and members of the review team.

An up-to-date copy of this protocol must be included in the person's individual care plan.

11.3 The use of a restrictive physical intervention, whether planned or unplanned (emergency) should always be recorded as quickly as practicable (and in any event within 24 hours of the incident) by the person(s) involved in the incident in a book with numbered pages. The written record should indicate:

- the names of the staff and service users involved
- the reason for using a physical intervention (rather than another strategy)
- the type of physical intervention employed
- the date and the duration of the physical intervention
- whether the service user or anyone else experienced injury or distress and, if they did, what action was taken.

The views of the service user(s) involved in the incident should also be recorded.

11.4 The contents of the incident book should be reviewed on a half-termly basis and appropriate action taken.

11.5 Recording will be used for a number of different purposes;

- compliance with statutory requirements
- monitoring of service users' welfare
- monitoring staff performance and identifying training needs or outcomes
- contributing to service audit and evaluation
- updating medical records

11.6 Services need to ensure that recording methods are in place to meet each of these requirements.

12 Post Incident Management

12.1 Following an incident in which restrictive physical interventions are employed, both staff and service users should be given separate opportunities to talk about what happened in a calm and safe environment. Interviews should only take place when those involved have recovered their composure. Post incident interviews should be designed to discover exactly what happened and the effects on the participants. They should not be used to apportion blame or to punish those involved. If there is any reason to suspect that a service user or a member of staff has experienced injury or severe distress following the use of a physical intervention, they should receive prompt medical attention.

12.2 To help protect the interests of service users who are exposed to restrictive physical interventions it is good practice to involve, wherever possible, family carers and independent advocates in planning, monitoring and reviewing how and when they are used.

13 Staff training

13.1 All staff require induction training before being required to work with people who present challenging behaviours. Staff who are expected to employ restrictive physical interventions will require additional, more specialised training. The nature and extent of the training will depend upon the characteristics of the people who may require a physical intervention, the behaviours they present and the responsibilities of individual members of staff.

13.2 Staff should normally only use methods of restrictive physical intervention for which they have received training. Specific techniques should be closely matched to the characteristics of individual service users and there should be a record of which staff are permitted to use different techniques. It is not appropriate for staff to modify the techniques they have been taught.

13.3 The Department of Health and the Department for Education and Skills are working with BILD, and in collaboration with other agencies, to establish an accreditation scheme for those offering training on physical interventions for learning disability and education services. It is envisaged that accreditation within this scheme will provide an important indication of the quality of training available from different trainers and training organisations.

14 Implementation

14.1 Implementation of this guidance will require the co-ordinated effort from commissioners, service providers, professionals, care staff and training organisations. The key tasks for implementation are set out below.

- Establishing and implementing appropriate and effective agency policies on the use of physical interventions
- Maintaining systematic and accurate records and a system for reporting and reviewing incidents
- Establishing a system to monitor trends over time both with respect to the use of physical interventions with individual service users and to identify overall trends in the use of physical interventions within an organisation
- Monitoring and reviewing local practice in the light of feedback within the context of clinical governance or other systems of accountability
- Developing staff training programmes which include regular updating and re-fresher courses. The expectation is that training should normally be provided by trainers who are accredited under the BILD Code of Practice on Training Staff in the use of Physical Interventions
- Ensuring that staff recruitment, training and work rotas are adjusted to ensure that staff with appropriate expertise are available to service users who may require physical interventions.

15 Co-ordination

15.1 It is important that good practice in the use of physical interventions is properly co-ordinated with other procedures designed to protect vulnerable people. These will include:

- Local multi-agency management committees set up to audit policies, procedures and practices for the protection of vulnerable adults (See No Secrets, Section 3)
- The Mental Health Act Commission when physical interventions are employed with anyone who is detained under the Mental Health Act
- Local Area Child Protection Committees

15.2 Commissioners will wish to ensure that suitable arrangements are in place before approving contracts and, under the new Care Standards Act, inspectors will have responsibility for monitoring and evaluating co-ordination between service providers and other agencies.

References

BILD (2001) Code of Practice for Trainers in the Use of Physical Interventions available from BILD, Champion House, Green Street, Kidderminster, Worcs DY10 1JL.

BILD/DfES (forthcoming) Model Policies for Schools and Local Education Authorities on the Use of Physical Interventions for Pupils with Severe Behavioural Difficulties and Risk Assessment Proforma to Use when Undertaking Risk Assessments on Pupils with Severe Behavioural Difficulties.

Children Act 1989 Guidance and Regulations Volume 4: Residential Care (1991) London: HMSO.

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Department for Education and Employment, (2001) Letter and accompanying guidance on 'Promoting Positive Handling Strategies' from the Head of DfEE Special Educational Needs Division to Chief Education Officers, issued on 24th April 2001.

