



Nottinghamshire
County Council

Keeping classrooms safe for learning and teaching

Physical Intervention Policy



Foreword

In 1999, the County Council issued guidance on physical intervention between staff and pupils contained within the Children's Behaviour in Schools file. The document was written in response to several pieces of emerging legislation and guidance, namely section 550a of the Education Act 1996 and Circular 10/98.

Since the drafting of this early statute much of the law and its guidance has developed, as has the practice of staff in schools and the support offered by Nottinghamshire County Council and its partners.

This new document replaces the 1999 guidance and contains within it; an upto-date legal framework, sample of a school policy, risk assessment proforma, advice on methods of reporting and recording significant incidents, and information about training opportunities.

The County Council recognises that at times the behaviour presented by some children and young people can be challenging to the professionalism of teaching, non-teaching and support staff. School staff can be faced with difficult and sensitive situations which, if handled well, can be a positive reinforcement of good behaviour and build trust and respect.

In light of previous guidance and concerns held by school staff the County Council appointed a specialist to advise schools and members of the Children and Young People's Trust on specific issues involving physical interventions and the use of reasonable force.

The policy arising from this specialist advice supports the position of professional bodies and recognised trade unions and confirms that the 'use of reasonable force' can be exercised by members of staff in discharging their duty of care.

The County Council's commitment to head teachers, managers and staff is clear. We will work to provide the safest environments possible; we will support and enable you to reduce risk, violence and aggression in your place of work and we will provide you with training, guidance and advice to keep you safe.

The County Council's commitment to children and young people is just as clear; we want Nottinghamshire to be a place for everyone to enjoy a good quality of life, realise their potential and for our children to be safe and happy.

Councillor Philip Owen
Cabinet Member for Children and Young People's Services



Contents

Inside Front Cover - Forward by Councillor Philip Owen
Cabinet Member for Children and Young People's Services

- 2 Testimonials
- 3 A Common Value Base
- 4 Prevention of Challenging Behaviour (reckless, dangerous or violent)
- 6 Responses to Violent and Reckless Behaviours (Foreseeable and Unforeseeable)
- 10 Promoting the Best Interests of Pupils
- 10 Restrictive Physical Interventions and Risk Assessment
- 11 Minimising Risk and Promoting Wellbeing
- 12 Managers' Responsibilities
- 12 Staff Responsibilities
- 13 Recording and Reporting Incidents
- 14 Staff Training
- 15 The Law and Guidance around Restrictive Physical Intervention
- 17 Appendix One: Legal References
- 19 Appendix Two: Sample Recording Form
- 20 Appendix Three: Sample School Physical Intervention Policy
- 23 Appendix Four: Recognised Trade Unions
- 24 Appendix Five: Sample Blank Risk Assessment Form
- 25 Appendix Six: Excerpts from 2010 Education White Paper (False Allegations)

Testimonials

I would like to congratulate the local authority on publishing a common sense policy and guidance document on Physical Intervention.

Vic Wilkinson, Head teacher
Crescent Primary School (Mansfield)

The new Physical Intervention Policy is very clear and concise. It is easily read and understood by all members of staff

Janet Baker, Head teacher
Robert Miles Infants (Biningham)

My first thought was that it was too long but having read it I found it all really useful.

Rhod Price, Deputy head,
Winstler School (Southwell)

This particular guidance covers what can be a very sensitive and delicate area in schools and has been approached from a very positive angle

Vondra Mays, Head teacher,
Colonel Frank Seeley School (Colverton)

This guidance is written for practitioners and it provides a practical and accessible framework

Geoff Read, Head teacher,
Nottinghamshire Learning Centre (Arnold, Mansfield, Newark, Worksop)

The training we received which reflects the new policy, was crucial in enabling the staff to support challenging children appropriately

Katherine Copper, Head teacher
Carlton Central Infants (Carlton)

A Common Value Base

In developing policy to support good practice in the use of Restrictive Physical Interventions (RPIs) schools and settings must demonstrate a set of common values, which include a commitment to operate within the law and guidance and to provide services that adhere to acceptable moral, ethical and professional standards.

All staff employed by a school or Nottinghamshire County Council have a legal duty of care to avoid acts or omissions that could cause harm to another person, this involves operating in the best interests of children and young people.

A common value base would seek to include the following rights and entitlements:

- pupils and staff have a right to be treated fairly and with courtesy and respect. Positive behaviour management strategies must underpin this approach;
- physical interventions must only be used in the best interests of, or out of necessity for, the child or young person. Parents and carers should be informed if this happens;
- where possible the child or young person should give informed consent to any agreed intervention or approach;
- where plans are in place to use physical interventions with a child or young person, they should, wherever possible, be involved in making decisions that affect their lives and the way they are treated;
- any physical intervention must be reasonable and proportionate to the circumstance and always be conducted in relation to the child or young person's age, gender, size, health, stage of development and other relevant factors;
- schools have a responsibility to ensure the safety, well-being and training needs of the staff working with the children and young people within them.

Pupils from Nottinghamshire schools identified the following key values and attributes in adults as being “really important” in relation to how they treated young people:

- ☺ approachability
- ☺ fairness
- ☺ consistency
- ☺ exciting lessons
- ☺ mixed learning styles
- ☺ sense of humour
- ☺ listen to all sides of a story
- ☺ not shout all the time
- ☺ should say good morning
- ☺ not make assumptions
- ☺ reward good behaviour
- ☺ understand what young people are like
- ☺ tell the truth
- ☺ not make promises they can't keep
- ☺ take extra time with people that need it
- ☺ know a little bit about you

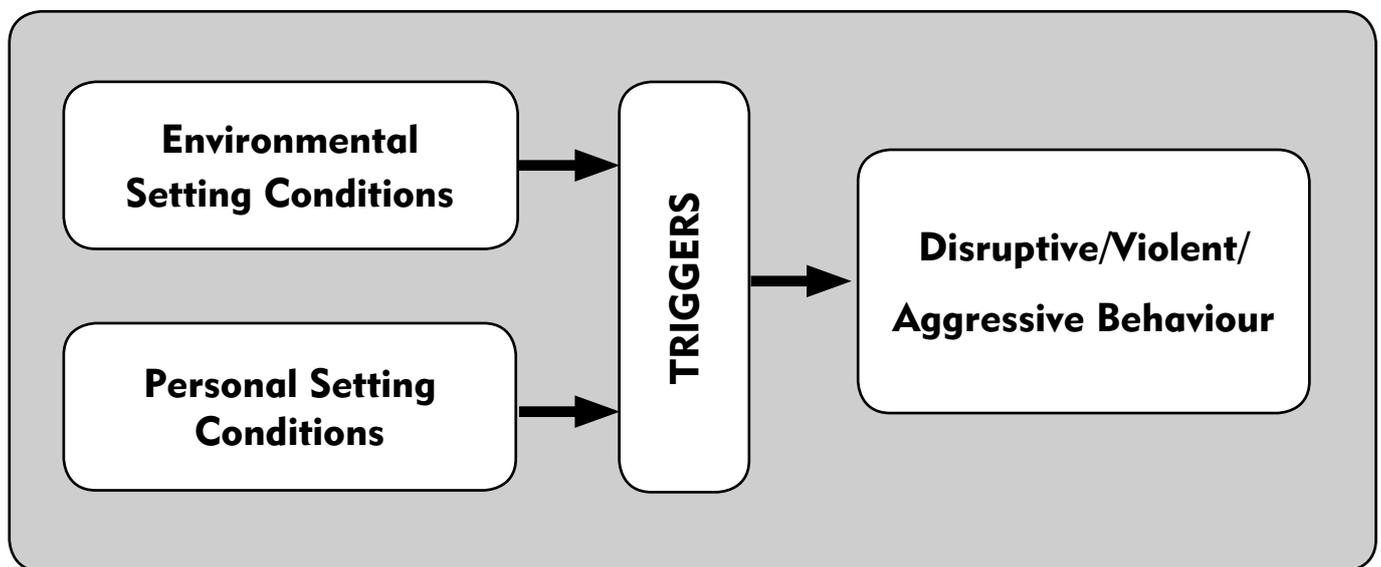
Prevention of Challenging Behaviour (reckless, dangerous or violent)

RPIs should, wherever possible, be used after other, less intrusive, methods have been fully exploited and found not adequate to meet the current needs of the child or young person. By preventing behaviours that are regarded as dangerous to the child or young person and other people, it is possible to minimise the extent to which RPIs are employed.

