

	Bernwode Schools Trust <u>POSITIVE HANDLING POLICY</u>		<u>Written By:</u> A Wallace – Assistant Headteacher & SENDCo (GFPS) & I Tweed –Assistant Headteacher & SENDCo (TCS)
	Applicable to: ALL STAFF & STUDENTS / PUPILS	<u>Accountable Officers:</u> R Whannel – Headteacher (TCS) J MacLachlan – Headteacher (GFPS)	<u>Date Reviewed:</u> Summer 2021

Bernwode Schools Trust is a Multi Academy Trust. It is a company limited by guarantee, registered in England and Wales with registered company number 09053713 and its registered address at Churchill Road, Bicester, Oxon, OX26 4RS.

RATIONALE

Bernwode Schools Trust follows current Government Legislation & Guidance and Local Authority guiding principles to seek out good practice.

1. Introduction

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

This policy has a clear focus:

- The paramount consideration is to safeguard the welfare of the child
- To safeguard the welfare of staff and others who act in good faith

The Children Act 1989 places a duty upon staff to consider the welfare of the child first, and for the welfare of the child to take precedence when practical over every other consideration. All physical

interventions, including restraint, are conducted within a framework of positive behaviour management. The Behaviour Policy is intended to reward effort and application, encouraging pupils/students to take responsibility for improving their own behaviour.

Preventative approaches to risk reduction involve identifying and communicating early warning signs, situations, settings and other factors which may influence behaviour, then taking steps to divert behaviours which lead towards foreseeable risk. Pupils/students are encouraged to participate in the development of their own Positive Handling Plans by focusing on positive alternatives and choices. Parents are also encouraged to contribute; working alongside the school. Pupils/students with severe behavioural difficulties sometimes present a risk to themselves and others.

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

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

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

2. Handling

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

Children who express challenging behaviour will require a positive handling plan. Risks assessments are carried out on individuals to determine a reduction of risk and enable handling plans to be put in place.

Positive handling plans

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

Non Physical Interventions (No Touch)

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

Physical Contact (Contingent Touch)

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

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

Physical restraint may be required to positively support children in occasional circumstances, for example detachment from parents in the morning. If this support becomes a regular occurrence an agreement with the parent/carer will take the form of a positive handling plan.

Other examples of restraint may be:

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

In these instances, risk assessments will be completed and agreements made with parents/carers through positive handling plans, in conjunction with necessary staff training. All adults involved will be encouraged to cooperate in providing consistent approaches to meet the needs of individual children.

3. The Legal Framework

The overriding principle relating to positive handling is that the welfare of the child takes precedence over every other consideration.

All staff (including volunteers) are lawfully authorised to work with children and therefore have a duty of care. Bernwode Schools Trust has a duty of care to their pupils/students.

We do not wait for damage or injury. We take a responsible approach in anticipating what could go wrong and try to prevent it.

The Education and Inspections Act 2006

Section 93 describes the circumstances in which staff and others authorised by the Headteacher may use reasonable force to control or restrain pupils/students. A current register is maintained of those individuals.

Section 95 determines those who may be delegated this power & those who may not.

Section 45 of *the Violent Crime Reduction Act* allows reasonable force to be used to search Pupils/students without their consent for weapons.

NB. All staff are strongly advised not to search pupils/students where resistance is expected, but rather to call the Police.

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

Risk Assessment and Risk Reduction

Wherever a risk can reasonably be foreseen, a risk assessment will be carried out and plans agreed to reduce the risk. It is not always possible to eliminate risk but staff will need to be able to show that they have attempted to reduce it. Children who present a risk should have a positive handling plan. Bernwode Schools Trust staff, likely to come into contact with a child presenting a risk, will be given guidance and training to enable them to assess and reduce the risk and be able to use reasonable force to control or restrain pupils/students as required. The degree of force used should be the minimum to achieve the desired result.

