

BRIZE NORTON PRIMARY SCHOOL

Positive Handling Policy

Introduction

Oxfordshire Authority takes seriously its duty of care towards pupils, employees and visitors. Touch is a sensitive issue requiring careful judgement. In order to safeguard both children and staff, the Authority aims to provide clear guidance and appropriate training within the resources that can reasonably be made available.

This policy has a clear focus.

- The paramount consideration is to safeguard the welfare of the child
- and to safeguard the welfare of staff and others working in schools/settings and services who act in good faith.

The Children Act 1989 places a duty upon staff to consider the welfare of the child first, and for the welfare of the child to take precedence when practical over every other consideration. All physical interventions, including restraint, are conducted within a framework of positive behaviour management. The behaviour policy is intended to reward effort and application, encouraging pupils to take responsibility for improving their own behaviour. Preventative approaches to risk reduction involve identifying and communicating early warning signs, situations, settings and other factors which may influence behaviour, then taking steps to divert behaviours which lead towards foreseeable risk. Pupils are encouraged to participate in the development of their own Positive Handling Plans by focusing on positive alternatives and choices. Parents are also encouraged to contribute. Pupils with severe behavioural difficulties sometimes present a risk to themselves and others.

The DCSF School Discipline & Pupil Behaviour Policies points out (Para 1.3) that “the Statutory powers to discipline are new.”

Section 93 of the Education & Inspections Act 2006 (EIA2006) describes the circumstances in which teachers and others, authorised by the Head Teacher, may use reasonable force to control or restrain pupils. Examples of when such action may be reasonable are: preventing personal injury, damage to property, the breakdown of discipline, or committing a criminal offence.

Section 95 (EIA2006) defines the Staff to which this power applies.

The Children Act 2004 places a duty on key partners to cooperate in the safeguarding of children. Where children receive a variety of services from the local authority, every effort will be made to ensure that these are coordinated. Risk Assessments and Positive Handling Plans will be shared with all key partners, who will cooperate to provide consistent approaches to meet the needs of individual children.

A copy of this policy has been sent to the Local Child Safeguarding Board.

Any parent(s) wishing to view this policy are welcome to do so. The policy is available on the school website.

- Effective date of this policy: 19th March 2010
- Person responsible for this policy: Mr M. Smith (Headteacher)
- Accredited training model(s) in use: Team – Teach BILD Accredited
- Person responsible for Health and Safety: Mr M. Smith (Headteacher)
- Person responsible for Child Protection: Mr M. Smith (Headteacher)
- Date of next policy review: March 2011

Glossary

(i). Positive Handling

The term “Positive Handling” includes a wide range of supportive strategies for managing challenging behaviour. Included in this framework is a smaller number of responses which involve the use of force to control or restrain a pupil. The term “restraint” is used whenever force is used to overcome active resistance.

(ii). Positive Handling Plans

Individual risk reduction plans resulting from a risk assessment. These should include a description of the nature of the risk along with preferred risk reduction strategies (including non physical, those involving touch and, where absolutely necessary, more restrictive restraints).

(iii). Non Physical Interventions (No Touch)

- adaptations to the physical environment
- use of space
- body language
- facial expressions
- volume, pitch, pace and tone of voice
- choice of words

(iv). Physical Contact (Contingent Touch)

- reassuring touch (for examples holding hands in the playground)
- physical prompts and guides (for example attracting attention or communicating with someone with sensory impairment, helping someone to learn physical skills, escorting a young child or someone with learning difficulties)
- holding to reassure where there is little if any active resistance (for example a comforting hug around the shoulder)
- guiding and holding where there is little if any active resistance
- unobtrusive personal safety responses to low level risks (for example taking an object away from a small child, releasing a grip, or positive touch associated with treating a minor graze).

