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## **Positive Behaviour Management – Legal Framework and Procedures**

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This policy has been drawn up with reference to the following documents:

- A policy framework to guide the use of physical interventions (restraint) with adults and children with learning disability and/or autism – Harris et al 1997.
- Legal issues arising from the care, control and safety of children with learning disabilities who also present severe challenging behaviour – Prof. C. Lyon - Mental Health Foundation 1994.
- Norfolk Steps materials.
- DfE circular 10/98 – The use of force to control or restrain pupils.
- The Wherry School Pastoral policy.

### **It is intended that this policy will:**

- protect all pupils from hurting or endangering themselves, others or property;
- protect all pupils against any form of physical intervention which is unnecessary, inappropriate, excessive or unlawful;
- assist staff in managing challenging behaviour in pupils and maintaining a positive school environment;
- minimise the risk of any accusation of improper conduct towards a pupil by any member of staff.

### **At The Wherry School we aim to:**

- foster each child's intellectual, physical, aesthetic, spiritual, emotional, moral and social development to the maximum so that individuals may realise their full potential;
- help pupils to develop perspective, spiritual and moral values, and an understanding and tolerance of the religions and beliefs of others;
- help pupils to understand the world in which they live and the interdependence of individuals, groups and nations;
- give each pupil spiritual and moral guidance;
- develop a sense of tolerance and understanding of others with respect to race, ethnicity, religion, creed or gender;
- keep parents regularly informed about their child's progress or problems within the school setting;
- ensure that whatever class or group structure is used in the school, each individual child's special educational needs are being met.

### **Rights and entitlements of pupils**

At The Wherry School we believe all pupils have the right to:

- feel valued by staff;
- experience a teaching and learning environment which is supportive and where pupils' efforts are encouraged;
- feel safe in an environment which caters for physical, emotional, social and spiritual needs through a differentiated approach to learning;



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- a school which recognises individual rights and responsibilities and attempts to establish a culture where respect for others is important and encouraged;
- express their feelings in an open, honest and polite way.

### Acceptable Standards of behaviour

The school will promote and reinforce all acceptable behaviour. The positive aspects of praise and reward are recognised by all staff, included in behaviour management programmes and used appropriately on a daily basis. (See Pastoral Policy).

### The Legal Position (The Education Act 1996 & Circular 10/98)

The law allows teachers and other staff authorised by the Principal to have control or charge of pupils to use such force as is reasonable to prevent a pupil from doing or continuing to do any of the following:

1. Committing a criminal offence (including behaving in a way that would be an offence if the pupil were not under the age of criminal responsibility).
2. Injuring themselves or others.
3. Causing damage to property (including the pupil's own property).
4. Engaging in any behaviour prejudicial to maintaining good order and discipline at the school or among any of its pupils, whether that behaviour occurs in a classroom during a teaching session or elsewhere.

The Act allows all teachers or other authorised personnel at a school to use **reasonable force** to control or restrain pupils. However, restraint should only be used when every other approach has been tried and all practical methods to de-escalate the situation, including retreat, have been employed.

There are a wide variety of situations in which reasonable force might be appropriate, or necessary, to control or restrain a pupil, which fall into three broad categories:-

1. Where action is necessary in self-defence or because there is an imminent risk of injury.
2. Where there is a developing risk of injury, or significant damage to property.
3. Where a pupil is behaving in such a way that is prejudicing the running of the class or school good order and discipline.

For instance:

- a pupil attacks a member of staff, or another pupil;
- pupils are fighting;
- a pupil is engaged in, or is on the verge of committing, deliberate damage or vandalism to property;
- a pupil is causing, or at risk of causing, injury or damage by accident, rough play, or by misuse of dangerous materials or objects;
- a pupil is running in a corridor or on a stairway in a way which s/he might have or cause an accident likely to injure him/herself or others;



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- a pupil absconds from a class or tries to leave school (N.B. this will only apply if a pupil could be at risk if not kept in the classroom or at school);
- A pupil persistently refuses to obey an order to leave a classroom;
- a pupil is behaving in such a way that they are prejudicing good order.

Although there is no legal definition of 'reasonable force' there are certain considerations:

- Where force is used it must always be done in a manner that attempts to reduce rather than provoke a further aggressive reaction.
- The number of staff involved should be the minimum necessary to restrain the pupil, while minimising injury to all concerned.
- The more serious the danger the greater the degree of force which may be used to avoid such danger.
- The force used must be the minimum necessary to deal with the harm that needs to be prevented, i.e. it must be reasonable in the circumstances.
- Whether it is reasonable to use force, and the degree of force used, must be in relation to the age, understanding and sex of the pupil.