Staff should consider the two types of setting conditions that impact on people's behaviour:

Environmental Settings and Personal Settings. It is then possible to consider how the two types of condition interact with each other and combine with a trigger to produce challenging behaviour.

When seeking to prevent challenging behaviour consideration needs to be given to both primary and secondary preventative measures, thus reducing the need for planned and emergency responses to violent and reckless behaviour.



Environmental Settings:

- Access to sufficient space
- A clean and safe environment
- Appropriate noise and acoustics
- Appropriate temperature and fresh air
- Staff who are calm, positive and flexible
- A space which lacks distraction and prompts engagement

Personal Settings:

- Communication differences
- Cognitive functions
- Sensory impairments
- Other medical conditions/syndromes
- Emotional ill health or anxiety
- Prescribed medication
- Major life changes (bereavement or parental separation)

Primary prevention involves changing aspects of a person's environment to reduce the likelihood that challenging behaviour will occur. Stages in the development of primary preventative strategies are shown in the following checklist:

GOOD PRACTICE - PRIMARY PREVENTION

- ☺ analyse environmental and personal settings for each child or young person
- ☺ take steps to ensure children and young people are not exposed to situations where personal and environmental conditions occur together
- ☺ identify triggers for aggression and violence
- ☺ avoid the presentation of triggers at critical periods
- ☺ make alterations to the environment to minimise the likelihood of serious harm
- ☺ help the person to develop behaviours that lead to positive experiences
- ☺ consider whether the person's behaviour could be influenced by personal conditions such as hunger, thirst, pain (headache etc), the need to go to the toilet, or environmental conditions such as excessive heat, cold or noise.

Secondary Prevention concerns the actions taken once a combination of conditions and a trigger has precipitated a sequence of behaviours that could escalate into violence and aggression. The aim of secondary prevention is to stop the behaviour reaching a point of crisis. Stages in the development of secondary preventative strategies are shown in the following checklist:

GOOD PRACTICE - SECONDARY PREVENTION

- ☺ make options available so that the child or young person doesn't feel boxed into a corner
- ☺ use physical proximity, for example will the person be reassured by contact or would they be more relaxed if left alone?
- ☺ reduce the level of demands. Many children and young people become agitated and upset if they are asked to do tasks when they are tired or under the weather. For many switching from a high demand task to a lower demand activity may help to guide young people back to baseline
- ☺ change the people who are with the child or young person; this could be staff members or other children and young people
- ☺ be flexible and try to avoid situations based on power struggles.

Responses to Violent and Reckless Behaviours (Foreseeable and Unforeseeable)

It is possible to establish planned procedures that staff should adopt when responding to individual children and young people who are displaying violent or reckless behaviour. This procedure should include clear guidance on the use of RPIs that could be employed with a particular person. This may be in the form of a positive handling plan, individual education plan, pastoral support plan or similar.

These plans should be in place for pupils who are identified as ‘school action’, ‘school action plus’ or have a statement of special educational need for reasons related to their behaviour. As pupils who, through a special need or disability, may be assessed as being at greatest risk of needing restrictive physical interventions.

As far as practically possible, staff who are likely to come into contact with such pupils should be made aware of the relevant Pupil Profile of those individuals, particularly:

- situations that may provoke difficult behaviour, preventive strategies and what de-escalation techniques are most likely to work;
- what is most likely to trigger a violent reaction, including relevant information relating to any previous incident requiring use of force;
- whether physical intervention is likely to be needed, and any specific strategies and techniques that have been agreed by staff, parents and the pupil concerned; and
- the agreed ways to support the pupil and member of staff following an incident.

Information from parents is as valuable as information held by the school. Some of this information may be sensitive. Schools should seek express (preferably written) consent from the parent to inform appropriate staff. However, where consent is unreasonably withheld the information may still be made available to staff who need it if it is in the best interests of the pupil concerned. The importance of providing such information will be a factor in decisions about giving temporary authorisation to parent volunteers and others to supervise pupils. Additional guidance on information sharing is available on the DfE website.

The development of a comprehensive strategy for responding to challenging behaviours is designed to reduce the use of emergency or unplanned interventions. Such a strategy will involve Primary and Secondary Prevention and planned responses to incidents that may occur.

Different forms of physical intervention are summarised in the table below. It shows the difference between restrictive forms of intervention, which are designed to prevent movement or mobility or to disengage from dangerous or harmful physical contact, and non-restrictive methods.

Restrictive physical interventions involve the use of force to control a person’s behaviour and can be employed using bodily contact, mechanical devices or changes to the person’s environment. The use of force is associated with increased risks regarding the safety of service users and staff and inevitably affects personal freedom and choice.

	Bodily Contact	Mechanical	Environmental
Non restrictive	Manual guidance to assist a person walking	Use of a protective helmet to prevent self injury	Altering temperature, light or room layout
Restrictive	Holding a person’s arms to prevent them hitting someone		Using highly placed door handles or locking or holding a door to prevent entry or exit

Reasonable force may also be used to search pupils for weapons without their consent. This search power may be exercised by head teachers and staff authorised by them, where they have reasonable grounds for suspecting that a pupil has a weapon. Reasonable force may be used by the searcher. Where resistance is expected or the safety of others may be at risk, school staff may judge it more appropriate to call the police or, if they have one, their Safer School Partnership (SSP) officer. The power to search pupils without their consent will be extended to include alcohol, illegal drugs and stolen property ('prohibited items').

It is also important that staff understand the definition and implications of utilising other methods of intervention, such as; time-out, withdrawal and seclusion and the use of 'time-out' or 'soft play' rooms and locking doors or holding door handles from preventing a child from leaving a room.

Seclusion is where a person is forced to spend time alone against their will; **Time out** restricts the pupil's access to all positive reinforcements as part of the behavioural programme; and **withdrawal** involves removing the person from a situation which causes anxiety or distress to a location where they can be continuously observed.

- Does the person access the room or space voluntarily
- Is the person accompanied by a support worker/ teacher or other person in the room
- Can the person leave the room independently, do they know how to get out of the room or area.
- Is the "time out" part of an assessed and agreed behaviour support plan, that includes short term and long term goals
- Can the time out strategy be implemented outside of the area where the person lives, works or is educated

If the answer is yes to most of the above it is likely that you are using a time out strategy

- Do support staff/teachers or other take the person to the room or space
- Is the person left in the room or space alone
- The person is unable to leave the room independently or cannot understand how to leave the room when they choose to
- People watch/monitor the person from outside the room
- The practice is dependent on a room or space which is available at the place the person lives, works or is educated

If the answer is yes to the above the practice is more likely to be seclusion, and may be unlawful except in specific circumstances described in legislation such as The Mental Health Act (1983) or in preventing a criminal offence

The use of seclusion is a form of physical intervention and should only be considered in exceptional circumstances. The right to liberty is protected by criminal and civil law and seclusion outside the Mental Health Act should always be

proportionate to the risk presented by the pupil. It is an offence to lock a person in a room without a court order except in an emergency, for example where the use of a locked room is a temporary measure while seeking assistance.

