



Appendix 1

Guidance on Physical Contact and the Use of Physical Intervention in Educational Settings.

Terminology is explained in Appendix 2; Source documents are listed in Appendix 3; Appendix 4 contains an exemplar policy.

1. Context / Introduction.

- 1.1. In accordance with the latest national guidance from DCSF (Nov. 2007)^{2.1}, this local guidance is intended to provide clear, practical advice to all Darlington schools on drawing up policies and practice guidelines on the use of physical intervention (including restrictive physical intervention - RPI). The overall aim is to enable staff to operate safely and confidently, whilst preserving the dignity of pupils and maintaining positive relationships with them. It is recommended that this document is not used in isolation, but in conjunction with related documents listed in Appendix 2, in particular 'Circular 11/07'.
- 1.2. Whilst the majority of pupils in most educational settings conform to the expectations of acceptable behaviour, it is acknowledged in law^{2.1} and by Darlington Children's Services that in certain specific circumstances teachers, and others authorised by the head teacher, may need to use restrictive physical intervention (RPI) to keep people safe, prevent criminal behaviour, protect property, or to maintain good order and discipline.
- 1.3. The DCSF acknowledges that no school should have a policy of 'no physical contact' (Circ. 11/07, Para 19)^{2.1}. 'Schools and other educational settings should have a policy on the Use of Reasonable Force to Control or Restrain Pupils' (i.e. 'Physical Intervention', 'RPI', or 'Positive Handling') (Circ.11/07, Para 18). This may be embedded within its existing behaviour management policy, or supplementary to it, but it must be consistent with it. To guide staff on the sensitivities associated with any form of physical contact, a school may wish to have an additional general policy on Physical Contact (or Touch), such as administering first aid, giving comfort, toileting and teaching skills in P.E. To assist you in this, an 'exemplar policy' for physical intervention is attached, into which has been incorporated a policy for all aspects of appropriate touch (Appendix 3). It should be stressed that as effective management of pupil behaviour relies heavily upon teamwork, best practice dictates that any such policy should be formulated with/by the staff applying it, rather than just adopting a non-specific exemplar.
- 1.4. A Physical Intervention policy should be 'value driven', and always considered in the context of any other agreed behaviour management policies, such as Physical Contact (Touch), Bullying, Child Protection and Lone Working, along with any associated guidelines.
- 1.5. The Policy should be approved formally by the governing body and made known to staff, pupils and parents^{2.2}. It should be reviewed/updated every 12 months.
- 1.6. The policy should tell people clearly what they should do and explain how to do it (or be cross referenced to more detailed guidance). It should cover:
 - who is authorised to use force;
 - assessing the need for staff training;
 - where force can be used;
 - what types of incident might require the use of force;
 - what constitutes reasonable force;
 - special considerations for pupils with special educational needs and disabilities;
 - reporting and recording incidents;
 - post-incident support and the learning process
 - dealing with complaints.
- 1.7. Schools should keep an up to date record of staff who are authorised to use force (Circ. 11/07 Para 24b). All staff, authorised and unauthorised, need to understand their powers and the

options open to them; what is acceptable and what is not (Circ. 11/07 Para 20). There should be evidence that staff have read and understood the school's policy on Physical Intervention.

1.8. Darlington Children's Services helps schools to monitor any physical interventions (see below).

2. Physical Intervention and RPI.

- 2.1. Physical intervention can be regarded as any physical contact that, however minimal, is intended to redirect or stop someone from doing what they would otherwise have done. This would include communicating physical presence (drawing/diverting attention), prompting an action, guiding/directing someone to move in a different direction, or detaching from non-threatening but inappropriate contact.
- 2.2. Darlington Children's Services acknowledges the difference between these aspects of appropriate touch and non-restrictive physical interventions, and restrictive forms of intervention (RPI), which are designed to prevent movement or mobility, in order to prevent injury to another, or to disengage from dangerous or harmful physical contact.
- 2.3. 'The use of restrictive physical interventions should always be considered within the wider context of other measures. These include establishing and maintaining good relationships with children, and using diversion, defusion and negotiation to respond to difficult situations.'^{2,4}
- 2.4. As even the lowest levels of physical intervention involve some degree of force being used to change another's action, it is imperative that staff employ extreme care when deciding that physical intervention is necessary. Schools would afford pupils and staff the best possible protection by providing accredited training in the use of physical intervention (see below).
- 2.5. Circular 11/07 acknowledges the potential for injury to both pupils and staff involved in physical intervention responses (Para 37); whilst some physical injury potential can be reduced, there always remains some risk when two or more people engage and force is used to protect, release or restrain.

