PHYSICAL INTERVENTION POLICY – USE OF REASONABLE FORCE

Legal Status:
- Advice received from the Department of Education 2013, which incorporates previous advice including the use of force to control or restrain students (2011, 2010 and section 93 of the Education and Inspections Act 2006), Guidance on the Use of Restrictive Physical Behaviour in Association with Learning Disability and/or Autistic Spectrum Disorders (2002), and Guidance on the Use of Restrictive Physical Interventions for Students with Severe Behavioural Difficulties LEA 0264/2003 (2003).

Applies to:
- the whole school including boarding, inclusive of those outside of the normal school hours;
- all staff (teaching and support staff), students on placement, the proprietor and volunteers working in the school.

Related Documents:
- Anti-bullying Policy and Procedures
- Safeguarding - Child Protection Policy and Procedures
- Behaviour Management Policy

Availability
This policy is made available to parents, staff and students in the following ways: via the School website, and from the school office where a copy may be obtained on request.

Monitoring and review: This policy is subject to continuous monitoring, refinement and audit by the Principal who will undertake a full annual review of this policy and procedures, inclusive of its implementation and the efficiency with which the related duties have been discharged. This discussion will be formally documented in writing. Any deficiencies or weaknesses recognised in arrangements or procedures will be remedied immediately and without delay. All staff will be informed of the updated/reviewed policy which will be made available to them in either a hard copy or electronically.

Signed: ____________________________  Date Reviewed: April 2019
Ms. Amanda Woods  Date of Next Review: April 2020
Principal

Physical Restraint
Introduction
It is rare for physical intervention to be necessary in this school environment since the established behaviour management procedures are usually followed. Ashwicke Hall School policy is that physical intervention or restraint should only be used as a last resort in extreme circumstances and when all other methods have been deployed in order to reduce confrontational behaviour. Physical intervention must be considered very carefully because it can cause distress and can be counter-productive to good order. However, it is important that staff understand the circumstances when such intervention may be necessary and would be considered reasonable and appropriate. As and when an occasion does arise, staff use minimum holding technique to stop a student
from causing harm to themselves, other students/staff or property. All staff have disciplinary powers to protect students against harming themselves, harming others and causing damage to the school environment.

The reason for the use of restraint is to keep people safe:

- to prevent a student injuring themselves, other students or staff;
- to prevent serious damage to property and
- to prevent a student from running away where in doing so they are putting themselves at risk.

Supporting Principles

- Physical restraint is a last resort and should only be used when other methods have been exhausted or judged unlikely to succeed.
- Physical restraint should only be used to prevent a student from harming him/herself or others, or from seriously damaging property and should only be used in the best interests of the student and the others around the student;
- Members of staff should receive appropriate training.
- Members of staff should not attempt to restrain a student if they are likely to put themselves at risk.
- Only be used if all other preventative measures (including sending for adult support) have been explored;
- Never be punitive;
- Be reasonable, proportionate and necessary. It should usually be the minimum required to prevent injury to another person or to prevent them from harming themselves.
- The rights and dignity of students and members of staff must be recognised.
- Any incident in which a student is physically restrained must be recorded by the Principal or Deputy Head.

Physical Restraint

Staff have a legal power to use ‘physical intervention’ to avert ‘an immediate danger of personal injury to, or an immediate danger to the property of, a person’ (including the student). The position is stated in DfE Guidance Behaviour and Discipline in Schools. Teachers in our school do not hit, push or slap students. Staff may only intervene physically to restrain students to prevent them injuring themselves or others, damaging property or committing a criminal offence. Details of such an event (what happened, what action was taken and by whom, and the names of witnesses) are brought to the attention of the Principal and recorded in the student’s personal file. The student’s parents are informed same day if possible. Records are kept of when force is used and parents are informed. Training and Guidance is given to all ‘members of staff’ (as defined above) on the circumstances in which ‘physical intervention’ is allowable.

Section 550A of the 1996 Education Act states:

“A member of staff of a school may use, in relation to any student at the school, such force as is reasonable in the circumstances for the purpose of preventing the student from doing (or continuing to do) any of the following, namely:

- committing an offence;
- causing personal injury, or damage to property, of any person (including the student himself/herself);
- engaging in any behaviour prejudicial to the maintenance of good order and discipline at the school or among any of its students, whether that behaviour occurs during a teaching lesson or otherwise”.

Restrictive physical intervention is defined as use of physical force to control a person’s behaviour. A member of staff means any teacher who works at the school and any other person who, with the authority of the Principal has lawful charge of young people at the school.

What is reasonable?