Use of force (planned and agreed)

When Sarah, a pupil in a primary school, becomes upset and angry towards a fellow pupil, Nicole, a member of staff, Ruth, intervenes by offering an alternative activity and location to her. Sarah declines the diversionary activity and becomes louder and clearly intends to injure Nicole by hitting her.

Ruth calmly removes Nicole to safety, away from the risk of being injured, by placing a hand on the back to prompt movement and a hand on the arm to guide direction.

Sarah then directs her risky and violent behaviour towards Ruth, who has just removed Nicole. Knowing Sarah well, Ruth makes a decision to hold Sarah to keep them both safe and to prevent her from injuring other pupils. Ruth sits to the side of Sarah, holding her elbows/upper arms against the side of her own body to restrict movement.

The amount of force used in this circumstance would be deemed reasonable. Sarah displayed behaviours that put the safety of others at risk and the level of force used was proportionate to the level of risk presented by Sarah. It is important that staff are able to demonstrate the use of other skills and techniques to resolve difficult situations before force is necessary.

Had circumstances been different, the amount of force might have been deemed unreasonable. For example, if the classroom was empty except for Ruth and Sarah once Nicole had been removed to safety, it may have been more reasonable for Ruth to move away from Sarah to allow her to calm herself, rather than using a restrictive physical intervention.

In the absence of a planned response staff have little alternative than to adopt ad hoc emergency strategies. In these circumstances staff responses should reflect the principles set out for the development of planned RPis. Above all any use of RPI should involve the minimum amount of force applied for the shortest possible period of time. Staff responses should be guided by judgements about the best interests of the child or young person.

Emergency strategies should immediately set in train a more detailed consideration of the person's challenging behaviour and the development of planned responses in the event of similar behaviours occurring in the future.

Use of force (unplanned or unexpected)

A pupil, Harry, in a secondary school classroom is being verbally aggressive towards another pupil, Simon. A member of staff, Pete, asks both pupils to sit down and Harry refuses. The member of staff moves towards Harry and prompts him to sit down by placing a hand on his shoulder and the pupil complies. The lesson concludes and as the class starts to move to their next lesson, the member of staff then sees Harry and Simon posturing and preparing to fight.

Pete calls for assistance from a neighbouring classroom and starts to move towards the pupils. Using an assertive voice he tells the pupils to move away from each other. They do not comply and begin to fight. As a second member of staff arrives, Pete selects Harry, the pupil he has the best relationship with, places a hand on each shoulder to twist him away and guide him to a safe place away from Simon. The second member of staff then does the same with Simon and leads him to safety away from Harry.

The amount of force used in this circumstance could be deemed reasonable. Both pupils displayed behaviours that put the safety of others at risk and the level of force used was proportionate to the level of risk presented by the pupils.

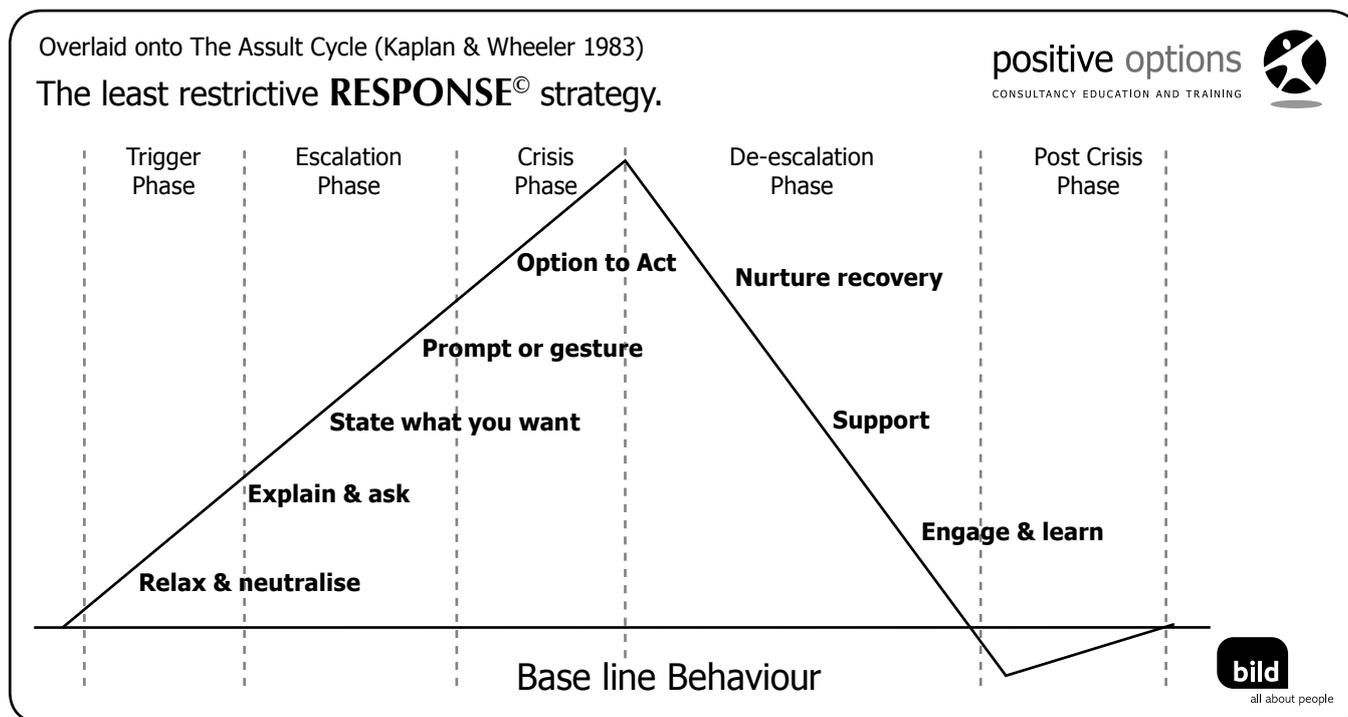
Had circumstances been different the amount of force might have been deemed unreasonable. For example, had the pupils only been posturing, a more reasonable response could have been to use prompt and gesture to remove one of them. It would have been unreasonable to use techniques which caused discomfort or pain.

Had only one member of staff been available it might also be considered unreasonable to expect them to intervene alone in such a high risk situation

Restrictive Physical Interventions should be introduced as part of a graduated response within a holistic programme that seeks to minimise conflict and avoid confrontation between children and young people and staff.

Using the RESPONSE© Strategy illustrated below it is possible for staff to respond to behaviours presented by children and young people in a graduated, proportionate and appropriate manner.

Sometimes a crisis can be instigated by a well meaning member of staff responding in a way that is associated with a higher level on the assault cycle. For example a member of staff could state or tell a pupil something, when it could have been more appropriate to the pupils' level of mood or behaviour to relax and downplay the issue.