Department of Health (2001) A Safer Place: Combating Violence against Social Care Staff, Report of the National Task Force and National Action Plan, Brighton: Pavilion.

Department of Health (1993) Guide on Permissible Forms of Control in Children's Residential Care, London: Department of Health.

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Harris, J. Alan.D. Cornick, M, Jefferson, A. and Mills, R. (1996) Physical Interventions: A Policy Framework. BILD Publications (1996)

Mental Health Act (1983) Code of Practice, Department of Health and Welsh Office, London: The Stationery Office (1999)

Letter from Chris Wells to Chief Education Officers on the Use of Positive Handling Strategies, sent 24th April 2001

To all Chief Education Officers

24 April 2001

Dear Colleague

POSITIVE HANDLING STRATEGIES FOR PUPILS WITH SEVERE BEHAVIOURAL DIFFICULTIES

I am writing to update you on work the Department has carried forward since the consultation on guidance to promote positive handling strategies for pupils with severe behavioural difficulties.

The consultation drew in over 150 thoughtful and thought provoking responses. The key themes to emerge from the consultation were:

- that the key services, such as education and social services, should take a co-ordinated and consistent approach. There was widespread support for the recommendation that LEAs should seek advice on their policies in this area from their Area Child Protection Committee (ACPC);
- that the use of physical force should be seen as but one element of a school's overarching behaviour management policy;
- that incidents requiring the use of physical force should be thoroughly and systematically recorded; and
- that headteachers needed a means to ensure that any training they sanction in the use of physical force is safe, suitable and appropriate.

We have considered the above points, and indeed the broad sweep of the consultation responses, carefully. We will:

- commission, jointly with the Department of Health, the British Institute of Learning Disabilities (BILD) to develop a system to accredit organisations offering training in the use of physical force. As a first step, BILD will shortly produce a voluntary code of practice for all training providers;
- work with the Department of Health to produce joint guidance on the use of physical interventions with children and adults with learning disabilities;

- ask BILD, with the aid of an expert panel, to work up model physical intervention policies for LEAs and schools to draw upon when developing their own - these we will be able to issue in the late spring.

In addition to the above, I attach some guidance taking into account the responses to the promoting positive handling strategies consultation. This is with respect to the development of LEA-wide policies on the use of physical force to control or restrain pupils, new advice on related school based policies and on recording and monitoring incidents. This stands as additional guidance to supplement Circular 10/98 "Section 550a Of The Education Act 1996: The Use Of Force To Control Or Restrain Pupils".

Circular 10/98 provided general guidance on the coverage of Section 550a of the Education Act 1996 and its implications for schools and LEAs. In short, section 550a allows for certain members of staff of a school to use a reasonable degree of force in relation to a pupil for the purposes of preventing him/her doing any of the following:

- committing an offence;
- causing personal injury to, or damage to the property of, any person; or
- engaging in any behaviour prejudicial to the maintenance of good order and discipline at the school or among any of its pupils.

Implicit in Circular 10/98 was a requirement for LEAs to have a formal policy on the use of force. The Department's advice is that LEAs should link such policies to behaviour support plans. Further, such policies need to be comprehensive and cleared with area child protection committees.

The use of physical force by teachers should be rare. Behaviour management policies should be designed to ensure that early and preventive intervention is the norm, so reducing the incidence of extreme behaviour requiring the use of physical force. This said, the Department accepts that there will be times when staff have no option but to use reasonable force. We recommend that teachers and other staff should only use techniques for using physical force on pupils with which they are familiar and confident, and which are consistent with the school/LEA policy on the use of force. We believe that the creation of whole LEA policies, commented upon by ACPCs and supported by accredited training, will ensure greater consistency and safety when using physical intervention with children with severe behavioural difficulties.

Physical intervention can lead to allegations of inappropriate or excessive use of force, and policies should cross reference to the guidance about dealing with allegations in the Department's Circular 10/95 "Protecting Children from Abuse: The Role of the Education Service". As advised in that Circular staff who are the subject of allegations should not be suspended automatically, or without careful consideration of whether that is the appropriate course of action.

