



E&LL Policy and Procedures for dealing with  
Unacceptable Behaviour and Positive Handling

**Department of Education  
and Lifelong Learning**

# **Policy and Procedures for Dealing with Unacceptable Behaviour and Positive Handling**

**(Incorporating Violence, Aggression, Restraint,  
Harassment, Nuisance and Trespass)**

September 2004

## **FORWARD**

This document is issued to meet the Department of Education and Lifelong Learning (E&LL)'s statutory duties with respect to dealing with unacceptable behaviour and positive handling, including incidents of violence, aggression, harassment, nuisance and trespass. It provides practical guidance on the strategies which can be successfully employed to prevent such incidents occurring and respond appropriately to them should they occur.

## **AUTHORITY FOR USE**

This document is issued under the authority of the Director of E&LL and is applicable throughout the department, including Education Establishments. E&LL requests that acknowledgement is given to the department for any information that is extracted and reproduced from this Policy.

## **STATUS AND IMPLEMENTATION**

This document is part of a suite of documentation applicable to E&LL. All other documentation, relevant to E&LL, must be complied with, including: all statutory, local government, regulatory eg the Health & Safety Executive (HSE), Corporate and Departmental documentation.

Any comments on this document, or any difficulties in implementation, should be brought to the attention of the Director of E&LL through the usual line management channels.

## **REVISION**

This document will be reviewed on a regular basis to confirm that the arrangements are still appropriate.

A review will also take place if there is any reason to suspect that it is no longer appropriate in the light of changes in legislation, good practice or corporate policy change affecting the standards.

The document, including the appendices, will be revised and reissued within not more than three months from the review date, where this is necessary.

**A signed and dated copy will be kept in E&LL records and a copy can also be located at the Health and Safety Education Intranet site.**

Date: September 2004  
Date of review: August 2007

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Appendices.

- A - Procedures to follow in the event of an incident of Violence, Aggression, Nuisance, Harassment or Trespass
- B - Strategies for the prevention of unacceptable behaviour
- C - Violence, Aggression, Harassment, Nuisance and Trespass: Response Chart
- D - Section 547 powers to remove and to prosecute trespassers
- E - Guidelines for Searching Pupils who may be in Possession of Dangerous or Prohibited Items
- F - Useful Addresses and Telephone Numbers
- G - Associated Documents
- H - Model local policy
- I – Restraint report form
- J – Legal Support Scheme
- K - 'Corporate Safety Information system' (Flagging)

## 1. Introduction

- 1.1 The problem of unacceptable behaviour by way of inappropriate use of language, violence, aggression, harassment and nuisance (VAH&N) to employees and pupils has become widely recognised across E&LL.
- 1.2 The problem of VAH&N by pupils to employees of E&LL is also recognised with the need to identify triggers for these incidents and avoid them, effectively diffuse situations that are escalating but apply positive handling/restraint methods where intervention is necessary.
- 1.3 E&LL recognises growing concern about trespass at its sites and the need to implement effective remedies.
- 1.4 E&LL is committed to providing, maintaining and positively promoting a healthy and safe environment at work. This is helped by the development of health and safety policies, codes of practice and safe systems of work which will benefit the health, safety and welfare of all employees, pupils, volunteers and visitors. The establishment and introduction of arrangements necessary to achieve and maintain satisfactory standards must be an integral part of the management function.
- 1.5 This policy has been produced by E&LL in conjunction with Trade Unions, Education Safety Managers and advisors, along with other representatives of E&LL. It forms part of a suite of policies adapted from the Central Safety Section policies, providing evidence of E&LL's commitment to ensuring the safety and well being of all its employees and others.
- 1.6 This policy has been designed to replace any previous documentation relating to dealing with unacceptable behaviour and positive handling. Therefore, **Headteacher/Manager/Supervisors** must dispose of any out-of-date policy documents, information etc.
- 1.7 E&LL recognises that by their very nature some posts carry a greater risk of VAH&N than others. There is an obligation on E&LL to ensure that sufficient Information, Instruction, Training and Supervision is provided to the employees concerned, thereby increasing awareness with a view to reducing the overall risk.

## 2. Scope

- 2.1 This policy applies to all employees of E&LL including education establishments. It is the responsibility of all **Headteacher/Manager/Supervisors** to bring it to the attention of all in their workplace and to the wider community where appropriate.