- R Relax and Neutralise:** try to respond in a relaxed way that does not focus attention on the behaviour i.e. interact and focus on the person whilst downplaying the behaviour to neutralise its effect. Maintain a neutral response and attempt to positively interact with the person.
- E Explain and Ask:** explain what you want the person to do. This should be in the form of a request that can be understood by the person to encourage them to behave differently.
- S State:** state what you want the person to do. This requires a clear and assertive statement that can be understood by the person to encourage them to behave differently.
- P Prompt or Gesture:** prompt the person to change their behaviour by adding a physical gesture or physical contact to your verbal interactions.
- O Option to Act:** option to act to interrupt the behaviour and reduce risk. You may be able to justify a physical action to 'disengage' from the person, or to implement some type of restrictive physical restriction in the form of 'safe holding' to reduce the immediate or potential risk(s).
- N Nurture Recovery:** nurture the recovery process. This requires staff to work with the person to help them to regain personal control and composure, thus moving towards a lower-risk state of baseline behaviour.
- S Support:** supporting people after an event is crucial in helping to avoid a repeat incident in the short-term, and to help people to deal effectively with their experience.
- E Engage and Learn:** engaging with the person at an appropriate time after the event will help them to express their thoughts, feelings and perceptions of the incident and staff responses. This process will encourage reflection and the potential for learning by all parties and offer an opportunity to make complaints. By ensuring a transparent and open approach, staff will benefit greatly by gaining a better understanding and insight into the person and their particular needs.

One effective way of ‘engaging and learning’ after a crisis could be Restorative Justice. Restorative Justice processes give victims the chance help perpetrators see and understand the real impact of their behaviour, to get answers to their questions and to receive an apology. It gives the perpetrators the opportunity to do something to repair the harm and reduce the likelihood of re-occurrence. Restoration can take place face to face, with a

confident facilitator, through an intermediary or through a written process. It might involve an act, such as writing a letter or repairing physical damage to an object. Restorative processes should be voluntary and underpinned by empowerment, honesty, engagement, healing, personal accountability, inclusiveness, collaboration and problem-solving.”

Promoting the Best Interests of Pupils

A fundamental principle underlying the use of RPIs is that they promote the best interests of children and young people. However the circumstances that lead up to the use of RPIs are likely to involve complex and often emotional responses between staff and children and young people.

RPIs should only ever be employed in the best interests of children and young people, and not to meet the needs of the staff groups. Staff may be tempted to use RPIs primarily to meet their own needs or those of other children and young people rather than to promote the best interests of the person who presents a challenge. Some children and young people may evoke fear or apprehension in staff, thereby increasing the risk of the use of RPIs.

Wherever possible, physical interventions should be regarded as a last resort and part of a planned range of strategies. Physical interventions should only be used in conjunction with other strategies

designed to help a child or young person learn alternative non-challenging behaviours.

Planned physical interventions must be justified in respect of: what is known of the child or young person from a formal assessment; alternative approaches which have been tried; a formal evaluation of the potential risks involved; known health factors; reference to a body of expert knowledge and established good practice.

The use of physical interventions must be subject to regular reporting, recording, monitoring, and evaluation and must link back to planning around the individual.

All children or young people and their families and representatives must have ready access to an effective complaints procedure, and they must be made aware of it. Where possible, in each case, the complaints procedure must be available in a format appropriate for the child.

Restrictive Physical Interventions and Risk Assessment

Almost everything we do involves some element of risk. Judgments about risk involve an assessment of the likelihood that adverse or unpleasant consequences will follow from our actions. This in turn is balanced against the benefits or positive outcomes that we expect to follow our actions. In general, if we believe the risk of an unpleasant outcome is low in relation to a positive outcome we will probably accept the risk.

Like anyone else children and young people who use our services will also be exposed to varying levels of risk and are entitled to have their exposure to risk assessed. Schools should take reasonable measures to reduce the level of risk,

especially where adverse consequences would have a significant impact on a child or young person’s well-being.

Every effort should be made to ensure that children and young people are not exposed to unreasonable risk; this requires a structured approach to risk assessment.

By law, the planning and delivery of services must include an assessment of risk for children and young people. The Health and Safety Executive provides a framework for risk assessment that can be adapted for work with children and young people who present challenging behaviours.

5 Steps to Risk Assessment

Step 1 – Look for hazards

- What adverse outcomes could follow from the proposed Restrictive Physical Interventions?
- What are the likely outcomes if no action is taken?

Step 2 – Decide who might be harmed and how

- The child or young person presenting the behaviour
- The staff involved in using Restrictive Physical Interventions
- Other people in the vicinity

Step 3 – Evaluate and manage the risks arising from the hazards

- Is there a safer option?
- Reduce interactions with those who present the risk
- Review staffing options and allocation

Step 4 – Recording findings

- Write down risks and who may be affected
- Have we done all we can and involved other people?
- Is the remaining risk lower than at the start of the process?

Step 5 – Review

- Do the risks remain the same
- If there are changes what do we need to do differently?

Minimising Risk and Promoting Wellbeing

Children or young people should have individual assessments to identify any risks associated with physical interventions before they are approved.

Physical interventions must only be employed using reasonable force.

Reasonable force involves two concepts;

Firstly, there is the question of whether the force being used is proportionate to the desired outcome. For example it is likely that the amount of force used to prevent a young girl scratching herself would be less than the amount required to respond to a teenage boy who is violently attacking another person.

Secondly, the concept of reasonable force involves a consideration of whether other, less intrusive, actions could have been employed to achieve the same outcome.

For the individual child or young person, any Restrictive Physical Interventions must be sanctioned for the shortest period of time consistent with his or her best interests. In practice, this means that as a person calms and regains their composure, the level of restriction applied through Restrictive Physical Interventions should be systematically reduced.

Restrictive Physical Interventions must not rely on achieving compliance through inflicting pain. Children or young people who receive a Restrictive Physical Intervention must be routinely assessed for signs of injury or psychological distress.

It is important that, as far as possible, there is a consistency of approach between agencies to risk assessment and intervention. This could include working together on training, contributing to plans and risk assessment and developing other strategies to manage challenging behaviour.

Managers' Responsibilities

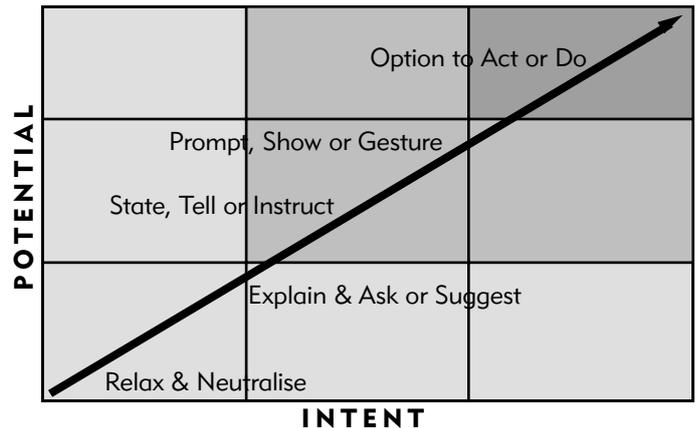
Managers within both schools and the County Council have a number of responsibilities relating to the provision of a safe working environment.

Firstly there is a responsibility for ensuring that staff act in ways that are within the law and consistent with the organisation's values and principles. There should never be an assumption that individual members of staff have a detailed knowledge of the law or that they will share the organisation's values.

Head teachers or managers should guard against the possibility that a culture develops within an organisation that is out of step with the values and aims expressed centrally.

Secondly, employers should ensure that the needs of the children and young people are properly met. Any decision to use RPIs should involve careful consideration of the best interests of the child or young person.