Bernwode Schools Trust school staff, who act in good faith, in the best interests of those for whom they have a duty of care, will receive support in their actions.

The clearest lawful justification is that the actions of staff are reasonable, proportionate and in the best interests of the young person. Under Human Rights legislation they should be “absolutely necessary”. The law also recognises that people make honest mistakes. A common law defence could be offered whenever a person acts reasonably in good faith.

At all times staff should be working in the best interests of the child and whenever they consider using force to control a child’s behaviour; they are requested to ask the following key questions:

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

Reasonable and proportionate

Any response to extreme behaviour should be reasonable and proportionate. People should not react in anger and if they feel they are becoming angry they should withdraw to allow someone else to deal with the situation. Where staff act in good faith, and their actions are reasonable and proportionate they will be supported.

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

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

A verbal warning will be given before physical intervention. Where possible, staff should use diversion or diffusion in preference to physical interventions.

Unreasonable force

It is not reasonable to use force simply to enforce compliance in circumstances where there is no risk. Nor is it reasonable to use any more force than is necessary to achieve a reduction in risk. Under no circumstances should pain be deliberately inflicted.

4. Public Interest Disclosure Act 1998

Whistleblowing is the mechanism by which staff can voice and report any behaviour by colleagues that raises concern, made in good faith, without fear of repercussion. Please refer to our 'Whistleblowing Policy'.

5. Health and Safety

If hazardous behaviour presents a significant risk of injury to people, there is a Health and Safety issue to be addressed. Dangerous occurrences should be reported to the Headteacher. We all have a shared responsibility to identify risk, communicate potential risks and take active steps to reduce risk wherever possible. We recognise that it is not possible to entirely remove risk. Sometimes things go wrong even when we make our best efforts to do the right thing. Sometimes we are faced with unpalatable choices. In these circumstances we have to try to think through the outcomes of the options available, balance the risks and choose whatever course of action seems to involve the least risk.

As a minimum requirement, in order to comply with Health and Safety legislation, each employee has a responsibility to ensure that they are conversant with school policy and guidance, and to cooperate to make the school safer. Staff are also required to participate in appropriate training as necessary subject to satisfactory health assessments. This does not necessarily mean that all staff can be involved in all physical activities. However, the non-physical aspects of positive handling training are crucially important too.

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

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

Risk Assessment

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

Factors which might influence a more immediate risk assessment, and therefore a decision about how to intervene, might include a state of health and fitness of the staff member, their physical stature, competence, confidence, experience and relationships with the pupils/students concerned. Confidence and competence are often related to the level of staff training. Other than in an emergency, staff should only attempt physical controls when they are confident that such action will result in a reduction of risk. When faced by extreme behaviour, or even in a fight situation, the judgement may be that, by becoming physically involved, the member of staff will increase the chance of somebody getting hurt. In this case the correct decision is to hold back from physical

controls. However, this does not mean that staff can do nothing. There are a number of other things that can be done. These are:

- Make the environment safer
- Give clear direction to pupils/students
- Remove the audience and get help

Positive Handling Plans

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

Responding to Unforeseen Emergencies

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

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

6. Training

All staff authorised either permanently or temporarily by the Headteacher who are expected to use planned physical techniques should be trained. All training courses should be fully accredited by the British Institute of Learning Disabilities (BILD) in accordance with guidance.

If not fully BILD accredited, training bodies or organisations should work within the best practice guidance of the BILD Code of Practice.

All training bodies, organisations and the tutors/instructors that provide training should be thoroughly researched to ascertain:

- Background knowledge
- Experience and recognition
- Prevention and management of violence and aggression training
- Related credibility as well as ethical suitability

The level of training recommended is related to the level of risk faced by the member of staff. The level of training required will be kept under review and may change in response to the needs of the

pupils/students. Once trained staff may need to practice regularly under the guidance of instructors and bring any concerns to them. Staff should not modify techniques without the express agreement of the Training Organisation.

It is also recognised that staff may respond with a technique from outside their training framework.