Provided staff have acted in a professional, considered and informed manner, that school guide-lines and behaviour management procedures/programmes for the pupils have been followed, and that these actions can be seen to be in the best interest of the pupil, the Head Teacher and Governors will support such actions. Where a member of staff clearly over-reacts and the use of force is unreasonable or excessive, they may leave themselves open to disciplinary, civil or criminal proceedings.

In all cases where physical restraint is used a report must be made of the incident to show that:

- a real danger was perceived by the staff involved;
- means other than force were attempted or found to be adequate;
- when force was used it was the minimum necessary to remove the danger.

### **Absolute Prohibitions**

- Corporal punishment or the threat of it.  
Any act, or the threat of an act, such as holding a pupil around the neck, collar or other way that might restrict breathing, hitting, kicking, slapping, punching, biting, twisting or forcing limbs against joints, holding a pupil face down on the ground etc., which causes or threatens harm or the expectation of harm to a pupil is strictly forbidden and constitutes gross misconduct. Staff engaging in such behaviour render themselves liable to disciplinary action and the possibility of prosecution.
- Indecently touching or holding a pupil.  
This includes holding or pulling a pupil by the hair or ear.
- No pupil is to be locked in a room at any time.



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It may be necessary at times for reasons of a pupil's own safety or the safety of others or to prevent damage to property, to restrict a pupil's movement within the school.

- Deprivation of food or drink.  
No pupil is to be deprived of full access to the amounts of food and drink normally available to other pupils in the school, nor to be forced to eat food which s/he dislikes. There is, however, no objection to encouraging a pupil in the normal course of care to try a wide range of foods.
- Deprivation of sleep
- Deprivation of medication or dental care.  
The withholding of medication or medical or dental care as a means of punishment or control is totally forbidden.
- Requiring the wearing of distinctive or inappropriate clothing.  
No pupil is to be required to wear any clothing, footwear, badges or other mark intended to indicate or act as punishment or, any clothing or footwear inappropriate to the time of day or year and the type of activity being undertaken.
- Fines.  
The imposition and/or collection of fines for misbehaviour is not permitted. However, it is permissible to require a pupil to make reparation for damage done or to replace stolen items.
- Intimate physical searches are absolutely forbidden.

However, a pupil may be searched by staff in order to recover items presenting physical damage to the child or others. Another member of staff would be present at this time to witness the search.

### Appropriate management of unacceptable behaviour

The majority of unacceptable behaviour will be dealt with by the adult responsible for the pupil(s) at the time. There are a range of intervention strategies used within The Wherry School and the method selected will be dependent on, and in keeping with, the circumstances at the time including the age and level of understanding of the pupil and the potential risks involved. Clear verbal instructions and warnings of the consequences of ignoring them will precede any intervention.

Reprimands are generally sufficient but sometimes it will be necessary to exert sanctions and occasionally controls. In all cases it is fundamental that the intervention is accomplished in such a manner that respect for the individual is maintained. **It is the behaviour which is unacceptable not the pupil.**

Physical restraint using Norfolk Steps techniques will only be used by trained staff when all other interventions have failed or where the pupil is at risk of harming his/herself, other pupils, staff or seriously damaging property.



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(For further information on the use of reprimands and sanctions see Appendix I)

### Controls

On rare occasions it may be necessary to exercise control over a pupil. The concept of control involves insuring that pupils with a high level of personal stress, a dangerous lack of self-control, and a furious desire to challenge and threaten, are diverted from harming themselves, others, and seriously damaging property or are protected from the likelihood of them doing so.

Control must only be used

- when a pupil is injuring him/herself, others and/or seriously damaging property, or
- where a pupil is in potential danger of injuring him/herself, others and/or seriously damaging property.

In these situations staff should (in order of priority):

- (a) give clear verbal instructions and warning of consequences,
- (b) maintain close supervision until the threat of departure has passed,
- (c) use permitted forms of physical action – obstructing, holding or, as a last resort, restraint.

**Obstructing** – a member of staff may use his/her physical presence to obstruct an exit creating an opportunity to express concern and remonstrate with a pupil and reinforce an instruction. However, obstructing must be discontinued if the pupil physically challenges it (when a decision will have to be made as to whether some other form of permitted intervention is justified.)