## 3. Definitions

- 3.1 Perceptions of what constitutes unacceptable language, is violent, constitutes harassment, nuisance and trespass are individual. Positive handling/restraint can be seen by others as a possible assault. The degree of upset one person may feel in a particular confrontation may be totally different from that of another person. Such behaviour can produce damaging and harmful effects, physically or emotionally on other people and will be determined, at least in part, by an individual's perception.

### 3.2 Violence and Aggression

- 3.2.1 For the purposes of this policy, violence and aggression is defined as any incident in which 'an employee is verbally, physically or non physically abused, threatened or assaulted.

- 3.2.2 Types of violence and aggression - the following list are examples of what E&LL considers unacceptable behaviour, some of which could warrant court action:

- ! any unwanted physical contact
- ! verbal aggression
- ! shouting and swearing
- ! displaying threatening weapons
- ! threats of violence
- ! interference with a persons belongings eg. pulling items of clothing, damaging a staff car in a car park and
- ! bullying and intimidation

### 3.3 Positive Handling/Restraint

Positive handling using physical restraint involves a member(s) of staff using force with the intention of restricting a pupil's movements against their will.

### 3.4 Harassment

3.4.1 For the purposes of this policy, harassment is defined as 'threatening, abusive, insulting, disorderly behaviour or writing which causes a victim alarm or distress'. Although closely related, violence and aggression are not necessarily the same as harassment.

3.4.2 This includes harassment on the grounds of age, sex, race, religious belief, disability, sexual persuasion and HIV status and bullying arising out of the course of work'. The act could be committed by a member of the public, a fellow employee by a pupil or parent/carer.

3.4.3 Types of harassment - the following list are examples of what E&LL considers unacceptable behaviour which would constitute harassment against the individual:

- ! bullying and intimidation
- ! sexual harassment eg smutty talk or jokes, exposure, touching, groping etc
- ! racial harassment eg racist language, taunts etc
- ! nuisance telephone calls and
- ! persistent complaint when all reasonable remedies have been implemented.

3.4.4 The definition of a racial incident is 'any incident which is perceived to be racist by the victim or any other person'. Incidents include graffiti, verbal abuse, racist literature etc.

### 3.5 Nuisance

3.5.1 For the purposes of this policy, Nuisance is defined as an act not allowed for in law, or not performing a legal duty, the consequence of which obstructs or causes inconvenience or damage to staff, pupils, the public etc. in the exercise of their common rights.

### 3.6 Trespass

3.6.1 For the purposes of this policy, Trespass implies the intentional invasion of somebody's person, land or goods. An action of trespass involves a civil claim for damages resulting from false imprisonment, unlawful entry to the land of another, assault and battery.

- 3.6.2 Education establishments and E&LL buildings are not public places. Any person who enters without permission is a trespasser and may be asked to leave. This includes parents/carers/pupils.
- 3.6.3 Trespass is not a criminal offence but can be pursued through the civil courts. However, Section 547 of the Education Act 1996 gives powers to address issues promptly and can involve criminal offences being committed.

### 3.7 Unacceptable Language and Verbal Abuse

- 3.7.1 Specific guidance on racial issues can be found in the E&LL ring binder, issued in 2004 and titled: Reporting and Dealing with Racist Incidents in Schools.
- 3.7.2 Otherwise what is acceptable or otherwise will need to be explicitly addressed locally dependant on site and service provided and common agreement and appropriate publicity.

## 4. Policy

- 4.1 There can be no set procedure for dealing with unacceptable behaviour and although personal and professional skills may be used to avoid incidents, it will not always be possible to do this. E&LL recognises that In an emergency or a case of self-defence everyone has the right to defend themselves against attack provided they do not use a disproportionate degree of force to do so.
- 4.2 E&LL recognises and accepts its responsibility as an employer and will endeavour, as far as is reasonably practicable, to eliminate or reduce the risk of unacceptable behaviour, positive handling/restraint, exposure to weapons, drugs etc. for its employees during the course of their work. Appendix B details some useful strategies to reduce unacceptable behaviour. E&LL, therefore, requires its **Headteacher/Manager/Supervisors** to:
  - 4.2.1 work in partnership with supporting and complimentary service providers to develop strategies for the prevention of acts of unacceptable behaviour and positive handling, by risk assessment and other methods to identify all those at risk and appropriate control measures to protect them. This must cross reference to Establishment's four levels of unacceptable behaviour sanctions, prior to having to address the possibility of



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exclusion. Blockages at level 4 need to be addressed to provide effective remedies to ongoing challenging behaviour.

