



# Care and Control Policy

Executive Principal:

Clare Hoods-Truman

Date of agreement:

July 2023

Date of Review:

July 2024

## CARE AND CONTROL POLICY

(Incorporating Physical Intervention, Positive Touch, Physical Contact and Restraint)

### **Introduction**

This policy has been prepared after staff discussion(s) on 4th September 2017 and was adopted by the Governing Body on 25th September 2017.

The responsible person for the implementation of the policy is the Executive Principal and Head of school. The policy will be reviewed on July 2023/24 by the Head of School and members of the ALT.

The policy takes cognisance of relevant legislation, regulations and guidance including the most recent examples from the Department for Education, Department of Health and the Health and Safety Executive. For young people over the age of 16 years, the Mental Capacity Act must also be considered.

The policy has been prepared to support all staff who will come into contact with children and for volunteers/workplace students working within the school to explain the school's arrangements for care and control. The purpose is to give staff the confidence to act in the best interests of the child. This policy should be made available to parents and pupils upon request. Within this policy there will be references to the most current government guidance and legislation and it includes a glossary for reference.

### **Duty of Care:**

All staff have a duty of care towards the children and young people they look after, their colleagues and others, under Health and Safety Legislation. They have a responsibility to familiarise themselves with policies and risk assessments and participate in necessary training. They should look out for obvious hazards and reduce foreseeable risks wherever possible.

The Children Act 1989 makes clear that in any decision involving a child the paramount consideration must be the child's welfare. Paramount means it should be the first thing people think about and it should take precedence over all other considerations. For that reason, staff need to carefully consider what is in the best interest of the child, both in the short term and the longer term.

In exceptional circumstances, staff may need to act in the best interest of the child and the use of reasonable force may be required to achieve this. Oasis Blakenhale acknowledges that physical interventions which use varying degrees of reasonable force are only a small part of a whole setting approach to behaviour management.

Every effort will be made to ensure that all staff in this school/setting:

- (i) Understand their responsibilities in the context of their duty of care
- (ii) Understand that the paramount consideration is the welfare of the individual child
- (iii) Understand that 'reasonable' force means that it is necessary and proportionate
- (iv) Are provided with appropriate training to manage risk and this training is maintained at an appropriate level.

#### **Legal Justification:**

The Education and Inspections Act 2006 gives examples of the types of circumstances in which use of reasonable force may be legally defensible.

- Self – injuring
- Causing injury to other children, staff, parents, and visitors.
- Causing significant damage to property.

The paramount consideration is for staff to work in the best interests of the child. Reasonable force will only be used when no other effective alternatives are available.

#### **Identifying hazards and making risk assessments:**

It is essential to make risk assessments when considering the use of reasonable force. Staff should balance the risk of taking action against the risk of not acting. The Health and Safety Executive (HSE) has developed a 5-step approach to risk assessment. This can easily be applied to situations where staff need to plan whether to use de-escalation or physical contact.

1. Look for hazards.
2. Decide who might be harmed and how
3. Evaluate the risk and decide on the necessary and proportionate action.
4. Record your findings.
5. Review and revise if necessary.

It is not always possible to predict all risks relating to a specific behaviour of a child. When an unforeseeable risk presents itself a "dynamic risk assessment" can be undertaken. This means that staff do a mental risk assessment and then act in the best interests of the child. Once a risk has been identified, or if the risk is already known, then a planned risk assessment needs to be put in writing. If physical touch or restraint is required, a Positive Handling Plan or Restraint Reduction Plan can be recorded by staff who work closely with

the child, using their knowledge of the child's behaviour and the environment they are working in.

The Health and Safety Executive is keen to stress that risk assessment is a simple process. They should focus on the most likely and serious risks. Formal risk assessments should be clear and concise so that staff can recall useful information. Information should be explicit and honest. Parents need to be informed and involved with this process as they need to be notified of why and how reasonable force is being used in the best interests of their child. Where possible the child's views should be sought and included in the risk assessment.

Assistance can be sought from other members of staff to help reduce the risk. Physical intervention is seen as a proactive response to meet individual pupil needs and any such measures will be most effective in the context of the overall ethos of the school, the way that staff work together as a team, share their responsibilities and the holistic behaviour management strategies that are used.

### **1. Physical Contact**

There are a range of circumstances in which positive physical contact occurs between staff and pupils to support equal opportunities to access to a broad and balanced curriculum such as using PE equipment. Examples of physical contact covers a wide range of positive physical interactions ranging from light touch to firm pressure. Physical contact is necessary to provide provision of care, give comfort, and convey communication, reassurance, and safety. Physical contact should be considered "positive and part of the adult role-modelling what good touch or contact is. The purpose of any physical contact should be to meet the needs of the child. Where children have special needs, their individual requirements should be detailed in an individual behaviour management plan.

**Staff will only 'touch' a child only if completely needed. Circumstances when this is needed could be the following.**

- Supporting in first aid.
- Supporting in a gymnastics routine or sporting technique.
- Comforting a younger child if they're in distress.
- Protecting another child/adult in case of harming themselves or others.

### **2. Physical Intervention**

There needs to be a gradual and graded approach from staff when considering the use of reasonable force. Examples of low-risk physical interventions could be guiding or escorting a child to a safer place. Medium to high-risk physical intervention could be separating a fight or using a standing or seated restraint.

### 3. Restraint

Restraint involves the restriction of freedom and movement in circumstances in which the child is resisting. It is reasonable to use proportionate force when there is a significant risk to children, staff, or property. It should be used as a last resort when no effective alternatives are available. All incidents involving restraint must be recorded and reported. The level of force and/or positive handling techniques used towards the child determines whether it is classified as restraint.