Thirdly, employers must demonstrate a responsibility for safety in the work place (Health and Safety at Work Act 1974). Children and young people who present challenging behaviours are likely to increase the risk of injury to themselves, other young people and staff. RPIs should be designed to minimise the risk of injury arising from challenging behaviour. It is also essential that the physical intervention itself does not increase the risk of injury to the child or young person who receives the intervention or to the staff who apply it.



Instances of challenging behaviour which provoke unplanned or emergency responses from staff are associated with higher levels of risk. Head teachers and managers therefore have a responsibility to minimise the number of occasions in which children and young people who challenge are exposed to unplanned forms of restrictive physical intervention. Wherever possible, managers should seek to establish clear guidance on how staff should respond to the specific challenges presented by individual children and young people.

Head teachers and managers will be able to meet these responsibilities with greater confidence if there is a clear written policy on the use of restrictive physical interventions and written guidance on the way restrictive physical interventions should be used with children and young people.

Staff Responsibilities

Staff have a responsibility to make themselves aware of how restrictive physical interventions are to be carried out and what these are expected to achieve. They need to know how each procedure reflects the organisational policy on restrictive physical intervention.

Staff should be given frequent opportunities to discuss the way in which restrictive physical interventions are carried out and to what extent they are effective.

Staff also need to know how to register a complaint about the use of restrictive physical interventions and what actions should follow.

Staff should never be penalised for expressing concerns about the use of restrictive physical interventions.

Staff must exercise their responsibility to contribute to, or complete, records of instances where restrictive physical interventions have been used. These records may come under Ofsted scrutiny.

Recording and Reporting Incidents

The governing body must ensure that a procedure is in place, and is followed by staff, for recording and reporting significant incidents where a member of staff has used force on a pupil. What is deemed 'significant' will be determined by individual schools and will depend on circumstance and context. The record must be made as soon as practicable after the incident.

If it is likely that reporting an incident to a parent will result in significant harm to the pupil, then the incident should be reported as a safe guarding issue.

The school's procedure for recording and reporting incidents should make clear who is responsible for deciding whether an incident is significant or not. The head teacher will normally be part of any such process. The procedure should also set out the timescale within which the report should be made, bearing in mind that the duty is to make the report as soon as is practicable. The person who makes the report to the parent need not be the person who compiled the report.

While ultimately only a court of law could decide what is 'significant' in a particular case, in deciding whether or not an incident must be reported, schools should take into account the fact that:

- an incident where unreasonable use of force is used on a pupil would always be a significant incident and staff could find themselves criminally liable;
- any incident where substantial force has been used (e.g. physically pushing a pupil out of a room) would be significant;
- the use of a restraint technique is significant;
- an incident where a child was very distressed (though clearly not overreacting) would be significant.

In determining whether incidents are significant, schools should consider:

- the pupil's behaviour and the level of risk presented at the time;
- the degree of force used and whether it was proportionate in relation to the behaviour;
- the effect on the pupil or member of staff.

School staff should also bear in mind the age of the child, any special education need or disability or other social factors which might be relevant.

Sometimes an incident might not be considered significant in itself, but may form part of a pattern of repeated behaviour. In this case,

although there is no legal requirement to record such incidents, schools are advised to let parents know about them. However this should be made clear in their school behaviour policy.

Records are important in providing evidence of defensible decision-making in case of a subsequent complaint or investigation. It is possible that not all of the specifics of an incident can be recorded where it is not known on whom force was used, as for example where a member of staff has hastily had to part several pupils encircling a fight. The staff member may (understandably) focus on and recall the identities of the fighting pupils and not the individual spectators who were drawn aside to allow access. Staff may find it helpful to seek the advice of a senior colleague or a representative of their professional association when compiling a report.

While schools may develop their own form for recording incidents, the model recording form provided in Appendix 2 identifies the types of information that should be recorded and is a helpful guide.

The school's procedure for recording and reporting should provide that the member of staff involved in the incident compiles the record. The procedure should also ensure that the member of staff with lead responsibility for safeguarding checks the record and that the school provides the member of staff involved in the incident with a copy of the final version. It is important that this information is treated in confidence.

Parents should not be given a copy of the incident record as a matter of course, but they should be told when and where the incident took place, why it was decided that force had to be used, the strategies used to try to avoid having to use force, what force was used, whether there were any injuries and what follow-up action (support and/or disciplinary) was being taken in relation to their child.

Ordinarily the names of those involved in the incident should not be disclosed in the report. However, the pupil may give this information to the parent or the parent can request the information from the school. The school should deal with these requests in accordance with the Data Protection Act 1998 and may wish to contact County Council legal services for advice.

It is advisable that the school's procedure for making a record following such incidents is contained within its policy on the use of force.

Nottinghamshire County Council provides all schools, academies and local authority departments with access to an electronic health and safety recording system. This system enables members of staff to report, using a standardised format, any significant incident where force has been used, or any incident where violence to staff has occurred or been threatened.

The system automatically notifies the designated 'risk manager' within the local authority or school's senior management, offering direct support and feedback to the staff members (and pupils/children and young people where appropriate) and reducing the risk of future occurrence.

Once the manager has reviewed the report it can be printed and stored locally. A copy is then automatically emailed to the health and safety adviser and the physical intervention co-ordinator within the local authority, who then monitor, review, offer specialist advice and accredited physical intervention training as necessary.

This system helps local authorities and schools be confident that staff are acting reasonably, have access to the best training, have the knowledge and skills to do their jobs properly and are empowered to keep themselves and their pupils safe.

Staff Training

All staff working in Nottinghamshire schools or within Children, Families and Cultural Services should be able to access learning and development opportunities to enhance and develop their practice.

Physical intervention and MAPA® training is provided through the local authority co-ordinator who delivers nationally accredited courses. These courses provide participants with an insight into recent legislation and guidance that could impact on policy and practice as well as a range of physical and non-physical strategies to help manage the risks posed by children and young people's behaviour.

Like other forms of professional development, decisions about training in physical intervention are best made by individual schools in the light of their particular needs and circumstances. It is good practice for schools to set out their approach to relevant training in their policy on use of force. While key staff may be trained as a priority, most schools now consider that all staff have a responsibility for pupil behaviour.

Training includes ways of avoiding or defusing situations in which physical intervention might become necessary as well as methods of physical intervention. This is particularly important for staff who work closely with pupils with SEN and/or disabilities associated with extreme behaviour.

Nottinghamshire County Council has adopted the MAPA® (Managing Actual or Potential Aggression) training model, and as such is an 'Approved Training Centre' for Positive Options Ltd, which is

a BILD (British Institute of Learning Disability) accredited training programme.

Nottinghamshire County Council recommends this approach is used by all schools to ensure consistency through primary, secondary and special schools and also the wider community including children's homes, short breaks, youth provision and other members of the Children and Young People's Partnership.

It is, however, ultimately the responsibility of schools to decide how they will ensure the safety of their children and staff. They should of course do this within the appropriate national guidelines 'BILD code of practice for the use of physical interventions – a guide for trainers and commissioners of training'.

Nottinghamshire County Council strongly recommends that all schools and settings make use of the MAPA® (Positive Options) training model but recognises that schools are free to make use of other approved approaches at their discretion, and at their own responsibility. It is also worthy of note that the Department for Education guidance on this matter clearly states that schools should only use accredited providers.