3 Legal Background.

- 3.1 This guidance is not a complete and authoritative statement of the law – that is a matter for the courts. It emanates from the source documents in Appendix 2, principally the guidance document *The Use of Force to Control or Restrain Pupils* (Nov. 2007) (herein referred to as Circular 11/07). It explains the relevant parts of the *Education & Inspections Act, 2006*, and supersedes the earlier guidance, Circular 10/98.
- 3.2 The appropriate use of Restrictive Physical Intervention should not be confused with corporal punishment, which is illegal in maintained schools; RPI is never to be used as a form of punishment, and may only be used in very limited circumstances, as below.
- 3.3 Sections 93 and 95 of the Education and Inspections Act, 2006 state that: any teacher, or other person employed or volunteering in a school who is authorised by the head teacher (i.e. entered onto the school's 'authorised list'), has the right to use such force as is **reasonable** in the circumstances to prevent a pupil from doing or continuing to do, any of the following:
 - 1 committing a criminal offence
(or, for a pupil under the age of criminal responsibility, what would be an offence for an older pupil)
 - 2 injuring themselves or others
 - 3 damaging property
 - 4 prejudicing the maintain good order and discipline
(at the school or among any pupils receiving education at the school, whether during a teaching session or otherwise - Circ. 11/07, Para 10.)
- 3.4 The power may be used where the pupil (including any from other schools) is on the school premises or elsewhere in the lawful control or charge of the staff, such as on a school visit or transport to/from school).
- 3.5 In such a case it would be necessary to show that the situation could not be resolved without the use of force – i.e. it was **necessary** - and that the force used was **reasonable**. Staff are expected

to exercise good care and control, so the force used has to be seen to be **proportionate** to the danger/risks. A pupil may be physically restrained, or a staff member or other person may protect themselves, only to the extent of using the minimum degree of force that is needed in the circumstance to effect the restraint, and usually only 'as a last resort'.

- 3.6 There is no legal definition of what is 'reasonable', nor what is 'necessary' or 'proportionate'. Each key term can only be judged in relation to all the factors of a particular situation, so a behaviour that may normally seem trivial could be more serious if the circumstances change – such as a child running in a crowded corridor.
- 3.7 A defence against legal or civil action is usually strengthened when the action can be clearly shown to be *in the best interest of the pupil concerned* (though the protection of others is clearly appropriate). Detailed guidance cannot be provided here for every incident. If individuals find themselves in this situation they must use their professional judgment in deciding the best action, using 'dynamic risk-assessment'. If a member of staff acts in good faith, prioritising the best interests of the service user, their actions will usually be regarded as justified in the circumstances. In almost every case a range of de-escalation strategies will be applied before restrictive physical intervention is considered.
- 3.8 Employers and managers are responsible for the safety and well being of staff. The Health and Safety at Work Act 2005 states that employers have a duty of care to their employees and others using their premises. They have a 'duty of care' to their employees, and staff have a 'duty of care' to pupils. Where risks are identified, employers have a legal obligation to take steps to minimise them. In terms of risks from behaviours, this may include the provision of training for all staff.