### 4. Positive Handling:

- Positive handling uses the minimum degree of force for the shortest period necessary to achieve the desired result.
- The scale and nature of any physical intervention must be **proportionate** to both the behaviour of the individual and the nature of the harm they might cause.
- Positive handling techniques are intended to ensure the safety and wellbeing of the child, maintain dignity for both adult and child and allow for communication. Consideration must be made to clarify the distinction between:

**Seclusion:** the term used where a child is forced to spend time alone against their will in a locked room or restricted space which they cannot leave. Staff are advised to follow guidance on the use of seclusion. Seclusion of a child should only be considered as an emergency response and where it is in the best interests of the child. Staff working with young people aged 16 years and older should consider an application to the Court of Protection under the Mental Capacity Act if they believe that planned use of seclusion may be required in the future.

**Time out:** this term is used informally to mean a cooling off period, giving space to calm down and reflect.

**Withdrawal:** this term is used when removing the person from a situation which causes anxiety or distress to a location where they can be continuously observed and supported until they are ready to resume their usual activities

### Staff Training and Authorised staff

The provisions of the Education and Inspection Act 2006 apply by default to all school staff who are authorised to have care and control of children. The Executive Principal is responsible for making clear to whom such authorisation has been given. The Executive Principal must consider the training needs for all staff and then retain a list of all staff that have been trained and when the training needs to be refreshed. This list is reviewed within a regular timeframe and consideration given to new members of staff and to volunteers/students/supply staff.

Training for all staff will be made available and will be the responsibility of the Executive Principal. Training needs should be assessed in relation to foreseeable risks. Training that contains physical interventions should have the British Institute of Learning Disabilities (BILD) accreditation. Birmingham Local Authority's preferred model of training is Team Teach.

### **Reporting and Recording**

Whenever a physical intervention has been used a record of the incident needs to be kept. If the physical intervention does not involve restraint, it needs only to be recorded on the child's risk assessment e.g. guiding. If a restraint has been administered, then the incident needs to be recorded on CPOMS. If staff do not agree on details of an incident, they should write separate reports. The aim is to promote clear, accurate and useful records.

Records should normally be completed within 24 hours, but the welfare of those involved takes precedence over paperwork. If this is not possible the Executive Principal needs to be informed as soon as possible with the reason for the delay. Records should be kept for at least 25 years. After the review of the incident, a copy of the details will be placed on the pupil's file and recorded on CPOMS. Parents/carers of the child need to be informed following the use of reasonable force. A record of this communication should be kept on CPOMS.

A Health and Safety Accident/Incident Form will be completed and returned to the Authority in situations where injury has occurred to either members of staff or pupils. Where staff have been involved in an incident, they should be given time to recover and have access to support such as counselling and debriefing. This will then have to be recorded on the new Handsam system.

### **Support for staff and children after an incident**

The Executive Principal will ensure that each incident is reviewed and take action as necessary, such as:

- Reviewing the child's risk assessment.
- Reviewing curriculum access.
- Reviewing staffing levels.
- Considering the Involvement of outside agencies
- Reviewing provision.

**Remember, the priority after a significant incident is to look after the people involved.**

## **Listening and Learning**

Incidents provide opportunities for teaching and learning. Staff should explain the reasons for any use of reasonable force according to the level of understanding of the child. They should clearly distinguish between restraint, which is designed to keep people safe, and sanctions or consequences. Staff should reinforce simple messages:

- We hold children to keep them safe from harm.
- We hold children to prevent them doing something they will regret.
- We care about children too much to let them be out of control.

## **Complaints:**

The availability of an accessible policy about reasonable force and early involvement of parents should reduce the likelihood of complaints but may not eliminate them.

All allegations will be investigated thoroughly. However, **it is the responsibility of the person making the allegation/complaint to prove any inappropriate actions by the staff member.**

The authors of this policy are:

Steve Brown: Birmingham Local Authority Care and Control Co-ordinator (Senior Team Teach Tutor).

Bernard Allen: Principal Team Teach Tutor and member of the society of expert court witnesses. December 2014

PH has adapted this policy in line with OABI/J policies and procedures. June 2020.

**Glossary:**

**Child:** In this policy the legal definition of “child” to mean a person up to and including the age of 18 years. However, staff should be aware that the provisions of the Mental Capacity Act come into effect from the age of 16 years.

**Risk assessment:** Risk assessments consist of a simple process rather than elaborate paperwork. It is a process to determine a level of risk. Once a risk has been observed, staff need to make a formal plan to reduce it. Dynamic risk assessments allow staff to consider the risk in real time that requires an urgent response in the best interests of the child.

**Guides or prompts:** The use of assertive touch to move or direct a child usually in a low risk situation.

## Reference:

Allen, B. (2012) The Legal Framework for Restraint. Steaming Publishing.

Allen, B. (2012) Risk Assessment for Behaviour. Steaming Publishing.

BILD (2006) Guidance on the Use of Seclusion.

DFES/DOH (2002) Guidance on the use of restrictive physical interventions for staff working with Children who display Extreme Behaviour in Association with Learning

Disability and/or Autistic Spectrum Disorders Reference.

DFE (July 2012) Use of Reasonable Force.

HSE (2007) 5 Steps to Risk Assessment. Health and Safety Executive.

The Children’s Act 1989

[http://www.opsi.gov.uk/acts/acts1989/Ukpga\\_19890041\\_en\\_1.htm](http://www.opsi.gov.uk/acts/acts1989/Ukpga_19890041_en_1.htm)

The Education and Inspections Act (2006) Section 93.