

ANNEX 1



Making a difference where you live

## **LOCAL EDUCATION AUTHORITY**

# **POLICY ON THE USE OF RESTRICTIVE PHYSICAL INTERVENTIONS**

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## 1. INTRODUCTION

The vast majority of pupils in our schools behave well and conduct themselves in such a manner as to bring credit to themselves, their parents or carers, their places of education and the County. However, a small number of pupils may not meet the standards of behaviour and conduct schools expect of them for a wide variety of reasons.

To address these circumstances schools will have developed a Behaviour Policy which:

- sets high expectations for the behaviour of all those within the school community;
- promotes a positive school ethos and a safe and secure learning environment;
- fosters mutual respect amongst staff, pupils, their parents and/or carers;
- encourages in pupils the development of self-worth and self-esteem.

Schools' Behaviour Policies should recognise the achievements and positive behaviour of pupils and ensure that these are recognised, shared and celebrated. They should also recognise that reprimands and sanctions may need to be applied. Sanctions need to be identified together with the circumstances in which they should be used.

Behaviour Policies should also emphasise the need for all staff to be aware of situations which may contribute to conflict, pressure and frustration in individuals and which may be the pre-cursor to a loss of self-control and/or a desire to challenge and threaten. Policies should identify steps that should be taken to **avoid** these situations including, for example, the use of de-escalation, anger management and conflict resolution strategies.

However, it is recognised that there may be circumstances where, when preventative strategies have failed, some form of Restrictive Physical Intervention (RPI) may be unavoidable.

The Local Education Authority (LEA) acknowledges 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 to manage behaviour.

RPI will usually be used as a planned response to an emergency. However, the LEA acknowledges that, in some specialist settings, it may be considered in the best interests of a pupil to accept the possible use of RPI as part of a broader therapeutic or educational strategy. Where such approaches are planned, the LEA considers it important that they are based upon risk assessment; endorsed by partner agencies and parents or carers; and are included within the pupil's Positive Handling or Care Plan. Any use of RPI must operate within the legal and ethical framework made explicit within this policy.

For the use of RPI by a teacher or other authorised person to be justified, it has to be demonstrated that it is warranted by, and in proportion to, the circumstances of the incident which precipitated it. Consideration should be given to the age, gender, health, understanding and emotional state of the pupil. Every possible step should have been taken to prevent the situation, and to try to avoid the use of any RPI. Any force required should be reasonable and kept to a minimum.

The staff of schools are vulnerable to child abuse allegations if they apply any form of RPI, but particularly physical control, and 'get it wrong', or are perceived to have done so. This may mean that the parents or carers and/or the pupil objects to the application of the physical control. On the other hand, staff are also vulnerable to accusations of a failure of duty of care if they do not apply any form of RPI and, as a consequence, a child suffers harm.

In such difficult circumstances schools and their staff need clear guidance from the LEA, from Governing Bodies and from their Head Teachers. This policy describes mandatory principles, and provides advice to schools within which they must operate and further develop their own policies and arrangements which makes the use of such interventions as safe and secure as possible, for all pupils and staff.

## 2. **AIMS**

To ensure that any use of RPI, within the LEA, reflects current legislation and case law as well as guidance from the Department for Education and Skills, the Department of Health, and professional Codes of Practice.

To help schools:

- develop and sustain an ethos/culture and practice which protects the dignity and safety of both pupils and staff;
- create and maintain a safe and secure learning environment;
- promote a shared understanding of the circumstances in which RPI may be needed.

To enable staff in schools and staff working in health and social care settings to adopt consistent practices in the use of RPI, based upon a common set of principles.

To achieve outcomes that reflect the best interests of all pupils.

### 3. **RATIONALE**

This policy recognises the need to make a clear, unambiguous statement about the practice of RPI within the LEA.

The policy describes the context and circumstances in which it may be appropriate to use different forms of RPI.

The policy recognises that RPI is, at times, necessary, but only after all proactive and preventative approaches have been exhausted.

The policy recognises that pupils and staff have a right to work in a safe environment which promotes respectful behaviour.