(v). Restraint / Restrictive Physical Interventions (The positive application of force with the intention of overpowering a person)

- holding someone who is actively resisting to prevent them putting themselves and others at risk of significant harm
- holding someone who is actively resisting to reduce the risk of pain or injury
- holding someone who is actively resisting to reduce the risk of damage to property
- holding someone who is actively resisting to prevent the commission of a criminal offence
- moving someone who is actively resisting into a reduced risk environment
- holding/moving someone whose actions are or leading to a breakdown of discipline
- preventing a person who is actively resisting from moving into an increased risk environment

The Legal Framework

(i). The Best Interest Principle

The best policies are developed, not by thoughtlessly cutting and pasting extracts from other guidance, but from considerably adapting it to ensure that the focus is maintained on the overriding principles from which good practice flows. The overriding principle relating to positive handling is that the welfare of the child takes precedence over every other consideration. The first line of the first paragraph of the Children Act 1989 in the UK states that the welfare of the child shall be the paramount consideration. Paramount in this context means that it is the first thing people should think about and it should take precedence over every other consideration. .

(ii). Duty of Care

The term “duty of care” is an important legal term. Anyone who is lawfully authorised (includes volunteers etc.) to work with children, has a duty of care. Schools owe a duty of care to their pupils. “Negligence” involves a breach of that duty and has three main elements:

- Firstly there must be a duty of care
- Secondly there must be a breach of that duty of care
- Thirdly there must be some ensuing damage or injury related to that breach

We do not need to wait for damage or injury. A responsible approach is to anticipate what could go wrong and try to prevent it. A breach of duty of care may involve either taking unreasonable action or failing to take reasonable action to prevent harm to another person (Commission or Omission).

As the statutory power to use force is held by individual members of staff, no school should have a policy of *no physical contact*, because this could make staff feel deprived of that power, or hinder their exercise of it. (EIA 2006)

Health & Safety legislation requires that employers also have a duty of care towards their employees. It would be negligent of an employer not to provide the time and resources for proper training. It would also be negligent of an employee not to access training when it was offered, or to assess information which was made available.

(iii). The Education and Inspections Act 2006

Section 93 describes the circumstances in which teachers and others authorised by the Head Teacher may use reasonable force to control or restrain pupils.

The Head Teacher should maintain a current register of those authorised & any unauthorised. Section 95 determines those who may be delegated this power & those who may not. Section 45 of *the Violent Crime Reduction Act* allows reasonable force to be used to search pupils without their consent for weapons.

Nb. The DCSF strongly advises schools not to search pupils where resistance is expected, but rather to call the police.

(iv). Restraint

The term “physical restraint” is used when force is used to overcome active resistance. These are referred to as “Restrictive Physical Interventions” in national Guidance (DfES/DoH 2002). A clear and consistent positive handling policy supports pupils who have behavioural, emotional and social difficulties within an ethos of mutual respect, care and safety. It is important that all staff who are not teachers have written authorisation to ensure that they are protected by these provisions if they are expected to use physical interventions. Only a Head Teacher can issue such authorisation.

(v). Risk Assessment and Risk Reduction

Health and Safety legislation applies to children who may present a risk to themselves or others. Wherever a risk can reasonably be foreseen there must be an assessment of the risk and a plan to reduce the risk. It is not always possible to eliminate risk but staff will need to be able to show that they have attempted to reduce it. Children who present a risk should have a positive handling plan. Staff likely to come into contact with a child presenting a risk should be given guidance and training to enable them to assess and reduce the risk.

(vi). Reasonable and Proportionate

Common law hangs on the word “reasonable” in the context of physical interventions, yet it changes meaning according to the circumstances of each case. For example an action taken in response to an attack with a baseball bat might be deemed reasonable by a court, whereas exactly the same action taken in response to a verbal assault would be judged to be excessive and unreasonable. What determines the reasonableness of a particular intervention is often governed by whether or not it was “proportionate”. The degree of force used should be the minimum to achieve the desired result. Good training provides techniques which rely on a combination of psychology and biomechanics to reduce the amount of force required.

It is good practice for schools to have an explicit policy on the Use of Reasonable Force to control or restrain pupils.