- 4.2.2 ensure the risk assessment process is inclusive with all employees and their representatives actively involved, taking advice from the E&LL Safety Advisers, where necessary
- 4.2.3 monitor, examine and improve working environments and administrative systems. Where improvements to systems are not able to be implemented locally, this should be raised with the appropriate officer of E&LL
- 4.2.4 ensure their establishment/site has a local policy on unacceptable behaviour and positive handling/restraint, where applicable, which flows from this policy document and is communicated to the establishment's/site community. The document must set out clearly the unacceptability of certain words and language and how verbal abuse will be dealt with. It must record staff members duty of care to maintain good order and the need to safeguard staff, pupils' and others health and safety. However, it must acknowledge that staff are not under a duty to run the risk of personal injury by intervening when it is not safe to do so. The policy must not advocate the blanket use of physical intervention for pupils – to do so would be in conflict with the values of respect and dignity for pupils and could create a climate of abuse and mistrust. The local *adaptation and improvement* of this policy will develop an ethos where the use of conflict resolution techniques has precedence over physical intervention in solving pupil behaviour problems. Preparing appropriate responses to potentially dangerous circumstances helps to eliminate or minimise negative consequences and must be:
- incorporated in the whole establishment policies on behaviour management, pastoral care and health and safety
  - used only in emergencies, after other less intrusive alternatives have failed or been deemed inappropriate
  - used with extreme caution and
  - be linked to pupil protection procedures and explicitly cross referenced to E&LL's own "Equalities and Educational Inclusion Policy and Framework", which is accompanied by an annual detailed action plan - the Education and Lifelong Learning Equalities Action Plan. Establishments have been requested to put in place their

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own Equal Opportunities Policy, and other policies that flow from it, such as anti-bullying policies, SEN policies etc.

4.2.5. ensure that incidents of unacceptable behaviour and positive handling/restraint are properly dealt with, promptly reported and comply with the establishment's/site policy and this policy.

4.2.6 identify staff who need training to ensure they have appropriate skills. If involved in positive handling/restraint staff need to first recognise triggers that may lead to conflict and avoid them. They must be able to defuse conflict using non-physical calming methods wherever possible. Alternatives to positive handling/restraint should always be employed in the first instance. They must only be considered as an option if calming and defusing strategies have failed to de-escalate the situation and where the response is in the paramount interests of any pupil involved. Not intervening is likely to result in more dangerous consequences than intervening. Therefore, use of positive handling/restraint must:

- involve the minimum force necessary
- be applied only until the pupil is calm
- be used to de-escalate a potentially dangerous situation
- not be used as a threat or a punishment
- not inflict pain
- be administered calmly and rationally not in response to anger or frustration
- be the result of a professional judgment about the pupils' safety, taking account of the age and abilities of the pupils and
- be in the best interests of the pupils.

Pupils will always be monitored for health and safety during physical restraint. Holds must stop immediately if the following signs are noted eg. difficulties in breathing, sudden change in skin colour vomiting etc.

4.2.7 put in place an individual behaviour management programme for all pupils who require positive handling/restraint on more than one occasion.

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- 4.2.8 provide training to expand employees inter-personal and other skills and awareness, to increase confidence and in order to reduce frustration which may lead to members of the public, fellow employees, pupils or parents/carers expressing anger by way of unacceptable behaviour
- 4.2.9 involving employees with the design and layout of their workplace
- 4.2.10 supporting employees who have become the victims of unacceptable behaviour or had to deploy positive handling/restraint during the course of their work
- 4.3 All council departments have a duty to ensure that information about incidents of unacceptable behaviour are communicated to other departments and sections who may have cause to deal with the perpetrator. This information must be shared on the Corporate Safety Information System<sup>1</sup> (CSIS) (Flagging System)
- 4.4 Appendix F lists useful addresses and contact numbers and Appendix G reference documents etc.

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<sup>1</sup> System which has been set up to record details of addresses and/or persons where incidents of dangerous or threatening behaviour has taken place in the last 18 months.