#### 4. DEFINITION OF TERMS

For the purposes of this policy:

- “schools” means schools and other educational establishments; and
- “pupil” refers to any child or young person attending a school or educational establishment maintained by the LEA. This includes a young person over the age of 16.

Rather than use the terminology “restraint”, the LEA prefers to refer to RPI which describes a range of techniques and approaches including Physical Presence, Restriction of Access or Exit, Time Out, Isolation, Seclusion, Physical Diversion, Restrictive Devices and Physical Control.

The LEA believes that it is important that establishments from all phases and sectors use terminology for RPI unambiguously. Set out below is a glossary of terms which schools and other educational establishments will find useful.

<b>Physical Presence</b>	Describes a situation in which staff stand close by or in front of a pupil momentarily, or temporarily in the way of a pupil. Physical presence is a means of both communicating authority and re-establishing safety and security.
<b>Restriction of Access or Exit</b>	Describes a situation in which staff stand in doorways or corridors to restrict a pupil's movement, or a room fitted with door catches beyond the reach of the pupil. It is a means of preventing pupils accessing dangerous environments, or leaving a room when it is judged it would be prejudicial to the maintenance of a safe and secure learning environment for them to do so.
<b>Time Out</b>	Describes the removal of a pupil from an environment where he/she may be gaining reinforcement to maintain a behaviour to an area or room less likely to reinforce it with the purpose of enabling the pupil to regain self-control. <b>In Durham LEA any area or room used for time out must be unlocked and be monitored by staff at all times.</b>
<b>Isolation</b>	Describes the separation of a pupil from his/her peers and his/her supervision by a member or members of staff with the purpose of providing him/her with continuous focused supervision and support. <b>Pupils isolated from their peers and supervised by staff must not be in locked rooms.</b>
<b>Seclusion</b>	Describes the forcible confinement and segregation of a pupil from his/her peers in situations that are unsupervised by staff. <b>In Durham LEA seclusion is not permitted in its schools.</b>

<b>Physical Diversion</b>	Describes a means of deflecting a pupil from destructive and/or disruptive behaviour, for example, by holding a hand, placing a hand on the forearm, putting an arm around a shoulder or guiding by placing a hand on the back. It involves little force but serves to reinforce staff attempts to reason with the pupil.
<b>Restrictive Devices</b>	Describes those approved mechanical devices, e.g. helmets, that are used in a planned manner to prevent self-injury. A risk assessment should be undertaken prior to use identifying the benefits and risks associated with the use of the restrictive device, and staff should be fully trained in their usage.
<b>Physical Control</b>	Describes the positive use of reasonable minimum force to divert a pupil from committing a criminal offence, harming him/herself or others, seriously damaging property, absconding or disruptive behaviour which prejudices the establishment and maintenance of a safe and secure learning environment. Physical control is normally limited to holding a pupil in a standing or sitting position.

Case law deals with the question of reasonableness in relation to force. Within schools the question is likely to be decided on the following basis:

- Did the member of staff act within the power of the Act? and
- What did the member of staff believe the circumstances to be at the time of the incident?

## 5. PRINCIPLES

### **Principles within the Legislation:**

Section 550A of the Education Act 1996 sets out the powers which teachers and other staff have to use reasonable minimum force to physically control pupils.

It allows those teachers and other members of staff who are authorised by the Head Teacher to use such force as is reasonable in all the circumstances to prevent a pupil from doing, or continuing to do, any of the following:

- (i) committing a criminal offence (including behaving in a way that would be an offence if the pupil were not under the age of criminal responsibility);
- (ii) injuring themselves or others;
- (iii) causing damage to property (including the pupil's own property);
- (iv) engaging in any behaviour prejudicial to maintaining good order and discipline at the school or among any of its pupils, whether that behaviour occurs in a classroom during a teaching session or elsewhere.