(vii). Absolutely Necessary

The United Kingdom adopted the United Nations Convention on the Rights of the Child in 1991 and incorporated European human rights legislation into the legal framework. Schools have to consider the human rights implications of their policies. Sometimes staff are obliged to take actions which would in other circumstances be unreasonable or even illegal. In normal life people do not normally touch other people unless invited, interfere with their property, move them from place to place or restrict their movement. Yet for staff there may be times when such actions are reasonable and necessary. If a member of staff takes any action which could be seen as restricting the child’s human rights, for it to be legal it must be “absolutely necessary”.

There are times when those with a duty of care believe that they must take action to protect the interests of the child. If they fail to take action and, as a result, negligently allow a child to come to harm, they could be liable for any damage which ensues. When people are honest in their attempts to do the right thing they are said to be acting in “good faith”. Staff who act in good faith, in the best interests of those for whom they have a duty of care, deserve support.

(viii). Lawful Defences

Rather than focus on preventing staff from taking any action which could possibly result in accusations, which too often has resulted in staff not taking any action at all, we should focus on *lawful defence*. There are times when staff do need to take action, and failing to take action could itself lead to a charge of negligence. The focus should be on why it was necessary for a particular member of staff to take action in a particular circumstance. The best lawful defence is that it was necessary to protect the interests of the child. The clearest lawful justification is that the actions of staff are reasonable, proportionate and in the best interests of the young person. Under Human Rights legislation they should be “absolutely necessary”. The law also recognises that people make honest mistakes. A common law defence could be offered whenever a person acts reasonably in good faith.

(ix). Key Questions

It can help staff to maintain their focus on values and principles by keeping three questions in mind whenever they consider using force to control a child’s behaviour. It may be true that staff are legally empowered to use force to prevent injury, damage, the commission of

criminal offences or even to prevent serious disruption. However, rather than focus on the rights of staff it is better to focus on the rights and interests of the child. Staff should be able to answer the three key questions:

- **How was this intervention in the best interests of the child?**
- **Why was it absolutely necessary?**
- **How was it reasonable and proportionate?**

(x). Reasonable and Proportionate

Any response to extreme behaviour should be reasonable and proportionate. People should not react in anger. If they feel they are becoming angry they should consider withdrawing to allow someone else to deal with the situation. It is always unlawful to use force as a punishment. Where staff act in good faith, and their actions are reasonable and proportionate they will be supported.

When physical controls are considered staff should think about the answers to the following questions:

- Is this in the best interests of the pupil?
- Is a less intrusive intervention not preferable?
- Do we have to act now?
- Am I the best person to be doing this?
- Is this absolutely necessary?

If staff can answer these questions it is more likely that a physical intervention will be judged to be reasonable and proportionate. Whenever a physical intervention has to be made there should be a verbal warning. Where possible staff should always attempt to use diversion or defusion in preference to physical interventions. They should only use the techniques and methods approved for use in this school. In general if staff act in good faith, and their actions are reasonable and proportionate, they will be supported.

(xi). Unreasonable Use of Force

It is not reasonable to use force simply to enforce compliance in circumstances where there is no risk. Nor is it reasonable to use any more force than is necessary to achieve a reduction in risk. Under no circumstances should pain be deliberately inflicted or should pupils be deliberately subjected to undignified or humiliating treatment (this should not be confused with the unavoidable discomfort associated with some approved techniques for disengaging from assaults such as bites and grabs). Other than as a one-off emergency measure to protect health and safety, force should never be used to keep a pupil secluded. **Seclusion** is only lawful by specific court order in a licensed secure unit and cannot become part of a planned strategy at a school.

Public Interest Disclosure Act 1998

Whistle blowing is the mechanism by which staff can voice & report any behaviour by colleagues that raises concern, made in good faith, without fear of repercussion.

Health and Safety

If hazardous behaviour presents a significant risk of injury to people, there is a Health and Safety issue to be addressed. Hazardous behaviour should be regarded just as seriously as hazardous equipment. Dangerous occurrences should be reported to the person responsible for Health and Safety in the school/setting or service on behalf of the employer. Trade union safety representatives should also be informed. We all have a shared responsibility to identify risk, communicate potential risks and take active steps to reduce risk wherever possible. We

recognise that it is not possible to entirely remove risk. Sometimes things go wrong even when we make our best efforts to do the right thing. Sometimes we are faced with unpalatable choices. In these circumstances we have to try to think through the outcomes of the options available, balance the risks and choose whatever course of action seems to involve the least risk.