4 Key Principles.

- 4.1 **Positive relationships are crucial to successful behaviour management.** Relationships can be difficult to maintain if physical intervention is not conducted well, with the welfare and dignity of the pupil protected.
- 4.2 **Physical intervention should only be used 'in the best interests of the pupil'.** Schools are responsible for the provision of care; pupils should be treated fairly and with courtesy and respect.
- 4.3 **RPI should be the last resort (whenever possible).** The avoidance of physical intervention is viewed as a measure of success in dealing with challenging behaviour, but for everyone's protection and welfare there are occasions when it may be necessary.
- 4.4 **Staff have a 'Duty of Care' towards their pupils.** The use of any form of physical intervention carries the risk of allegations of abuse against staff. However, staff can also be accused of a failure of 'Duty of Care' if a child suffers as a result of a refusal to intervene physically where it would probably have kept them safe.
- 4.5 **Staff need to be skilled in the pro-active and re-active use of de-escalation strategies,** including defusion, diversion, and distraction, in order to avoid crises. Darlington Children's Services offers training that enhances these skills and teaches appropriate, safe physical intervention (see below).
- 4.6 **Pupils should be taught to manage their own behaviour;** learning to make positive choices through experiences and opportunities that are appropriate to their abilities. Best practice should include effective 'listening and learning' (debrief) opportunities after any seriously challenging incident.
- 4.7 **Staff require opportunities to debrief after an incident;** support may be needed for the emotional and physical effects of such incidents, and staff should have the opportunity to examine critically but positively the procedures they effected.
- 4.8 **Most incidents involving physical intervention, (all those involving RPI), should be recorded and reported** (see below).
- 4.9 **Pupils with SEN/AEN have the right to be treated no less favourably than their peers** (the Disability Discrimination Act 2005); staff have a legal duty to make reasonable adjustments to ensure this. Particular care will be required to ensure that the pupil understands what is happening,

and to ensure that actions are not discriminatory. In recording incidents, it may be advisable to note any reasonable adjustments that were made in managing the pupil's behaviour.

- 4.10 **Staff should not normally be required to work alone in isolated situations** with a pupil whose behaviour is likely to be confrontational. Staff deployment should ensure that appropriately trained staff are available to respond to any incident which requires physical intervention. Careful consideration should also be given to the impact of resource management on the use of physical interventions.
- 4.11 **All pupils and their families should have ready access to an effective complaints procedure.**

5 Prevention and Management of Challenging Behaviour

- 5.1 Challenging behaviours can often be prevented or reduced by the careful management of setting conditions – exploring the interaction between environmental conditions and personal conditions for each pupil who presents a regular challenge, and modifying those conditions to reduce the likelihood of challenging behaviour occurring (primary prevention).
- 5.2 Secondary prevention procedures should be developed to ensure that problematic episodes are properly managed with non-physical interventions before service users become violent. Staff need to be able to recognise the early stages of a behavioural sequence that is likely to result in violence or aggression, and employ defusion, diversion or other de-escalating techniques to avert further escalation.
- 5.3 Staff should make every effort to avoid confrontation; faced with a potentially violent situation, staff should remain calm, confident and objective. Communication, non-verbal and verbal (including listening), should normally be the first approach; a determined adult can usually avoid confrontation by remaining calm, allowing space, restating expectations and giving choices. Policies should give examples of such de-escalation strategies, which should be used continually throughout the interaction, seeking to reduce tension until calm is achieved.
- 5.4 Schools may feel that it is worth designating a space for the de-escalation of conflicts; such spaces are often used as 'time out' rooms, allowing all parties a non-threatening opportunity to gain self-control before attempting reconciliation. For some pupils access to such facilities can provide a vital 'safety valve'; any short or long-term arrangement that involves time-out should be described within the pupil's Positive Handling Plan. The rules about the use of such rooms and the legally defined action of 'seclusion' must be understood and followed.
- 5.5 Individualised strategies should be established for responding to pupils who are likely to present incidents of violent or reckless behaviour. Where appropriate, the strategy should include directions for using physical interventions. The procedures should enable staff to respond effectively to those behaviours while ensuring the safety of all concerned, and this pro-active planning process should be captured in a 'Positive Handling Plan' (explained below).

6 Minimising Risk and Promoting the Well Being of Service Users

- 6.1 A minimum of two staff should be present when physical intervention is likely to be necessary (whenever possible).
- 6.2 Physical interventions should not involve unreasonable risk. The potential hazards associated with the use of physical interventions should be systematically explored, both by formal risk assessment procedures and by on-the-spot dynamic risk assessment.
- 6.3 Physical interventions should be employed using the minimum reasonable force, for the minimum duration of time, and should not cause pain.
- 6.4 Service users should have individual assessments to identify contra-indications of physical interventions before they are generalised in a Positive Handling Plan (see below).
- 6.5 Staff need to be aware of conditions that create 'elevated risks' for physical intervention procedures, and be able to recognise the signs of distress and know how to respond.