**Holding** – this should involve no more than a hand placed on an arm or shoulder or leading a pupil by one or both hands and/or possibly the flat of one hand placed against a pupil's back in order to guide him/her to some other place or activity. Holding is distinguished from 'physical restraint' by the manner and degree of force applied.

Holding is intended to discourage.

Physical restraint is intended to prevent.

In all situations where it is necessary to exercise control staff must be aware that it is not a personal failure to ask for support and assistance. Where this is not available, however, the immediate situation must be dealt with in a professional and responsible manner particularly when there is a risk to other pupils in the class.

### Physical Restraint

Physical restraint is the intentional use of force to restrict the movement of a pupil, usually against his/her will. The use of restraint to control an assault, prevent the destruction of



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property or to minimise injuries is not intended to reduce a behaviour difficulty and should not be confused with an intervention programme. **It is a procedure for establishing control over an unsafe crisis situation and used as a last resort when other preventative methods have failed.**

Physical restraint must only be used

- rarely;
- as a last resort;
- where any other course of action would be likely to fail;
- when staff have good grounds for believing that immediate action is necessary;
- when all other courses of action with regard to control, have been tried or the situation has developed so rapidly and to a degree that restraint has to be employed as the only justifiable response.

Physical restraint must never be used to

- punish;
- cause or threaten hurt;
- oppress, threaten, intimidate or bully.

All staff at The Wherry will follow the basic principles of the Norfolk Steps approach

- Physical restraint will only be used as a last resort after de-escalation and other behavioural management techniques have been tried.
- Physical restraint will never be used as a form of punishment.
- Where possible the pupil will be given a clear warning giving him/her the opportunity to calm down.
- There will be at least two members of staff available in any situation requiring the use of physical restraint. This is for the protection of both staff and the pupil involved. If necessary, additional support should be sent for.
- A pupil will be held with the minimum force necessary and for the shortest possible period.
- Staff involved will remain professional and composed. The pupil's behaviour will not be taken personally. Verbal abuse will be ignored and the adult will use a calm, deliberate and conciliatory tone of voice. Positive feedback will be given as soon as possible to the pupil.
- Staff response will be commensurate with the situation, task and the individual involved.
- The members of staff involved will continue to communicate with the pupil offering reassurance that s/he will not be hurt and that help will be given to carry on with normal activities when s/he is calm.
- Having assessed the situation and judging that physical intervention is necessary staff will act quickly, smoothly and confidently.
- The incident will be recorded as soon as possible after the event on a Restrictive Physical Intervention Form (Appendix II). On completion a copy will be handed to the class teacher.
- All staff will receive Norfolk Steps training with regular update training at designated times throughout the year. In addition, class teachers or Classroom Assistants may request pupil specific Norfolk Steps training to ensure their management of specific behaviours is consistent and appropriate for the pupil it is intended. When the school



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opens no staff will have received the more advanced 'Step Up' training or beyond but this will be reviewed in September 2017.

**(For further information and guidance speak to any member of the Senior Leadership Team or the Norfolk Steps trainer)**

It is essential that staff are always aware of how behaviours which might be seen as justifying the use of physical restraint can be prevented. Prevention involves foreseeing the possibility of challenging behaviours and taking action to reduce the likelihood that they will occur. By analysing individual behaviours, environmental and setting conditions and triggers it is possible to establish planned procedures which staff should adopt when responding to each individual. The development of planned responses to violent and aggressive behaviour in individuals means that ad hoc strategies will not be used and this will minimise the risk of injury to both pupil and staff.

Any pupil whose behaviour follows a pattern, which may or may not require restraint at any time, should have a specific behaviour management programme identifying the strategies to be used.

Parents will be involved in discussions about their child's behaviour. A behaviour management programme will be reviewed at least once every six months.

If a programme involving the use of physical restraint is required for any pupil this will be reviewed at least termly and always:

- if the incidence of restraint procedures increases beyond the baseline standard;
- if there is injury to the pupil or staff;
- if there is any indication that procedures are not being followed in the agreed manner;
- if a new behaviour emerges which may also require the use of physical restraint.