As a minimum requirement, in order to comply with Health and Safety legislation, each employee has a responsibility to ensure that they are conversant with school policy and guidance, and to cooperate to make the school safer. The DCSF advise that, as part of the induction process, the staff concerned are explicitly informed of their responsibilities in relation to the school policy on the Use of Force. Staff are also required to participate in suitable training if they are directed to do so, subject to a satisfactory health assessment. This does not necessarily mean that all staff can be involved in all the physical activities. The non physical aspects of positive handling training are crucially important too.

When considering a pupil's behaviour staff should think about the following questions:

- Can we anticipate a Health and Safety risk related to this pupil's behaviour?
- Have we got all the information we need to conduct a risk assessment?
- Have we produced a written plan as a result?
- What further steps can we take to prevent dangerous behaviour from developing?

(i). Risk Assessment

In addition to the *Formal risk assessments*, **Informal** risk assessments should be a routine part of life for staff working with pupils who may exhibit extreme behaviour. Responsible staff should think ahead to anticipate what might go wrong. If a proposed activity or course of action involves unacceptable risk the correct decision is to do something else.

Factors which might influence a more immediate risk assessment, and therefore a decision about how to intervene, might include the state of health and fitness of the staff member, their physical stature, competence, confidence, experience and relationships with the pupils concerned. Confidence and competence are often related to the level of staff training. Other than in an emergency, staff should only attempt physical controls when they are confident that such action will result in a reduction of risk. When faced by extreme behaviour, or even in a fight situation, the judgement may be that, by becoming physically involved, the member of staff will increase the chance of somebody getting hurt. In this case the correct decision is to hold back from physical controls. However this does not mean that staff can do nothing. There are a number of other things a person can do. They can make the environment safer, give clear directions to pupils, remove the audience and get help.

(ii). Positive Handling Plans

Risk management is an integral part of positive behaviour management planning. All pupils who have been identified as presenting a risk should have a Positive Handling Plan. The plan details the settings and situations which increase risk. It also details any strategies which have been found to be effective for that individual, along with any particular responses which are not recommended. If particular physical techniques have been found to be effective they should be named, along with alerts to any which have proved ineffective or which caused problems in the past. Positive Handling Plans should be considered alongside the Statement and any other planning documents which relate to the pupil. They should take account of age, sex, level of physical, emotional and intellectual development, special need and social context. Positive Handling Plans should result from multi-professional collaboration and be included in any Pastoral Support Plan or IEP.

(iii). Responding to Unforeseen Emergencies

Even the best planning systems cannot cover every eventuality and the school recognises that there are unforeseen or emergency situations in which staff have to think on their feet. Again the key principals are that any physical intervention should be:

- In the best interest of the child
- Reasonable and proportionate
- Intended to reduce risk
- The least intrusive and restrictive of those options which are likely to be effective
- Staff should avoid touching or restraining a pupil in a way that could be interpreted as sexual or inappropriate conduct

Training

Teachers and anyone authorised either permanently or temporarily by the Head Teacher who are expected to use planned physical techniques should be trained. All training courses should be fully accredited by the British Institute of Learning Disabilities (BILD) in accordance with guidance. Positive handling training should be provided by qualified instructors within rigorous guidelines.

Our preferred approach is for whole staff team training. The level of training recommended is related to the level of risk faced by the member of staff. Office staff may not require the same level of training in physical techniques as those working directly with the most challenging pupils. However, all staff benefit from whole school training. Where children and young people with challenging behaviour are supported across different settings, we consider it easier to provide coherent support if the staff involved are trained by the same training provider. The level of training required should be kept under review and may change in response to the needs of pupils. Once trained, staff may need to practise regularly under the guidance of instructors and bring any problems or concerns to them. Staff should not modify techniques without the express agreement of the Training Organisation. It is also recognised that staff may respond with a technique from outside their training framework. This does not automatically render the use of this technique improper, unacceptable or unlawful. Again it must be judged on whether it was reasonable, proportionate & necessary in those circumstances

Recording

Whenever overpowering force is used the incident **must** be recorded using the approved forms.