Yours sincerely

CHRIS WELLS

Head of Special Educational Needs Division

AGREEING PROCEDURES FOR THE USE OF PHYSICAL FORCE ON PUPILS

1. It is recommended that LEAs have a written policy on the use of physical force to control or restrain, where necessary, pupils in school, and on procedures for monitoring the use of physical force. This will help to ensure that maintained schools' behaviour policies, and those of independent and non-maintained special schools at which places are funded by the LEA, are in line with the general principles described in their Behaviour Support Plan. Circular 10/98: Section 550a Of The Education Act 1996: "The Use Of Force To Control Or Restrain Pupils" recommended that schools should put in place their own formal policies in this regard. A school's policy on the use of physical force on pupils should draw on its LEA's policy.
2. LEAs should consider whether to make model policies available to their schools for each to fine tune to meet its particular circumstances. The Department will commission the British Institute Of Learning Disabilities (BILD), with the aid of an expert panel, to work up model policies on the use of physical force in relation to pupils with special educational needs and/or severe behavioural difficulties which LEAs and schools may wish to draw upon when developing their own. We shall make these available in the late spring.
3. When reviewing their Behaviour Support Plans, LEAs are recommended to incorporate their policy on the use of physical force into the Plan. As a minimum, it is recommended that the two documents should be clearly cross-referenced. LEAs and schools which place pupils who are under 16 and have special educational needs for their education at colleges in the further education sector are recommended to make sure that the colleges are aware of their policy on the use of physical force.

Agreeing Policies On The Use Of Physical Force On Pupils With Regulatory Bodies

4. Section 550A of the Education Act 1996 and Circular 10/98 sets out the parameters within which school staff are permitted to work. LEAs' policies should fully support staff who need to use reasonable force in the circumstances set out in s550A. Agreeing a policy on how those principles will be applied in practice will help ensure a consistent approach and prevent misunderstandings between agencies if allegations of physical abuse are made. It is recommended that, when drawing up policies on the use of physical force, LEAs work closely with the local Social Services Department and with those responsible for health and safety policy across the Local Authority.
5. It is, of course, important that the policy on the use of physical force does not recommend procedures that might prevent the Local Authority exercising its duty to safeguard the health and safety of its employees and/or the welfare of the children in its care. The Health And Safety Executive expect Local Authorities to have a corporate policy on managing violence against staff, including for education and social services. It is recommended that the policy on the use of physical force on pupils is considered alongside this and, as appropriate, cross referenced with it². Policies should be cleared with an LEA's legal advisers before consultation with other local statutory bodies.

² HSE website: <http://www.hse.gov.uk>

6. It is important that LEAs are proactive in ensuring that draft policies on the use of physical force are agreed by the other local statutory bodies. LEAs should also consider carefully which statutory bodies to consult. As a minimum, it is recommended that LEAs agree their policies through the local Area Child Protection Committee (ACPC). The full range of statutory bodies with an interest in child protection are represented on the ACPC, including Education itself, Social Services Departments and the Police. Once a policy is agreed LEAs will need to liaise closely with colleagues from other parts of the Local Authority and statutory bodies to review the effectiveness of the policy. Much can be gained by LEAs working collaboratively on their policies and the Special Educational Needs Regional Collaboration Projects are likely to provide suitable fora for facilitating this process.

7. It is recommended that children looked after by the Local Authority, in respite care, or cared for by others with legal responsibility for them should, wherever possible, be subject to the same policy on the use of physical force in and out of school. Ideally, the policy will be jointly worked up by the LEA and Social Services Department and, where applicable, the relevant National Health Service Trust.

Schools' Policies

8. It is recommended that schools which have pupils with severe behavioural difficulties should take especial care in preparing the physical force element of their behaviour policies. The use of physical force should be considered within the wider context of other measures - for example, strategies for using diversion, defusing situations, negotiation and establishing and maintaining good relationships. Children with behavioural difficulties sometimes present particularly challenging behaviour that may necessitate the use of reasonable force to prevent injury, or damage to property, or the breakdown of discipline. Wherever possible, this should be anticipated and provided for in the policy. (It might also be helpful to describe situations where it would be inappropriate to use physical force.) As Circular 10/98 notes, head teachers should draw on their LEA's related policy when preparing their school's policy. It may also be useful to look at policies prepared by other schools catering for pupils with similar special educational needs. Complying with a LEA's clear central steer on the use of physical force may make it easier for a school or a member of staff, if challenged, to show that what they did was reasonable and lawful.

Agreeing Policies

9. It is recommended that each maintained school should agree its policy on the use of physical force with its governing body and maintaining LEA. (As the governing body may need to hear disciplinary cases involving members of staff who have used physical force on pupils, it is important that governors are fully aware of the content of the school's policy and understand the context in which staff operate.) Head teachers of non-maintained special schools are also recommended to agree their policy with the governing body.

Schools Taking Pupils From Outside The Home LEA

10. In most cases, it will be impracticable for a school which takes pupils from outside its own Local Authority area to modify its policy on the use of physical force to bring it exactly in line with those of each placing LEA or Social Services Department. Therefore, prior to placing a pupil at the school, it is recommended that the placing authority satisfy itself that it is content for the pupil to be subject to the school's policy. For its part, the school may wish to seek formal confirmation of this point prior to offering a place. If the LEA or co-sponsoring Social Services Department is unable to agree to the general principles of a school's policy, it is recommended that the pupil be placed elsewhere.