**It is recognised that pupils with learning difficulties are at a significantly greater risk of experiencing a wide range of medical complications. There are a number of medical conditions which increase the risk of serious injury if physical restraint is used. It is therefore essential that medical advice is sought before any intervention is agreed if a pupil has:**

- a history of heart disease or heart problems;
- difficulty in breathing;
- a history of respiratory illness;
- problems with digesting food;
- gastro-intestinal conditions;
- recent fractures;
- a history of dislocated joints;
- Down's syndrome.



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Similarly if there are concerns about a pupil's health after physical restraint has been used medical help should be sought immediately.

### **Recording / Monitoring of Physical Restraint**

After each incident involving physical restraint a serious incident form must be completed on behaviour watch by the members of staff involved then printed and handed to the Principal or, in their absence, a member of the senior leadership team. Please see Appendix II for a copy of the Restrictive Physical Intervention Form to see what is recorded. Where an injury has occurred the appropriate accident to pupil form or accident to employee form should be completed. Accurate recording is essential to provide a permanent record of the event surrounding the use of physical restraint. This will:

- help to prevent inappropriate use of physical restraint with pupils;
- provide protection for staff who may be required to give a detailed account of their actions;
- assist in monitoring the implementation of the policy and the use of agreed procedures;
- indicate the need for management action in response to the use of unplanned or emergency physical restraint;
- form part of the risk assessment procedure.

Incidents involving the use of force can cause parents of the pupil involved great concern. Parents will always be informed if their child has been involved in an incident requiring physical restraint and given the opportunity to discuss it.

Data on incidents involving physical restraint will be reported to Trustees/Governors on a regular basis.

### **Complaints**

Involving parents when an incident occurs with their child, plus the fact that the school has a clear policy with regards to managing aggressive and violent behaviour, should help to avoid complaints from parents. It will not prevent all complaints, however, and a dispute about the use of force by a member of staff might lead to an investigation, either under disciplinary procedures or by the Police and Social Services Department under child protection procedures.

In these circumstances it will be for the disciplinary panel or the court to decide whether the use and degree of force was reasonable in all the circumstances. In that event, however, the panel or court would take into account the schools policy on restraint, whether that had been followed, and the need to prevent injury, damage, or disruption in considering all the circumstances of the case.

### **Physical Contact with pupils in other circumstances**



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There are many occasions when physical contact with a pupil is positive and in no way seeks to establish authority over a child. For instance, some physical contact may be necessary to demonstrate exercises or techniques, for instance, during PE or CDT lessons, when First Aid is being administered, when physical prompts are being given to support a pupil with particular special needs. In addition touching may be appropriate when a pupil is in distress and needs comforting. Staff will use their professional judgement when they feel a pupil needs this kind of support.

In addition, all staff should be aware of the following guidance:-

- Some pupils require assistance with personal hygiene and female staff may have to assist male pupils. However, male staff will under no circumstance assist female pupils.
  - Intimate medical procedures, for instance, the administration of rectal diazepam will only be carried out by specifically trained personnel.
  - A number of the pupils with whom we work have experienced sexual and/or physical abuse. Staff need to ensure that any physical contact is not misinterpreted.
  - If at any time a pupil demonstrates verbally or otherwise that s/he is not comfortable with physical contact, staff should respond immediately by ceasing.
  - Pupils from different cultural backgrounds may be particularly sensitive to physical contact.
  - Physical contact with pupils becomes increasingly open to question as pupils reach and go through adolescence. Staff should be aware that even innocent and well-intentioned physical contact can sometimes be misconstrued.
  - Where a member of staff feels that it would be inappropriate to respond to a pupil seeking physical comfort, the reasons for denying this should be explained. The pupil should be comforted verbally as necessary.
  - Physical contact should not be in response to, or be intended to, arouse sexual expectations or feelings.
  - Pupils should be counselled with regards to socially appropriate/inappropriate times/places/situations to seek physical comfort.
1. It is recognised that at times children will need to be comforted or reassured with a 'hug'. Staff should always adopt a safe way of hugging a child by:-
    - (i) do the hug in public or with other people around. (Never hug in private)
    - (ii) use a side to side stance and hug the child's shoulders. (A Wherry hug.)
  2. Although holding a child's hand is not a risk in itself there are potential risk factors. If a child pulls away or falls there could be damage to the small bones in the hand. Therefore, we expect all staff to use the approved Norfolk Steps guiding method of their hand around and resting on the staff members arm.

If staff have any questions regarding physical contact or methods of hugging or guiding they should seek advice from the Principal, Vice Principal or any other member of the Senior Leadership Team.