Any restraint should be recorded in a Bound Book, with numbered pages. All staff (where practicable) involved in an incident should contribute to the record which should be completed within 24hrs, read through the school recording form carefully, and take time to think about what actually happened and try to explain it clearly. Serious incident reports should not be completed until the individuals concerned have recovered from the immediate effects of the incident. They should not be rushed.

Names should be completed in full (including those of all witnesses) and all forms should be signed and dated. Bear in mind that these records will be retained and cannot be altered. They will be kept for many years and could form part of an investigation at some time in the future.

A concise record should be written into the Bound and Numbered Book, (see also Annex B Use of Force document) which can refer to supporting incident sheets and other relevant information. A copy of the current Positive Handling Policy and relevant sections of the Staff Practice Guide should be archived alongside the individual records each year, so that records can be considered in context in the future.

Monitoring and Evaluation

The Head Teacher should ensure that each incident is reviewed and instigate further action as required. The school incident log should be open to external monitoring and evaluation.

Positive Behaviour Management

The behaviour policy of schools should be intended to reward effort and application and encourage pupils to take responsibility for improving their own behaviour. Part of any preventative approach to risk reduction involves looking for early warning signs, communicating any factors which may influence behaviour and taking steps to divert behaviours which might lead towards foreseeable risk. Pupils should be encouraged to participate in the development of their own Positive Handling Plans by focusing on positive alternatives and choices.

(i). Alternatives to Physical Controls

A member of staff who chooses not to make a physical intervention can still take effective action to reduce risk. They can:

- Show care and concern by acknowledging unacceptable behaviour
- Request alternatives using negotiation and reason
- Give clear directions to the pupils to stop
- Remind them about rules and likely outcomes
- Remove an audience or take vulnerable pupils to a safer place
- Make the environment safer by moving furniture
- Make the environment safer by removing objects which could be used as weapons
- Use positive touch to guide or escort pupils to somewhere less pressured
- Ensure that colleagues know what is happening
- Get help

(ii). Modifications to the Environment

Ideally staff will not be waiting until a crisis is underway before conducting a risk assessment of the environment. We know that some pupils exhibit extreme and possibly dangerous behaviours. In general, it is a good rule to keep the environment clutter free. This may mean giving consideration to secure storage for a range of everyday objects when they are not being used. For example:

- What are the seating arrangements
- How is the availability of pointed implements controlled?
(*including pens, pencils, compasses etc*)
- What small items are available to be used as missiles?
- What objects are available to be used as blunt instruments?
- Do they all need to be left out all the time?
- Are there sharp edges or corners which present a risk?
- Are the design and arrangements of furniture safe
- Is the choice of furniture appropriate for pupils who exhibit extreme behaviour?
- Is there a comfortable and safe place to sit with an agitated pupil?
- Are protocols in place to encourage angry pupils to take themselves to a safer place?
- Is there somewhere safe for pupils to be taken?

(iii). Help Protocols

The expectation should be that all staff should support each other. In fact, they have a responsibility to do so. This means that staff always offer help and always accept it. Help does not always mean taking over. It may mean just staying around in case they are needed, getting somebody else, or looking after somebody else's group. Supporting a colleague does

not always mean agreeing with their actions and offering sympathy when things go wrong. Real support sometimes means acting as a critical friend to help colleagues become aware of possible alternative strategies. Good communication is necessary so that colleagues avoid confusion when help is offered and accepted. They need to agree scripts so that all parties understand what sort of assistance is required and what is available. When somebody offers help a member of staff should tell them clearly how they can help.

(iv). Well Chosen Words

A well chosen word can sometimes avert an escalating crisis. When pupils are becoming angry there is no point in getting into an argument. Repeatedly telling people to calm down can actually wind them up. Pointing out what people have already done wrong can make things even worse. The only purpose in communicating with an angry person is to prevent a further escalation. Sometimes it is better to say nothing. Take time to choose words carefully, rather than say the wrong thing and provoke a further escalation. The time to review what has happened and look at ways of putting things right, is after everyone has completely calmed down and recovered.