It would be considered reasonable to shepherd a young person away by placing a hand in the centre of the back or by holding them so that they cannot proceed into further danger or conflict. There is no precise legal definition of “reasonable force” so it is not possible to state, in fully comprehensive terms, when it is appropriate to use physical force to restrain or control students or the degree of force that may reasonably be used.

It will always depend on the circumstances of each case. However, there are two relevant considerations to be borne in mind:
• The use of force can be regarded as reasonable only if the circumstances of the particular incident warrant it. The use of any degree of force is unlawful if the particular circumstances do not warrant the use of physical force. Therefore, physical force could not be justified to prevent a student from committing a trivial misdemeanour, or in a situation that clearly could be resolved without force.

• The degree of force employed must be in proportion to the circumstances of the incident and the seriousness of the behaviour or the consequences it is intended to prevent. Any force used should always be the minimum needed to achieve the desired result; and whether it is reasonable to use force, and the degree of force that could reasonably be employed, might also depend on, amongst other things, the age, level of understanding of the student, and any physical disability they may have.

• It is important that the adults involved in the situation remain calm and in control. Staying in control involves sending out the right body messages, e.g., sudden and unnecessary body movements should be avoided. The voice should be slow, steady, clear, calming and reassuring. If more than one adult is involved, they should quickly decide who will be the speaker, i.e., only have one person talking and reassuring; the other remains quiet, yet supportive.

The decision on whether to physically intervene is down to the professional judgement of the staff member concerned. Whether the force used is reasonable will always depend on the particular circumstances of the case. The use of force is reasonable if it is proportionate to the consequences it is intended to prevent. This means the degree of force used should be no more than is needed to achieve the desired result.

Appropriate situations to use reasonable force
In a situation where other behaviour management strategies have failed to resolve the problem, or are inappropriate (e.g. in an emergency), there are a wide variety of circumstances in which reasonable force might be appropriate, or necessary, to restrain or control a student. They will fall into two broad categories:
• where action is necessary in self-defence or because there is an imminent risk of injury
• where there is a developing risk of injury, or significant damage to property

Examples of such situations are:
• a student attacks a member of staff, or another student
• students are fighting
• a student is causing, or at risk of causing, injury or damage by accident, by rough play, or by misuse of dangerous materials, substances or objects
• a student is or appears to be under the influence of alcohol or illegal substances
• a student absconds from school (this will only apply if a student would be at serious risk if not kept in school)
• When the school suspect a student may have upon their person or are concealing “prohibited items” (such as knives/weapons/illegal drugs/stolen items etc) under Section 550ZB(5) of the Education Act 1996

The constitution of reasonable force
Physical intervention can take a number of forms. It might involve staff:
• physically interposing between students
• blocking a student’s path
• leading a student by the arm
• shepherdng a student away by placing a hand in the centre of the back or (in extreme circumstances) using more restrictive holds, including holding, pushing and pulling

In exceptional circumstances, where there is an immediate risk of injury, a member of staff may need to take any necessary action that is consistent with the concept of “reasonable force”, for example, to prevent a young student running off a pavement on to a busy road, or to prevent a student hitting someone, or throwing something.

Other physical contact with students
There are occasions when physical contact, other than reasonable force, with a student is proper and necessary. Examples of where touching a student might be proper or necessary:
• holding the hand of the child at the front/back of the line when going to assembly or when walking together around the school
• when comforting a distressed student
• when a student is being congratulated or praised
• to demonstrate how to use a musical instrument
• to demonstrate exercises or techniques during PE lessons or sports coaching
• to give first aid.

What is not reasonable?
However, staff should never act in a way that might reasonably be expected to cause injury, for example by:
• holding a student round the neck, or by the collar, or in any other way that might restrict the student’s ability to breathe;
• slapping, punching, kicking or using any implement on a student;
• throwing any object at a student;
• twisting or forcing limbs against a joint;
• tripping up a student;
• holding or pulling a student by the hair or ear;
• holding a student face down on the ground and
• using particular restraint techniques which are:
  o the ‘seated double embrace’ which involves two members of staff forcing a person into a sitting position and leaning them forward, while a third monitors breathing
  o the ‘double basket-hold’ which involves holding a person’s arms across their chest
  o the ‘nose distraction technique’ which involves a sharp upward jab under the nose.

Staff should also avoid touching or holding a student in any way that might be considered indecent.