These training programmes are delivered to staff via whole school inset or by accessing specialist training events, details of which can be found on Nottinghamshire's virtual learning platform, Fronter <https://nottsslp.org.uk> or email physical.intervention@nottsc.gov.uk

The Law and Guidance around Restrictive Physical Intervention

Children and young people who at times display a degree of challenging behaviour are entitled to the same level of legal protection as anybody else. Any restrictive physical intervention by definition places a constraint on a person's liberty and must, therefore, always be legally as well as professionally justified.

Without a working knowledge of the legal framework, people working in settings where Restrictive Physical Interventions (RPIs) are used could inadvertently break the law and/or compromise the integrity of their colleagues, managers and employers. This could leave them or their employers vulnerable to civil or criminal proceedings.

A school policy cannot lawfully prevent teachers or other staff whose job includes responsibility for pupils from using reasonable force. The absence of accredited training does not preclude a member of staff from using reasonable force where needed.

Schools must follow the law and legal framework in this area of work. They would also be expected to follow national guidance; if they choose to depart from national guidance they must be able to demonstrate a good reason for doing so.

The law provides a complex set of rules that outlines the rights and responsibilities of individuals and organisations in society and that generally reflects the values and standards of that society. The law protects the freedom of individuals to go about their lives without interference or restrictions imposed by other people. Any limit on our freedom as citizens must be supported by statute.

The law can be grouped into four main categories;

1. Civil Law is concerned with the regulation of conduct between private individuals.
2. Criminal Law deals with conduct that society has deemed unacceptable and made unlawful.
3. Human Rights Law provides an overarching structure that enables the individual's rights (as set out in the EU convention of human rights) to be protected through actions in National courts.

4. Employment Law relates to work place safety and the conduct and activities of everyone within the workplace, be they employers or employees. RPIs must be justified as a means of keeping safe, but employers must also consider the consequences for children and young people and other people in the work environment.

The use of RPIs needs to be considered from all of the above perspectives. Any inappropriate use of RPIs could result in action under both criminal and civil law.

Another key legal consideration is the idea of a 'Duty of Care'. A Duty of Care exists when one person (or a group of people) is presumed to have responsibility for another person (or group of people). In these and similar circumstances, duties and responsibilities are imposed on members of staff employed by a school or Nottinghamshire County Council.

In general terms this requires reasonable care to be taken in avoiding acts or omissions that are likely to cause harm to another person. Judgements about what is 'reasonable' are often not clear cut, but the following factors are relevant:

- the conduct of practitioners in similar settings with similar skills and responsibilities;
- relevant expert opinion;
- the range of available alternatives;
- the foreseeable risks associated with a course of action.

Where there is an incident of challenging behaviour the first aim of any professional should be to try to ensure that the child or young person and anyone else affected by violence does not sustain harm. If this is not possible the secondary aim should be to reduce the level of harm as much as possible.

Set out below are the key pieces of law and guidance pertaining to the use of RPIs. A more comprehensive table is available in Appendix one of this guidance.

Apprenticeship Skills Children and Learning Act (Nov 2009)

Schools are required to record and report significant incidents where staff have used reasonable force to control or restrain a pupil, which they are able to do where the pupil is endangering themselves or others and in order to prevent injury, damage to property or serious breaches of school discipline.

The powers schools and colleges currently have to search for weapons on pupils and students is extended to cover alcohol, drugs and stolen items.

Guidance on the Use of Force to Control and Restrain Pupils (Apr 2010)

The Department for Children, Schools and Families guidance helps teachers and other school-based staff assess when and how they should use force or restraint. The guidance is not the same as legislation - which means that schools are not under a legal obligation to follow it. However, the guidance provides invaluable advice about how to meet the legal requirements. As such, it is recommended that schools familiarise themselves with it.

The guidance and the law aim to protect staff and pupils; to prevent serious damage to property; to prevent disruption to the education of pupils; and to reduce the likelihood of staff being successfully challenged in the courts where they have had to use force or restraint. The guidance has no legal force but does carry authority. If a court challenge did follow use of restraint, it is likely that reference would be made to the guidance as an indication of best practice. The guidance suggests that the starting point for schools is to draw up a policy that deals with the specific circumstances of each individual school. This may involve consultation with staff and the parents of particular pupils.

Education and Inspection Act (2006)

Section 93 of the Education and Inspections Act 2006 replaces section 550A of the Education Act 1996. It enables members of the staff of any school to use reasonable force in specified circumstances. The expression 'member of staff' has a specific meaning and is clarified by:

A person (to whom this section applies) may use such force as is reasonable in the circumstance for the purposes of preventing a pupil from doing (or continuing to do) any of the following:

- committing any offence;
- causing personal injury to, or damage to the property of, any person (including the pupil himself); or,
- prejudicing the maintenance of good order and discipline at the school or among any pupils receiving education at the school, whether during a teaching session or otherwise.

This section applies to a person who is, in relation to a pupil, a member of the staff of any school at which education is provided for the pupil.

The power conferred may only be exercised where;

- a. the member of staff and the pupil are on the premises of the school in question; or,
- b. they are elsewhere and the member of staff has lawful control or charge of the pupil concerned.

The law does not authorise anything to be done in relation to a pupil which constitutes the giving of corporal punishment within the meaning of section 548 of the Education Act 1996.

The term "member of staff" used in this section is defined as:

- any teacher who works at the school; and,
- any other person who, with the authority of the head teacher, has lawful control or charge of pupils for whom education is provided at the school.

Appendix One: Legal References

Legislation and Guidance Pertaining to Physical Interventions within Children's Services		
Title of Guidance	Date of Publication	Relevant Sections and/or Sub-sections
The Apprenticeships, Skills, Children and Learning Act 2009	Nov 2009	Schools are required to record and report significant incidents where staff have used force to control or restrain a pupil, which they are able to do where the pupil is endangering themselves or others and in order to prevent injury, damage to property or serious breaches of school discipline The powers schools and colleges currently have to search for weapons on pupils and students is extended to cover alcohol, drugs and stolen items
The Education and Inspections Act 2006	2006/2007	Section 93: Power of Members of staff to use force. This enables staff to use reasonable force to prevent a pupil from committing an offence, causing personal injury, damaging property or doing something that prejudices discipline at the school.
The Education and Inspections Act 2006	2006/2007	Sub-sections 1 – 6 (points 467 – 472) of the above section
The Education and Inspections Act 2006	2006/2007	Section 94: Defence where confiscation is lawful. This protects staff against civil or criminal liability where a lawfully confiscated item is retained or disposed of.
The Education and Inspections Act 2006	2006/2007	Sub-sections 1 – 4 (points 474 - 477) of the above section.
DfES and DoH Guidance on the use of restrictive physical interventions for pupils with an Autistic Spectrum Disorder	July 2002	This is guidance related to the Education and Inspections Act (as is). It describes differences between restrictive and non restrictive, and also differentiates between physical, mechanical and chemical, interventions. It offers definitions of Time out, withdrawal and seclusion, and talks in detail about planned/unplanned intervention, reporting and recording, policy, training for staff, the importance of prevention and 'last resort'.
DfES and DoH Guidance on the use of Restrictive Physical Interventions for Pupils with Severe Behavioural Difficulties	Sept 2003	This is a more generic version of the above and as such covers the same points.
Local policy and guidance	1999 (update due Sept 09)	A local document to support staff to underpin working within the County. Contains all legal aspects. Also talks about training, reporting and recording issues specifically in Notts.
UN Convention on the Rights of the Child	December 1991	Article 3: All organisations should work to the best interests of the child Article 12: Children have the right to say what they think should happen, when adults are making decisions that affect them, and to have their opinions taken into account. Article 19: All children should be properly cared for and be protected from violence, abuse and neglect by their parents or anyone who looks after them Article 23: Children who have any kind of disability should have special care and support Article 28: Children have a right to an education. Discipline in schools should respect children's human dignity Article 31: All children have the right to relax and play, and to join in a wide range of activities