(Section 550A of the Education Act 1996, Circular 10/98, Para 9)

### **Any form of corporal punishment in schools is illegal, and this ban is absolute**

In considering issues in respect of the use of RPI, schools should have cognisance of the following:

- The Children Act 1989, guidance and regulations, which state: "physical control should be used rarely and only to prevent a child from harming himself or others or from damaging property. Force should not be used for any other purpose, nor simply to secure compliance with staff instruction".
- Further advice on pupil behaviour and discipline which is given in DfEE Circular 9/94 and the advice on restraint is given in Paragraphs 115 to 117 of the Circular.
- Circular 10/95 entitled 'Protecting Children From Abuse' which stresses that schools have pastoral responsibility towards their pupils and should recognise that pupils have a fundamental right to be protected from harm. Schools should have procedures for handling suspected cases of abuse of pupils which should be based upon procedures laid down by the Area Child Protection Committee.

### **LEA Principles:**

- Challenging behaviour can usually be prevented by the careful management of the school environment and the considered deployment of staff.
- Any use of RPI should be consistent with the legal obligations and responsibilities of schools and their staff and the rights and protection afforded to pupils under law.
- RPI should only be used in the best interests of pupils, and in conjunction with other strategies, designed to support pupils' self-control.

- The use of RPI must **not** be used with intent to:
  - (i) punish;
  - (ii) cause or threaten hurt;
  - (iii) oppress, threaten, intimidate or bully;
  - (iv) secure compliance with staff instruction.
  
- Within the continuum of RPI, physical control **should only** be used:
  - (i) with minimum and reasonable force;
  - (ii) rarely and exceptionally;
  - (iii) as a last resort where all other courses of action have failed; and
  - (iv) with the minimum degree of intrusion required to resolve the situation.
  
- Staff should not act in a way that might reasonably be expected to cause injury, for example, by:
  - (i) holding a pupil around the neck or by the collar, or in any other way that might restrict the pupil's ability to breathe;
  - (ii) slapping, punching or kicking a pupil;
  - (iii) twisting or forcing limbs against a joint;
  - (iv) tripping up a pupil;
  - (v) holding or pulling a pupil by the hair or ear;
  - (vi) holding a pupil face down on the ground.

(Section 550A of the Education Act 1996, Circular 10/98, Para 23)

- Any use of physical control should be justifiable and reasonable, and informed by risk assessment. (See Circular 10/98 Para 8.)
- All RPI incidents must be recorded using the appropriate forms. (See Model School Policy and Guidance on the Use of Restrictive Physical Interventions, Appendix 2.)
- Staff must always adhere to Durham LEA policy and guidance documentation when using RPI.
- Preventative techniques must have been exhausted.
- The dignity of the pupil must be protected.
- Seclusion must not be used in any school in County Durham.
- In placing pupils in out of County schools, the LEA will satisfy itself that the use of RPI is in line with its own policy.
- Each maintained school should agree its policy on the use of RPI with its Governing Body and maintaining LEA.
- All pupils, their families and representatives should have ready access to an effective complaints procedure.
- The LEA will monitor incidents of the use of physical control in all its schools. (See Model School Policy and Guidance on the Use of Restrictive Physical Interventions.)

- The LEA will comply with the requirements of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 if employees or pupils are injured while using techniques in the use of physical control.
- All involved pupils and staff should be provided with opportunities for debriefing as soon as possible following an incident, and any comments recorded.

## 6. RESPONSIBILITIES

**Pupils** are responsible, insofar as they are able, for:

- behaving in a manner which does not instigate the use of RPI;
- resolving conflicts amicably and responding to adults' efforts to de-escalate difficult situations; and
- ensuring that they contribute to the creation of a safe working environment for all, and individuals rights to such.

**Parents and Carers** are responsible for:

- ensuring that they support the creation of a safe, non-oppressive working environment in schools;
- supporting the school and LEA policies;
- working with the school in a supportive role to resolve difficult incidents;
- acting as good, positive role models; and
- encouraging attitudes in their children which avoid the use of RPI.