Alternatives
• Withdrawal – where a young person is removed from a situation that caused anxiety or distress to somewhere that they can be continuously observed and supported until they are ready to resume their usual activities.
• Time Out – where a young person’s access to all positive reinforcements is restricted as part of the behaviour management programme and very exceptionally.
• Seclusion – where a young person is forced to spend time alone against their will. Note that seclusion should only be considered under highly exceptional circumstances (for example, if a young person causing actual physical harm) since it restricts the right to liberty and freedom of movement.

We acknowledge our legal duty to make reasonable adjustments for disabled children and children with special educational needs when using reasonable force.

Teachers must not put themselves at personal risk by intervening in an incident. The use of reasonable force is a power, not a duty and therefore members of staff have discretion whether or not to use it. However, teachers and other school staff have a duty of care towards their students and it might be argued that failing to take action (including a failure to use reasonable force) may in some circumstances breach that duty. If a member of staff feels that they cannot use reasonable force in a particular circumstance then they should seek immediate support from another member of staff.

Recording of incidents where reasonable force has been used
Immediately following any such incident the member of staff concerned should tell the Principal or Deputy Head, and then provide the short written factual report as soon as possible afterwards. It should include the following information:
• the name(s) of the student(s) involved, when and where the incident took place
• the names of any other staff or students who witnessed the incident
• the reason that force was necessary (e.g. to prevent injury to the student, another student or a member of staff)
• briefly, how the incident began and progressed, including details of the student’s behaviour, what was said by each of the parties, the steps taken to defuse or calm the situation, the degree of force used, how that was applied, and for how long
• the student’s response, and the outcome of the incident
• details of any obvious or apparent injury suffered by the student, or any other person, and of any damage to property.

We take steps to ensure that staff, students and parents are clear about when force might be used with an aim to reduce the likelihood of complaints being made when force has been used properly. We will inform parents of when reasonable force has been used.

Searching students without consent (Taken from section 550ZB (5) of the Education Act 1996)
In addition to the general power to use reasonable force, the Principal and authorised staff can use such force as is reasonable given the circumstances to conduct a search for knives or weapons, alcohol, illegal drugs and stolen items. They can also conduct a search for the following prohibited items:
• knives and weapons
• alcohol
• illegal drugs
• stolen items
• tobacco and cigarette papers
• fireworks
• pornographic images
• any article that has been or is likely to be used to commit an offence, cause personal injury or damage to property.

Force will not be used to search for further items banned under the school rules.

Staff Training
Training and Guidance is given to all members of staff on the circumstances in which ‘physical intervention’ is allowable. The Principal considers whether members of staff require any additional training to enable them to carry out their responsibilities and should consider the needs of the students when doing so. We also use local authority advice to help us in developing an appropriate training programme for physical intervention.

Complaints and Child Protection
If the physical intervention is of a nature that causes injury or distress to a student, it may be considered under child protection or disciplinary procedures. The Principal may decide that further investigation of the occurrence is required. Any parental or student complaint arising from such intervention would be investigated under the school’s normal complaints procedure.

When a complaint is made the onus is on the person making the complaint to prove that his/her allegations are true. It is not for the member of staff to show that he/she has acted reasonably.

Where a member of staff has acted within the law – that is, they have used reasonable force in order to prevent injury, damage to property or disorder – this will provide a defence to any criminal prosecution or other civil or public law action. We will not automatically suspend a member of staff who has been accused of using excessive force. The school will carefully consider whether the circumstances of the case warrant a person being suspended until the allegation is resolved or whether alternative arrangements are more appropriate. If a decision is taken to suspend a teacher, we will ensure that the teacher has access to a named contact who can provide support.

The Proprietor will always consider whether a teacher has acted within the law when reaching a decision on whether or not to take disciplinary action against the teacher. As employers we have a duty of care towards our employees. It is important that the school provides appropriate pastoral care to any member of staff who is subject to a formal allegation following a use of force incident.

Corporal Punishment
Under section 131 of the School Standards and Framework 1998, corporal punishment is prohibited in all schools and is a criminal offence. The school policy is that under no circumstances will corporal punishment ever be used. The prohibition includes the administration of corporal punishment to a student during any activity whether or
not within the school premises. The prohibition applies to all ‘members of staff’. These include all those acting in loco parentis, such as unpaid, volunteer supervisors. The verbal threat of corporal punishment is also strictly forbidden.

**Punishments that are humiliating or degrading will not be used.**
The following sanctions / punishments will **never** be used:-

- Corporal punishment.
- Any form of hitting of a student (including hitting a student in anger or retaliation)
- Deprivation of food or drink.
- Enforced eating or drinking.
- Prevention of contact by telephone to parents or any appropriate independent listener or helpline.
- Requirement to wear distinctive clothing
- Withholding of any aids or equipment needed by a student.