(v). The Principle of Last Resort

Staff/employees should only use physical restraint when there is no other realistic alternative. This does not mean that we always expect people to methodically work their way through a series of failing strategies before attempting an intervention in which they have some confidence. Nor does it mean always waiting until the danger is acute and imminent, by which time the prospect of safely managing it may be significantly reduced. It does mean that staff should conduct a risk assessment and choose the safest alternative available. This includes thinking creatively about any alternatives to physical intervention which may be effective. National guidance is clear on this point.

“If necessary, staff have the authority to take immediate action to prevent harm occurring even if the harm is expected to happen some time in the predicted future.”

Para 10 Page 4 Department of Health – 1997 – “The Control of Children in the Public Care: Interpretation of the Children Act 1989” - London: H M S O

(vi). Proactive Physical Interventions

It is sometimes reasonable to use physical controls to prevent extreme behaviour from becoming dangerous. If this is part of a planned response, it should be an agreed part of the Positive Handling Plan. Examples of proactive approaches might be where a pupil has shown ritual patterns of behaviour, which in the past have led to the child becoming more distressed and violent. In such circumstances it may be reasonable to withdraw the child to a safer place when the pattern of behaviour begins, rather than wait until the child is distressed and out of control. The paramount consideration is that any action is taken in the interest of the child and it that it reduces, rather than increases, risk.

The Post Incident Support Structure for Pupils and Staff/employees

Following a significant incident the school should offer support to all involved. People take time to recover from a serious incident. Until the incident has subsided, the priority is to reduce risk and calm the situation down. Staff should avoid saying or doing anything which could inflame the situation during the recovery phase. Immediate action should be taken to ensure medical help is sought if there are any injuries which require more than basic first aid. All injuries should be reported and recorded using the school systems.

It is important to note that an injury in itself is not evidence of malpractice. Even when staff attempt to do everything right things can go wrong. Part of the post incident support for staff

may involve reminding them of this, as people tend to blame themselves when things go wrong.

Time needs to be found to repair relationships. When careful steps are taken to repair relationships a serious incident does not necessarily result in long term damage. This is an opportunity for learning for all concerned. Time needs to be given to following up incidents so that pupils have an opportunity to express their feelings, suggest alternative courses of action for the future and appreciate the perspective of others. When time and effort are put into a post incident support structure the outcome of a serious incident can be learning, growth and strengthened relationships.

Complaints

Parents and pupils have a right to complain about actions taken by school staff/employees. It is not uncommon for pupils to make allegations of inappropriate or excessive use of force following an incident. The school should have a formal complaints procedure. Pupils should be reminded of the procedure and encouraged to use the appropriate channels. The complaints policy applies equally to staff/employees. Schools should be open and promote transparent policy and practice in order to protect the interests of pupils, staff/employees .Schools need to follow the guidance set out in *Safeguarding Children & Safer Recruitment in Education*. Any staff/employee concerns regarding the welfare of children should be taken to the designated person for Child Protection. Any safety concerns should be reported to the designated person for Health and Safety.

Follow Up

Following an incident, consideration may be given to conducting a further risk assessment, reviewing the Positive Handling Plan, behaviour management policy or the positive handling policy of the school. Any further action in relation to a member of staff/employee, or an individual pupil, will follow the appropriate procedures.

From September 2008

It is the Policy of Oxfordshire Local Authority that only BILD accredited Training Organisations should be used. To create consistency, the recommended companies include:

P.R.I.C.E	BILD Accredited
Team – Teach	BILD Accredited. UK Skills Award for training 2006

These Companies can provide a range of Behaviour Management programmes suitable within a range of settings. P.R.I.C.E are already established within a range of specialist settings and some mainstream schools. Team-Teach is established in some mainstream schools, PRUs and the Behaviour Support Service

Other BILD accredited courses may be considered as well, but it is suggested that whoever commissions it discusses this with the Local Authority in the first instance.

For further details and signposting contact: Peter Wild - Strategic Lead, Inclusion, Access & Engagement