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### **Support for students following an incident**

Following an incident that requires physical restraint a debrief will be conducted with the child at the earliest and most suitable time with a third party present. The child's comments during the meeting will be recorded on the incident form and kept on file.

### **Support for staff following an incident**

Employers have a statutory responsibility to protect the health and safety of members of staff. In school this includes evaluating and minimising the level of risk involved in the management of pupils who exhibit challenging behaviour which may result in personal injury or high levels of stress.

It is recognised that each individual reacts differently to incidents of violence and aggression. Feelings of fear, anger, shame, inadequacy or violation are normal and healthy. Following an incident:

- Anyone suffering from shock or injury will receive medical attention as soon as possible.
- The Principal or another member of the senior leadership team will offer immediate support to the members of staff involved, providing an opportunity to talk through the events and feelings experienced. Feelings of anger, fear, distress are not seen as a sign of failure or professional shortcoming.
- Following completion of an incident form staff are encouraged to review the intervention procedures, to identify areas where further training might be needed or where behaviour management programmes need to be modified.
- Whenever it is suspected a member of staff is experiencing stress as a consequence of being involved in physical restraint, s/he will be encouraged to seek counselling from the Norfolk Helpline to which the school has subscribed for all teachers and classroom assistants.

It is recognised that the effects of aggression and violence may appear as delayed response and members of the senior management team are available to discuss issues relating to physical restraint at any time following an incident.

### **Evaluation**

This policy will be reviewed by the Vice Principal, who will ensure that the policy is up to date and relevant to current practice. In addition they will check that it reflects current legislation.

### **Appendix I – Reprimands and Sanctions**

Reprimands are only effective if used sparingly and quiet and private reprimands are often more effective than loud, public interventions. Frequent use becomes nagging and repeated



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use of reprimands for recurring behaviour without moving to sanctions is ineffective. For a reprimand to be effective staff should ensure that:

- It is correctly targeted – the pupil reprimanded should be the one who instigated or engaged in the inappropriate behaviour.
- The behaviour is criticised and not the pupil.
- It is clear, firm and assertive, avoiding any suggestion of pleading for co-operation;
- The adult treats the pupil with respect.
- The reprimand is applied consistently in all situations to all pupils.
- The reprimand is accompanied by additional non-verbal cues to increase the impact and ensure understanding.
- Idle threats are not used. If a reprimand embodies an implied threat it must be carried out. If it cannot be carried out it should not be made.
- Collusion is not used in order to overcome the situation in the short term e.g. ‘I know that was a bit unfair but do it for me ..... you and I don’t have a problem do we?’.

**Sanctions** may be necessary when a reprimand is ineffective or the unacceptable behaviour is of a more serious nature. The appropriate use of sanctions can deter disruptive behaviour, provide pupils with clear boundaries regarding what is and is not acceptable behaviour and enable pupils to acquire their own value boundaries. The inappropriate use of sanctions will either have no effect or actually encourage the pupil to behave in an unacceptable manner. Sanctions should:

- be planned and their possible consequences thought through;
- be delivered in a calm manner and not in a fit of temper;
- always be used in a consistent and predictable manner;
- if appropriate ‘fit the misdemeanour’ – it should be designed to allow the pupil to make reparation for the harm s/he may have done;
- be aimed at the unacceptable behaviour, not the pupil.

Where a sanction is to be used it should always be delivered as soon as possible after the behaviour it is intended to discourage.

### Appendix II – Copy of Restrictive Physical Intervention Form

<b>Name of pupil:</b>	<b>Date:</b>
	<b>Time:</b>
	<b>Location:</b>



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Name(s) of staff carrying out the restraint:	
Name(s) of other staff present:	
Name(s) of other pupils involved:	
Restraint used: Duration of restraint:	
If restraint is longer than 2 minutes, Name of Senior staff informed:	
Describe the behaviour which required the restraint:	
Describe the restraint used (please give full details):	
What were the outcomes: How effective was the restraint? What were the consequences?	
What were the pupil's reactions or views of the restraint used?	
Staff member not involved in the incident checking if there is injury to pupil. NAME:	
Did injury occur during this incident? YES <input type="checkbox"/> NO <input type="checkbox"/>	
If YES, tick that accident report has been written <input type="checkbox"/> NAME:	
Debrief offered by:	Further actions identified:
Signed: _____ Print name: _____ Date: _____	
Seen by (initial): Class Teacher: _____ Principal/Member of SLT: _____	