**Schools and Their Staff** (teaching and non-teaching) are responsible for:

- developing their policies and guidance on behaviour management which reflect the principles and contents of the LEA policy;
- ensuring that staff are aware of the policy contents and that they have the appropriate skills;
- implementing, communicating, publishing, monitoring, evaluating and reviewing the school policy;
- monitoring incidents of RPI including:
  - the frequency of their use;
  - the justification for their use;
  - their nature;
  - their users; and
  - the views of students concerning them.
- ensuring the need to use RPI is minimised and only used in appropriate circumstances;
- ensuring that every opportunity is made to resolve situations, avoiding the use of RPI;
- reporting physical control incidents to the LEA;
- reporting, where appropriate, incidents through the child protection procedures;
- acting as good role models for other partners; and
- ensuring that they contribute to the creation of a safe working environment for all.

**Governors** are responsible for:

- ensuring that they support the creation of a safe working environment for all;
- ensuring that the school has a policy which reflects the principles and practices of the LEA policy, and that the policy is implemented, communicated, published, monitored, evaluated and reviewed;
- ensuring that the climate of the school encourages a peaceful, calm and non-physically threatening atmosphere/ethos;
- making appropriate resources available for the policy to be fully implemented.

The **LEA** is responsible for:

- contributing to the creation of a safe working environment for all;
- providing support, guidance, advice and information to schools;
- developing, communicating, publishing, monitoring, evaluating and reviewing of policy;
- facilitating opportunities for training;
- monitoring information received from schools;
- liaising with Social Services to address related Child Protection issues; and
- listening to the views of pupils, parents or carers, schools, Governors and others.

## 7. ENTITLEMENTS

**Pupils** are entitled to:

- a safe, secure and non-oppressive working environment;
- be aware of the policy and how it relates to them according to their ability to understand;
- be treated with respect and dignity, regardless of race, religion, gender, age, special educational needs, etc;
- know that the LEA and school policy will be properly implemented and supported by the staff, Governors and LEA; and
- have their feelings, views and needs considered by schools, Governors and the LEA.

**Parents and Carers** are entitled to:

- know the school's policy and arrangements on RPI;
- be informed about incidents which have involved their child and be involved (where appropriate) in resolution of related problems; and
- know that their child will experience a safe and secure non-oppressive working environment.

**Schools and Their Staff** (teaching and non-teaching) are entitled to:

- support from pupils, Governors, parents or carers and the LEA in implementing their policies;
- safe and secure working environments;
- be treated with respect and dignity;
- have their awareness of RPI issues raised;
- be aware of school policies on RPI issues and of the schools' arrangements and to be involved in their development;
- be trained (where school policies permit) in RPI;
- be informed about pupils for whom RPI may need to be totally avoided except in exceptional circumstances;
- be supported by senior staff where incidents occur; and
- policy and guidance from the LEA to advise them.

**Governors** are entitled to:

- policy and guidance from the LEA to advise them;
- be informed about the use of RPI strategies in schools whilst protecting the confidentiality of individuals, pupils and staff; and
- support from the LEA, parents or carers and staff in implementing their policies.

The **LEA** is entitled to:

- know that all schools will have clear RPI policies which reflect the LEA policy and guidance;
- information from schools about RPI incidents; and
- support from staff, Governors and parents or carers in implementing its RPI policy.

## 8. REQUIREMENTS

The LEA expects all its schools, in consultation with the Governing Bodies or management groups, staff, pupils and parents or carers, to produce a policy statement for the use of Restrictive Physical Interventions which reflects this LEA's policy statement.

The LEA will issue further advice and guidance to schools on the use of RPI to enable them to meet this requirement. (See Model School Policy and Guidance on the Use of Restrictive Physical Interventions.)

9. **REVIEW**

This policy will be reviewed on an annual basis.

## 10. REFERENCES

- DfES Circular 01/98 – LEA Behaviour Support Plans.
- DfEE Circular 10/98 – Section 550A of the Education Act 1996: The Use of Force to Control or Restrain Pupils.
- DfES/DOH Guidance – 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.
- Human Rights Act 1998.
- United Nations Convention on the Rights of the Child (ratified 1991).
- Positive Handling Strategies for Pupils with Severe Behavioural Difficulties – Letter from Chris Wells to all Chief Education Officers 24 April 2001.
- DfEE Circular 10/95 – Protecting Children from Abuse: The Role of the Education Service.
- Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR) 1995.