This doesn't automatically render the use of this technique improper, unacceptable or unlawful. Again it will be judged on whether it was reasonable, proportionate and necessary in those circumstances.

7. Recording

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

Any restraint must be recorded. All staff involved in an incident contribute to the record which should be completed within 24hrs, writing clearly what actually happened. Serious incident reports should not be completed until the individuals concerned have recovered from the immediate effects of the incident. Names should be completed in full (including those of all witnesses) and all forms should be signed and dated. These records will be retained and cannot be altered. They will be kept for many years and could form part of an investigation at some time in the future.

A concise record should be written into a bound and numbered book, which can refer to supporting incident sheets and other relevant information. A copy of the current Positive Handling Policy and relevant sections of the Staff Practice Guide refer to the staff mini handbook should be archived alongside the individual records each year, so that records can be considered in context in the future.

8. Monitoring and Evaluation

Each incident is reviewed and further action is taken as required. The school incident log will be open to external monitoring and evaluation as required.

9. Positive Behaviour Management

Bernwode Schools Trust's Positive Behaviour Policy rewards effort and application and encourages pupils/students to take responsibility for improving their own behaviour. Part of any preventative approach to risk reduction involves looking for early warning signs, communicating any factors which may influence behaviour and taking steps to divert behaviours which might lead towards foreseeable risk. Pupils/students participate in the development of their own Positive Handling Plans and are helped to focus on positive alternatives and choices.

(i) Alternatives to Physical Controls

Effective action to reduce risk can be carried out by:

- Showing care and concern by acknowledging unacceptable behaviour
- Using negotiation and reason
- Giving clear directions to the pupils/students to stop
- Reminding pupils/students about rules and likely outcomes
- Removing an audience or taking vulnerable pupils/students to a safer place
- Making the environment safer by moving furniture
- Making the environment safer by removing objects which could be used as weapons
- Using positive touch to guide or escort pupils/students to somewhere less pressured
- Ensuring that colleagues know what is happening

- Getting help

(ii) Modifications to the Environment

Risk assessment is made of the environment. Some pupils/students may exhibit extreme and possibly dangerous behaviours. In general, the environment must be kept clutter free. There should be secure storage for a range of everyday objects when they are not being used. For example consideration should be given to the:

- seating arrangements
- control of pointed implements (*including pencils and scissors*)
- use of small items as missiles
- sharp edges or corners which present a risk
- choice of furniture for Pupils/students who exhibit extreme behaviour
- comfortable and safe place to sit with an agitated pupil
- protocols in place to encourage angry pupils/students to take themselves to a safer place

(iii) Help Protocols

All staff have a responsibility to support each other. Help does not always mean taking over. It may mean just staying around in case they are needed, getting somebody else, or looking after somebody else's group. Real support sometimes means acting as a critical friend to help colleagues become aware of possible alternative strategies. Support and guidance is sought from the LA Behaviour Support Team whenever appropriate.

(iv) Well Chosen Words

The only purpose in communicating with an angry person is to prevent a further escalation. Sometimes it is better to say nothing. Take time to choose words carefully, rather than say the wrong thing and provoke a further escalation. The time to review what has happened and look at ways of putting things right, is after everyone has completely calmed down and recovered.

(v) The Principle of Last Resort

Staff must only use physical restraint when there is no other realistic alternative. Staff should conduct a risk assessment and choose the safest alternative available.

National guidance is clear on this point.

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

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

(vi) Pro-active Physical Interventions

Physical controls are sometimes necessary to prevent extreme behaviour from becoming dangerous. This should be part of a planned response and an agreed part of the Positive Handling Plan. Any action must be taken in the interest of the child and to help to reduce the risk.

10. The Post Incident Support Structure for Pupils/students and Staff

Following a significant incident the school will offer support to all involved. People take time to recover from a serious incident. Until the incident has subsided, the priority is to reduce risk and calm the situation down. Staff must avoid saying or doing anything which could inflame the

situation during the recovery phase. Immediate action should be taken to ensure medical help is sought if there are any injuries which require more than basic first aid. All injuries should be reported and recorded.