- 6.6 Pupils who receive a physical intervention should be routinely assessed for signs of injury or psychological distress.

7 Recording and Reporting

- 7.1 Schools need to ensure that any incident of RPI is recorded and reported. Most other incidents of physical intervention should also be recorded (see below). There are benefits to also recording any incident of seriously challenging behaviour that are well managed without the need for physical intervention; such information can be extremely useful for analysis to show developing patterns of behaviour, and also the successes of staff averting crises without the need for physical intervention.
- 7.2 Recording should be in dual form – a brief (normally one-line) reference should be kept of each occurrence in a 'Bound and Numbered' book; this should be cross-referenced to a full account of the incident in an 'Incident Report' – on a structured form.
- 7.3 For the protection of both pupils and staff involved in an incident, the 'Incident Report' should contain:
- accurate and detailed descriptions of all precursors, behaviours, staff actions and outcomes
 - the views of all parties - including most importantly the pupil's views (where possible), signed
 - a record of a debrief (at least attempted)
 - record of communications with /notifications to parents and others
 - evidence of assessment and monitoring of emotional and physical states during and after the intervention
 - evidence of medical assessment being offered where appropriate.
- 7.4 Every 'Incident Report' should be monitored and signed by the headteacher or a representative.
- 7.5 An Incident Report involving the use of restrictive physical intervention is likely to form part of the pupil's educational record. Schools should retain records of such incidents until the member of staff involved has reached normal retirement age, or for 10 years from the date of any allegation if that is longer (Circular 11/07, Para 51). It should be archived along with the current policy and guidance.

8 Positive Handling Plans

- 8.1 'Positive Handling' describes the full range of strategies (physical and non-physical) used to de-escalate, defuse and divert in order to prevent violence and reduce the risk of injury to staff and pupils.
- 8.2 For pupils who regularly behave in obstructive, harmful or dangerous ways, schools should assess behaviours and develop pro-active plans. 'Positive Handling Plans' (PHPs) guide practice for individual pupils assessed as being at greatest risk of needing restrictive physical interventions, in consultation with the pupil and their parents (Circ.11/07 Para 23b). Such plans should include risk assessments where available, and alert people to potential risks. They should include strategies to prevent and deal with any recurrence of behaviour that could lead to the use of force (Circ.11/07 Para 57), and warn against strategies that have been ineffective in the past.
- 8.3 A PHP, including all planned responses, should be communicated to all who work with the pupil in question. It should bring together contributions from key partners working in partnership and signed by all concerned, and it should be reviewed regularly.

9 Monitoring Incidents / Reviewing Procedures

- 9.1 Schools are advised 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.
- 9.2 It is recommended too that the effectiveness of any training in physical intervention techniques used should be assessed at least annually (Circ. 11/07, Para 19).

- 9.3 School leadership teams are advised to assess the frequency and severity of incidents requiring the use of force (Circ. 11/07, Para 31).
- 9.4 It is good practice for governors to monitor incidents where force has been used. Head teachers have an important role in reporting such incidents to the governing body (Circ. 11/07, Para 54).
- 9.5 The local authority has a responsibility to monitor and review the use of physical interventions, and Darlington does this in three ways:
- 1) Each school's system for reporting and recording the use of physical intervention is monitored and reviewed through annual visits from monitoring officers from Children's Services (currently officers from the SEN Team and from Safeguarding Team). Should the setting be identified as having higher risk than the average mainstream setting, they will be monitored more often (by agreement). These visits include a review of staff's views of the effectiveness of their systems, a random sampling of incident reports, cross-referencing to the bound-and-numbered book, and a check of the presence of an 'authorised list'. The outcomes and any helpful recommendations are reported back to the Head Teacher and the Chair of Governors.
 - 2) If a school has implemented any form of training around the use of physical intervention, the extent and effectiveness of that implementation will also be monitored via the annual monitoring visit (above).
 - 3) Schools are also asked to notify by phone, and then submit to the monitoring officers in Children's Services, a copy of the incident report for any physical intervention which results in injury to any party involved.