11. Where a placing authority is generally supportive of a school's policy, but, at the outset, feels that some adjustments will need to be made to it to accommodate the likely needs of a prospective pupil, it is recommended that these be agreed formally prior to the school offering a place. If the changes involve the use of procedures and techniques for using physical force that are significantly different from those set out in the school's policy and the school nonetheless wishes to offer a place to the pupil, it would be advisable for the school to discuss the proposed agreement with its local Social Services Department. It is recommended that schools inform their LEA and Social Services Department of any significant changes to their policy on the use of physical force and/or the way they operate them.

12. It is often appropriate for outside bodies with a professional interest in a pupil with special educational needs and/or severe behavioural difficulties to be involved in agreeing the procedures which will be followed when using physical interventions on him or her. It is recommended that parents or those with legal responsibility for caring for such pupils should, where practicable, be asked to agree to these also.

Recording Incidents

13. Paragraphs 28-30 of Circular 10/98 offer guidance on recording incidents involving the use of physical force. Paragraphs 30 and 31 describe how these records might be used by investigating authorities when complaints are made and some of the procedures it is advisable to follow. It is important that staff in special schools should follow the procedures outlined carefully.

14. The Circular advises that schools keep detailed, contemporaneous, written reports of all incidents where physical force has been used. (Under its new inspection framework, OFSTED look at all a school's incident reports compiled in the year previous to an inspection.) It is recommended that these should be recorded in an incident book with consecutively numbered pages within 24hrs of the incident but wherever feasible on the day it occurs.

Entries in the incident book should be cross-references to any more detailed records kept elsewhere, such as those examining the possible causes of the incident, the after effects, follow-up action and linkages to previous incidents. It is recommended that schools produce, or build into their behaviour policies explicit instructions on:

- procedures staff are expected to follow when completing records and the time scales they should normally work to; and
- guidance on where copies should be lodged (including where the master set can be found).

15. Schools catering for pupils with severe behavioural difficulties - where there can be appreciable numbers of false allegations against staff - are advised to be especially careful to follow set procedures when recording incidents. A thorough record which shows that the school's procedures were followed diligently might act as a useful aid to staff who are wrongly accused. The corollary is that where no record or an incomplete record is kept of an incident and/or other procedures were not properly followed, the person accused might be vulnerable. The school might also be criticised for poor practice. A pupil's records describing past behaviour will never, by themselves, constitute an admissible defence if a member of staff is charged with assault or a claim for damages is sought. However, it will be a defence to show that a member of staff acted in accordance with S550A of the Education Act 1996, and records of a pupil's behaviour may assist them in making out that defence.

16. The requirements of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 may apply if employees or pupils are injured whilst using techniques in the use of physical force i.e. in the case of death or "major injury" (as defined in the regulations) of a member of staff, or an injury to a pupil requiring hospital treatment. The appropriate enforcing authority (usually the Health and Safety Executive) should be informed if any such incidences are 'reportable'³.

Monitoring Incidents And Reviewing Procedures

17. It is recommended that the LEA's policy on the use of physical force should set out the circumstances in which incidents should be reported to it. In their responses to the consultation, an appreciable number of LEAs made the point that they find it helpful to obtain as much information on their schools' use of physical force as they can. This enables them to easily identify trend information across the area and see quickly where schools might be experiencing difficulties.

18. It is recommended that the LEA's school link officer or SEN adviser should regularly review a cross section of incident reports from each school catering for children with severe behavioural difficulties. LEAs may wish to agree common practices across all schools for both recording and passing to the LEA records of incidents involving the use of physical force, to aid monitoring of specific or general trends.

³ See: HSE leaflets, Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDOR), "Everyone's Guide to RIDDOR '95 (1996) HSE31 - free leaflet or available in priced packs. ISBN 0 7176 1077 2 "Reporting school accidents (1997)" EDIS 1 - free information sheet (available from <http://www.hse.gov.uk/pubns/edis1/htm>

19. At school level, it is important to regularly review the records of incidents to ascertain trend information and to assess the impact of training. It is recommended that head teachers should involve the school's governing body in this process and that feedback on the level and type of incidents involving the use of physical force should be a set item at governors' meetings. It is recommended too that the effectiveness of any training in physical intervention techniques used should be assessed at least annually. Some schools have used computer systems to provide trend information to give early warning of emerging problems. Schools are also recommended to regularly review the effectiveness of their physical intervention and behaviour management policies

20. Opinion was sharply divided amongst those responding to the consultation over whether it is desirable for schools to seek to have their incident records externally audited. DfEE accepts that different systems will suit differing circumstances. There is definite benefit in records being reviewed by a third party with a sufficient level of knowledge and appreciation of the specific circumstances of a school. However, finding people with this level of expertise can be problematic and some, at least, of this validating role is undertaken by the regulatory authorities that routinely visit the school.

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