Time will be given to repair relationships. This is an opportunity for learning for all concerned. Time needs to be given to following up incidents so that pupils/students have an opportunity to express their feelings, suggest alternative courses of action for the future and appreciate the perspective of others.

11. Complaints

Parents and pupils/students have a right to complain about actions taken.

Bernwode Schools Trust has an open and transparent policy and practice in order to protect the interests of pupils/students and staff. The schools complaints process is available on the school website or a hard copy can be collected from the school office.

Bernwode Schools Trust follow DFE's (Department for Education) guidance set out in Keeping Children safe in Education (September 2016)

Any staff concerns regarding the welfare of children should be taken to the designated person for Child Protection. Any safety concerns should be reported to the designated person for Health and Safety.

12. Follow Up

Following an incident, consideration may be given to conducting a further risk assessment, reviewing the Positive Handling Plan, Positive Behaviour Policy or the Positive Handling Policy. Any further action in relation to a member of staff, or an individual pupil, will follow the appropriate procedures.

It is the preferred practice of the Oxfordshire Local Authority to use Team-teach accredited courses. However, other BILD accredited training organisations may be used. If a school needs to use training courses that sit outside of this criteria (i.e. non BILD accredited) then that will be discussed in advance of any training (initially with the LA officer overseeing restrictive physical intervention) so that the ethical suitability can be discussed.

Further References

1. Department of Health – 1997 – “The Control Of Children In The Public Care: Interpretation Of The Children Act 1989” – London: H M S O
2. Department for Education & Employment – 1998 – “Guidance On Section 550A Of The Education Act 1996: The Use Of Reasonable Force To Control Or Restrain Pupils/students” - London: H M S O
3. Department for Education & Employment – 2001 - ‘Positive Handling Strategies for Pupils/students with Severe Behaviour Difficulties’ - Letter sent from Chris Wells Head of SEN Division to Chief Education Officers (Same title but not same document)
4. Department for Education and Skills – July 2002 – “Guidance On The Use Of Restrictive Physical Interventions For Staff Working With Children And Adults Who Display Extreme Behaviour In Association With Learning Disability And/Or Autistic Spectrum Disorders” - London: Department for Education and Skills (DfES version of the “joint” guidance – different title but same document)
5. Department of Health – July 2002 – “Guidance For Restrictive Physical Interventions: How To Provide Safe Services For People With Learning Disabilities And Autistic Spectrum Disorder”

London: Department of Health (DoH version of the “joint” guidance - different title but same document)

6. LEA/0264/2003 - September 2003 - “Guidance on the Use of Restrictive Physical Interventions for Pupils/students with Severe Behavioural Difficulties”
7. I.R.S.C. – Jan 2005 – “ Guidance for Safe Working Practice for the Protection of Children & Staff in Education Settings “
8. Birmingham LEA – May 2003 – “The Use of Reasonable Force to Control or Restrain Pupils/students – Guidance for Birmingham Maintained Schools and the City Council Education Service – Model Policy “
9. West Midlands SEN Regional Partnership – January 2005 – “Care and Control – a toolkit to support the West Midlands SEN Partnership in the development of a shared approach to fulfilling the LEA duty of care”
10. HMSO – 2004 – The Children Act
11. National Association of EBD Schools – March 2005 – “NAES Model Policy”
12. Steaming Publications – March 2005 – “NAES Bound and Numbered Book”
13. Health & Safety at Work Act – 1974
14. Management of Health & Safety at Work Regulations – 1999 (as amended)

Other related Policies

This policy should be read in conjunction with the schools:-

- Positive Behaviour Policy
- Health & Safety Policy
- Safeguarding and Child Protection Policy
- Whistleblowing Policy

Policy/Procedure Title	Positive Handling Policy
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