10 Training

- 10.1 Circular 11/07 strongly recommends that all staff who work directly in the supervision of children (with an expectation of responsibility for their behaviour) should be regularly trained in the safe application of physical intervention. We recommend that such training should be embedded within a holistic approach to behaviour management that includes a wide range of skills and strategies to pro-actively avoid escalation to crisis and thereby avoid the need for physical intervention.
- 10.2 Training should reflect the identified levels of risk staff could expect to face.
- 10.3 Any training provided by an employer, as a measure to reduce the effects of identified risks faced by employees and clients, must be attended by the employees (Health and Safety Act, 2005).
- 10.4 For physical intervention schools should only use training providers accredited by BILD under their Code of Conduct. Darlington Children's Services' preferred approach is *Team-Teach*, and accordingly Darlington has its own training team (contact the Project Manager of *Team-Teach for Darlington* on 01325 388062). The same contact can help with the implementation of this guidance and issues arising.
- 10.5 Once trained, staff should only employ physical interventions that they have been trained to use.

This guidance will be reviewed/updated bi-annually, consulting with practitioners, or whenever relevant national guidance is issued.

Appendix 2.

Definitions of terminology used throughout this document.

Physical Intervention	- Any physical contact that, however minimal, is intended to redirect movement or stop someone from doing what they would otherwise have done. This would include communicating physical presence (drawing/diverting attention), prompting an action, guiding/directing someone to move in a different direction, or detaching from non-threatening but inappropriate contact.
Restrictive Physical Intervention - RPI (often used interchangeably with Restraint)	- <i>DOH / DFES: "the use of force to control a persons behaviour" (2002);</i> preventing movement or mobility.
Restraint (often used interchangeably with RPI)	- The positive application of force by staff, in order to overcome rigorous resistance; completely directing, deciding and controlling a person's free movement.
Positive Handling	- The full range of strategies and interventions (physical and non-physical) used to de-escalate, defuse and divert in order to prevent violence and reduce the risk of injury to staff and pupils.
Positive Handling Plan (alternatively called a 'Care Plan' or Behaviour Management Plan, similar to a Pastoral Support Plan).	- A plan devised in collaboration with key partners (particularly parent and pupil), to agree and record the strategies to be used to manage the pupil's future behaviour, including physical interventions where necessary. It must be communicated to all who work with the pupil.
Bound and Numbered Book	- A fixed-page book containing brief description of an incident involving physical intervention. Usually just one-line entries, cross-referenced to a detailed incident report kept elsewhere.
Authorised List	- The list kept by the headteacher, detailing those staff (other than qualified teachers) authorised by the head to use physical intervention. Teachers are commonly entered on that list, though they do not need to be.
Dynamic Risk Assessment	- On the spot assessment of risks pertaining to current situation – it is repetitive, as the risks change constantly throughout an interaction.

Appendix 3.

Guidance documents and other sources used to inform this guidance.

- 2.1 DCFS (Nov. 2007) ***The Use of Force to Control or Restrain Pupils*** (herein referred to as Circular 11/07). Based on the Education & Inspections Act, 2006.
- 2.2 ***The Use of Force to Control or Restrain Pupils (11/07)*** – summary from ‘Team-Teach for Darlington’ of the DCSF Circular 11/07.
- 2.3 John Harris et al. (2008) ***Physical Interventions: a Policy Framework***. B.I.L.D. Publications.
- 2.3 DfES. (2003) ***Guidance on the Use of Restrictive Interventions for Pupils with Severe Behavioural Difficulties***.
- 2.4 Don Clarke & Anne Murray, Ed. (1996) ***Developing and Implementing a Whole School Behaviour Policy: A Practical Approach***. David Foulton.
- 2.5 Bernard Allen, (2008) ***Thinking Through Behaviour Scenarios***, Steaming Publications.
- 2.6 Sharon Paley and John Brooke, Ed. (2006) ***Good Practice in Physical Interventions: a guide for staff and managers***. BILD
- 2.7 DfES/DOH. (2002) (Updated July 2007) ***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***

Appendix 3.

Attached is a separate exemplar policy

Physical Contact and Intervention Policy

To use this exemplar, which is not specific to a particular setting, schools are encouraged to discuss it with their whole staff, and collectively modify it to suit their own circumstances and operations. It can stand alongside other behaviour management policies, or can be embedded within your main behaviour management policy.

If your policy becomes too long to be an effective working document, you may wish to move the de-escalation strategies into a separate document and expand on them.