Title of Guidance	Date of Publication	Relevant Sections and/or Sub-sections
Health and Safety at Work Act 1974		The Act provides the legal framework to promote, stimulate and encourage high standards of health and safety in places of work. It protects employees and the public from work activities. Everyone has a duty to comply with the Act, including employers and employees.
Health and Safety at Work Act 1974		Employer’s Responsibilities: Provide and maintain safety equipment and safe systems of work. Provide information, training, instruction and supervision. Ensure staff are aware of instructions and guidance. Provide a safe place of employment. Provide a safe working environment. Provide a written safety policy/risk assessment. Look after health and safety of others, example public. Talk to safety representatives and other advisors.
Health and Safety at Work Act 1974		Employee’s Responsibilities: Take care of their own health and safety and that of other persons. Employees may be liable. Co-operate with their employers. Must not interfere with anything provided in the interest of health and safety.
Every Child Matters Outcomes Framework		<p>Staying safe – ensures the physical safety of children and young people; ensure they are, safe from violence and abuse, safe from accidental injury, safe from bullying and discrimination, feel secure and cared for.</p> <p>Being Healthy – helps children and young people to be emotionally healthy, improves self worth and promotes social inclusion.</p> <p>Enjoy and Achieve – supports children and young people to be ready for school, enables them (and peers) to enjoy and achieve at school and helps them to develop and achieve both personally and socially.</p>

Appendix Two: Sample Recording Form

Details of Pupil (name, class SEN etc)	
Date, time location of incident	
Name of staff involved (directly or witness)	
Details of other pupils involved	
Description of incident, including any deescalation	
Reason for using force and description of force used	
Any injury to staff or pupils and details of first aid or medical attention	
Follow-up, including post incident support and disciplinary procedures	
Any information shared with staff not involved or other agencies	
How and when were those with parental responsibility informed	
Has any complaint been logged as a result of this incident	
Names, signatures and dates	

Appendix Three:

Sample School Physical Intervention Policy

Physical Intervention Policy (Use of Reasonable Force)

[School Name in Here]

Objectives

Here at XXXX School in line with Every Child Matters we aim to provide a safe, caring and friendly environment for all our pupils to allow them to learn effectively, improve their life chances and help them maximise their potential.

We take the safety of our pupils and staff very seriously. We believe that all pupils and staff have the right to be and feel safe whilst at school or on a school-run activity.

This policy should be read in conjunction with our behaviour, discipline, child protection (and the broader safeguarding agenda) policies.

Policy Development

This policy was formulated in consultation with the whole school community with input from members of staff, governors, parents/carers, children and young people, and other partners.

Pupils contributed to the development of the policy through the XXXX. Parents were encouraged to contribute by XXXX. This policy is also written in line with Nottinghamshire County Council's policy on the same subject, entitled 'Keeping Classrooms Safe for Learning and Teaching'.

Minimising the Need to Use Reasonable Force

As a school we are firmly committed to creating a calm and safe environment which minimises the risk of incidents arising that might require the use of reasonable force. We use the Social and Emotional Aspects of Learning (SEAL) curriculum to explore and strengthen emotional responses to situations.

We will only use force as a last resort and strongly believe in de-escalating any incidents as they arise to prevent them from reaching a crisis point. Staff will be skilled in promoting and rewarding positive behaviour and will utilise various appropriate techniques in the management of a class environment.

Staff will only use reasonable force when the risks involved in doing so are outweighed by the risks involved by not using force.

Staff Authorised to Use Reasonable Force

Under Section 93 of the Education and Inspection Act (2006) the head teacher of our school is empowered to authorise those members of his/her staff who are enabled to use reasonable force.

Here at XXXX School the head teacher has empowered the following members of staff to use reasonable force:

- Teachers and any member of staff who has control or charge of pupils in a given lesson or circumstance have permanent authorisation.
- Other members of staff such as site management and administrative teams also have the power to use reasonable force if a circumstance should arise in which immediate action should be taken.

Deciding Whether to Use Reasonable Force

Under English law, members of staff are empowered to use reasonable force to prevent a pupil from or stop them continuing:

- committing any offence;
- causing personal injury to, or damage to the property of, any person (including the pupil himself); or,
- prejudicing the maintenance of good order and discipline at the school or among any pupils receiving education at the school, whether during a teaching session or otherwise.

All members of staff will make decisions about when, how and why to use reasonable force. To help staff in making decisions about using reasonable force the following considerations may be useful:

- whether the consequences of not intervening would have seriously endangered the wellbeing of a person;
- whether the consequences of not intervening would have caused serious and significant damage to property;
- whether the chance of achieving the desired outcome in a nonphysical way was low;
- the age, size, gender, developmental maturity of the persons involved.

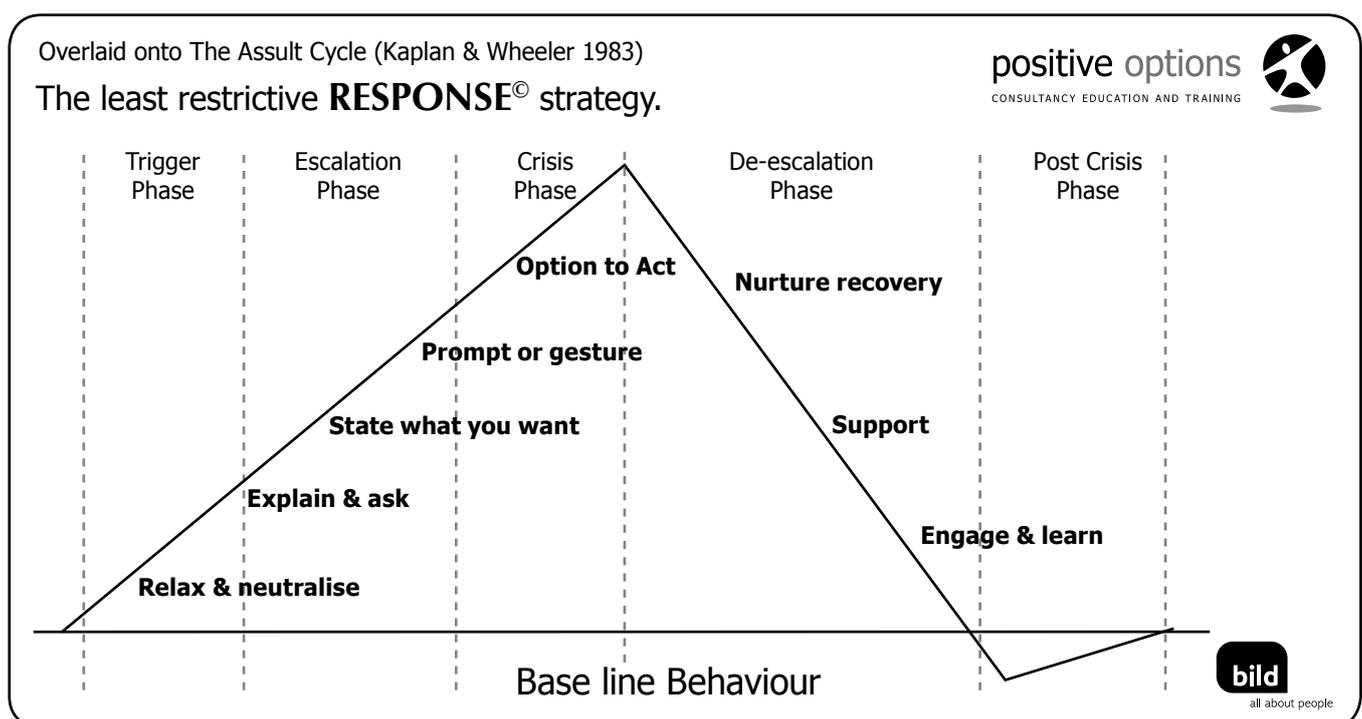
Staff are also expected to remember that physical intervention is only one option and for behaviours involving extreme levels of risk it may be more appropriate to gain support from other agencies, including the police.