**STRIKING A STUDENT IS NOT PERMITTED AND WILL BE REGARDED AS AN ASSAULT**

**Formulating a Physical Intervention Action Plan (PIAP)**

Where there is a major concern expressed from home or school regarding the physical management of a student, parents will be expected to attend a meeting with school staff, and relevant agencies, to formulate and agree a “Physical Intervention Action Plan.” The PIAP is aimed at supporting both the student and the staff who work with the student through incidents that require a physical intervention.

The use of physical interventions with is likely to be legally defensible when it is required to prevent an individual child/young person -

- Injuring other children, residential and teaching staff or members of the public. This covers adults acting in self-defence.
- Self-injuring themselves.
- Damaging property.
- Presenting in school settings, any behaviour prejudicial to the maintenance of good order and discipline within the school or among any of its students. (This includes outings and activities outside of the school)

Within the school, it is important that a number of risk assessments are completed. First, a general risk assessment should be completed to indicate the level of risk of “violence” associated with the work environment as a whole. Individual Risk Assessments will be completed for students who may cause harm to themselves or others.

This can be done by considering risks either by the students’ needs, by environmental issues, or by activities or situations. The aim of this general risk assessment is to enable staff to consider how effectively they can manage violence/unwanted behaviour within the school as a whole.

Second, student should have a risk assessment completed where there is a known history or predisposition to violence/unwanted behaviour. From this, staff can begin to develop appropriate interventions strategies to manage the individual child/young person’s behaviour.

Third, where physical interventions may be considered a necessary part of an individual’s physical intervention action plan, the risks associated with the use of such approaches should be considered in order to maintain the person’s safety.

Once the appropriate risk assessments are completed, it is important that all staff are aware of these and follow the guidance given. It is especially important that staff follow the guidelines laid down in the child/young
person’s risk assessment and pro-active intervention plan as to the method of intervention, particularly where physical interventions are used.

Holding Skills
‘A method of restraint whereby a minimum of two people attempt to use physical holds in an attempt to limit or restrict an individual’s ability to move’

The school’s holding skills should not involve pain and are not used in any way to gain compliance from the individual. The skills should be employed therapeutically in the management of a student who presents challenging behaviour in the form of aggression and violence.

Disengagement Skills
‘A physical method of preventing or ending unwanted harmful contact which may occur between two persons whilst interacting within the normal course of care’ The disengagement skills are designed to minimise the risk of injury to the individual and enable the member of staff to continue to interact in a safe manner. The skills should be employed therapeutically in the management of those individuals who present challenging behaviour in the form of aggression and violence.

It is important to remember that physical interventions are part of a number of different types of interventions classified under the wider title of ‘restraint’, all of which may be used in the management of potentially aggressive and violent students. In the broadest term, restraint has no legal definition but has been defined as: ‘Any form of physical, chemical, mechanical, environmental or social/psychological intervention which is used to restrict another person’s liberty’ (Stirling 2002).

Within the school, other methods of restraint that may be used include:

- a student taking medication to manage their behaviour
- environmental restraint (asking a child to stay in a particular room or area of the building)
- social/psychological (asking a student not to do something they want to do, behavioural interventions, withdrawal procedures)

Staff should also be aware that physical interventions form only a small part of the management of an individual who presents aggressive and violent behaviour. The cardinal principle is that all possible responses to aggression and violence should be considered. Where physical interventions are used, they should be applied using the ‘Least restrictive and detrimental option’; in other words: ‘The least restrictive and detrimental intervention is used for the shortest period of time necessary to manage an incident or person’.

The school does not teach, approve or condone the use of any holding skill that inflicts pain, discomfort or injury to students. Indeed, any approach that relies on pain compliance or control is totally unacceptable. Staff using such approaches may be subject to disciplinary action.

Some situations may arise whereby student’s behaviour seriously jeopardises the safety and welfare of others (for example biting). The use of any form of physical intervention should always be considered the last resort and should not be utilised until all other approaches have failed and/or violence is imminent. Any physical intervention must be reasonable in the circumstances, using the least restrictive option, i.e. the minimum amount of force for the minimum amount of time necessary to manage the incident safely. It is unsafe and therefore ill-advised for anyone to use any physical intervention in an attempt to manage a violent student on their own since the risk of possible harm or injury to both parties is great.
As such, if you are alone and faced with a potential or actual violent incident, you should attempt to escape from the situation to a place of safety before summoning help. This may also include attempting to make the area safe by asking other individuals to move away. In some circumstances, a one to one intervention may be appropriate if a member of staff feels in his or her judgement that two people present may escalate the situation.