Staff will be kept informed and have a duty to inform others about the plans around specific pupils who can present risks to themselves and others. This may include information about SEN, personal circumstance and temporary upset.

Using Reasonable Force

When using force members of staff should only use the minimum amount of force required in achieving the required outcome.

Staff should also use force within the context of existing good practice in nonphysical skills and techniques, such as in the RESPONSE[®] Strategy:



Staff should, where possible, avoid any type of intervention that is likely to injure a pupil, unless in the most extreme of circumstance where there was no viable alternative. Also staff should avoid using force unless or until another member of staff is present to support, observe or call for assistance.

Staff training

Staff at XXXX School, who have been identified as needing training in this area, will access Physical intervention and MAPA® training through the County Council co-ordinator who delivers nationally accredited courses.

These courses provide participants with an insight into recent legislation and guidance that could impact on policy and practice, as well as a range of physical and non-physical strategies to help manage the risks posed by children and young people's behaviour.

Nottinghamshire County Council has adopted the MAPA® (Managing Actual and Potential Aggression) training model, and as such is an 'Approved Training Centre' for Positive Options Ltd, which is a BILD (British Institute of Learning Disability) accredited training programme.

These training programmes will be delivered to staff via whole school inset or by accessing specialist training events, details of which can be found in the physical intervention room on Nottinghamshire's virtual learning platform, Fronter <https://nottsslp.org.uk>

Staff who receive this training will be accredited to use the physical elements of MAPA® for a defined period as stated on their certificate. Staff will be expected to attend a refresher course to update their skills and renew their certification every 12-15 months.

Recording and Reporting Incidents

The governing body will ensure that a procedure is in place, and is followed by staff, for recording and reporting, significant incidents where a member of staff has used force on a pupil. The record must be made as soon as practicable after the incident.

While ultimately only a court of law could decide what is 'significant' in a particular case, in deciding whether or not an incident must be reported, staff should take into account:

- an incident where unreasonable use of force is used on a pupil would always be a significant incident;
- any incident where substantial force has been used (e.g. physically pushing a pupil out of a room) would be significant;
- the use of a restraint technique is significant;
- an incident where a child was very distressed (though clearly not over reacting) would be significant.

In determining whether incidents are significant, schools should consider:

- the pupil's behaviour and the level of risk presented at the time;
- the degree of force used and whether it was proportionate in relation to the behaviour;
- the effect on the pupil or member of staff.

Staff should also bear in mind the age of the child, any special education need or disability or other social factors which might be relevant.

Sometimes an incident might not be considered significant in itself, but forms part of a pattern of repeated behaviour. In this case, although there is no legal requirement to record such incidents, schools are advised to let parents know about them.

Records are important in providing evidence of defensible decision-making in case of a subsequent complaint or investigation. Staff may find it helpful to seek the advice of a senior colleague or a representative of their trade union when compiling a report.

The XXXX School will use the Nottinghamshire County Council electronic health and safety recording system 'WellWorker'. This system enables members of staff to report, using a standardised format, any

significant incident where force has been used, or any incident where violence to staff has occurred or been threatened. Staff can access well worker via XXXX.

[Link to safeguarding policy in here]

Post-incident support

Following the use of physical intervention staff and pupils will be supported, the immediate physical needs of all parties will be met and staff will ensure that positive relationships are maintained.

[Link to staff management / well being policy and ECM statement in here]

Complaints and allegations

[Statement taken from school complaints / discipline policy]

We will also make clear to pupils that they have a right, and are able, to question/complain about the use of reasonable force.

We will ensure that mechanisms are in place for pupils, parents, carers and staff to voice the opinions, comments or concerns.

[State what these mechanisms are here]

Complaints and allegations will be taken seriously and we will.....

Monitoring and review

This policy will be monitored regularly and reviewed by the governing body at least annually or as required. This is the first version of this policy and is due to be reviewed in XXXX 20XX.

The Head Teacher is responsible for the implementation of this policy and XXXX is the Link Governor, who also has responsibility in this area.

Further information

Can be found in the Nottinghamshire County Council's policy on the same subject, entitled 'Keeping Classrooms Safe for Learning and Teaching'

Appendix Four: Recognised Trade Unions

NASUWT (School Discipline- your powers and rights as a teacher)

<http://www.nasuwat.org.uk/InformationandAdvice/Professionalissues/Behaviour/SchoolDiscipline-YourPowersandRightsasaTeacher/index.htm>

NUT: Advice, Guidance and Protection from the NUT

<http://www.teachers.org.uk/files/Pupil-Behaviour-5427.pdf>

ATL: Discipline in Schools – Your Rights

<http://www.atl.org.uk/Images/ADV14%20Discipline%20in%20schools.pdf>

NAHT: see website or contact support line

UNISON: seek advice from local representative

Appendix Five: Sample Blank Risk Assessment Form

ACTIVITY:		START DATE:					
ESTABLISHMENT/SCHOOL :		DRAFT NUMBER:		LAST UPDATED:			
Hazards	Initial Risk Rating		Existing Controls	In place? (y/n)	If no, state action to be taken	Residual Risk Rating	
	Likelihood	Severity				Likelihood	Severity
ASSESSED BY (Print name)			SIGNED	DATE			
LINE MANAGER			SIGNED	REVIEW DATE			

Appendix Six:

Excerpts from 2010 Education White Paper (False Allegations)

3.11 The fact that teachers are often the only adult in a classroom of young people means that they can be subject to false or even malicious allegations. In a recent survey, 50 per cent of staff questioned reported that they or a colleague have had a false allegation made against them. As well as being a distressing experience, this can affect career progression and damage the perception of teachers. So we will legislate to give anonymity to teachers accused by pupils and we will speed up the progress of investigations.

3.12 It is of course absolutely essential that genuine cases of misconduct or abuse are dealt with fairly and effectively. To do this, false allegations need to be identified and dismissed quickly. Governors and head teachers should ensure that all allegations are investigated without delay. We will work with local authorities, the Home Office and the Association of Chief Police Officers (ACPO) to address this issue. ACPO are committed to looking at new ways in which investigations can be speeded up, without compromising their integrity, by eradicating all unnecessary delays.

3.13 Many head teachers have felt that the only option while investigating an allegation is to suspend the teacher in question, regardless of the nature or seriousness of the allegation. We will update guidance to schools to ensure that allegations against a teacher do not automatically result in their being suspended. Where there are no risks to children, we want to see alternatives explored so that teachers do not have to endure the stigma and speculation that accompanies suspension.

3.14 False allegations can damage teachers' career prospects even once disproved. We will clarify that in future when employers are asked to give references for teachers they should never be required to report prior allegations which were found to be malicious or untrue. We will legislate to introduce reporting restrictions that prevent a teacher's identity being revealed until the point at which they are charged with a criminal offence.



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