## 5. Duties of all Employees

- 5.1 Employees must deliver a high standard of service without giving expression to their own personal feelings.
- 5.2 There is also a legal requirement to:
- ! observe procedures to ensure the health and safety of members of the public, fellow employees, and ourselves at all times
  - ! avoid putting ourselves, colleagues, or our workplace in danger. Staff who deliberately ignore the policies and procedures for health and safety might be considered negligent should an incident occur and may also be subject to investigation leading to disciplinary action
  - ! report all incidents including verbal abuse/unacceptable language, problems and shortcomings in control measures to their **Headteacher/Manager/Supervisors**, in line with the E&LL Policy and Procedures for the Reporting of Incidents of Violence, Injuries, Diseases and Dangerous Occurrences and/or the appropriate local Health and Safety Concern form
  - ! use anything that has been provided by their employer for their health and safety such as personal protective equipment, clothing etc. and
  - ! bring to their **Headteacher/Manager/Supervisor's** attention information or concerns about unacceptable behaviour in the workplace. This may be done via a local concern-reporting system. Employees are also recommended to consult their Trade Union Representative for assistance if a member.

## 6. Procedures

### Action if Unacceptable Behaviour Occurs

- 6.1 Following an act of unacceptable behaviour, employee(s) concerned and **Headteacher/Manager/Supervisors** must be prepared to take actions as per Appendix C (Response Chart). Employees should contact their Trade Union / Other Staff Representative for assistance.

Incidents of unacceptable behaviour involving service users, who may be in the care of E&LL, require special consideration.

Appendix C must be enlarged to A3, laminated and put on prominent display in the offices of those who are most likely to witness incidents of unacceptable behaviour such as the **Headteacher/Manager/Supervisor and receptionists/secretarial staff**.

- 6.2 Where weapons or other unacceptable items such as drugs are suspected to be concealed on a potential aggressor/service user, they must be asked to prove otherwise. If a search proves necessary assistance in terms of appropriate actions is given in Appendix E. Guidance has also been provided by the DfES in March 2004 giving a clear message that illegal and unauthorised drugs of any kind are unacceptable on Establishment premises and can lead to violence etc. Key points include:

- Identifying the vulnerable and supporting them
- Having a policy on drugs covering education and their management
- A comprehensive range of widely consulted upon responses to breaches of the rules and
- Training for staff.

It is recommended that this guidance is used in drawing up the local policy required by the implementation of this policy.

- 6.3 In some instances of physical assault employees may not wish the police to be involved, and in some cases this may not be necessary or appropriate. However, if an employee has been subjected to a criminal act it is an employee's right to inform the police.
- 6.4 If a trespasser refuses to leave the premises, or enters after being required to leave, their behaviour may give rise to a criminal offence under Section 547 of the Education Act 1996 Details are given in Appendix D.

- 6.5 If it is decided to contact the police, witnesses to the incident should give their names and addresses and be asked to remain at the site or location until the police arrive. Witnesses to the incident should be made aware by the **Headteacher/Manager/Supervisors** that they may need to give evidence.
- 6.6 If employees suffer shock or injury as a result of an attack then medical support and advice should be sought as soon as practicable.
- 6.7 Employees subjected to unacceptable behaviour at work must be offered help from their employer. The Initial responsibility of **Headteacher/Manager/Supervisors** is to debrief, support and reassure employees. Forms of support to be deployed may include the following:
- ! ensuring that employees who have suffered an incident of unacceptable behaviour or been involved in positive handling receive medical assistance if appropriate and support from themselves and their Governing/Managing bodies, again where appropriate, and have access to specialist advice and counselling if required
  - ! assisting with the identification of the assailant(s) or aggressor(s)
  - ! allowing paid time off, to both those subject to unacceptable behaviour or who have had to deploy positive handling and any witnesses, to assist police investigations and to attend court
  - ! reminding employees of the support which is available from their trade unions if members and
  - ! banning those perpetrator(s) or aggressor(s) from E&LL sites who are not in the department's care.
- 6.8 Employees may be better able to cope with stressful situations once they know they have the support of E&LL. Details of the support available from the Occupational Health and Welfare Service are given on page 16.

#### **Action if Harassment Occurs**

- 6.9 If harassment has originated from another employee of E&LL, contact should be made with Human Resources to consider investigation under the formal employee complaints procedure. The victim of harassment should then consider self-referral to the Support Worker Scheme.

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- 6.10 If the harassment has originated from a service user/parent/carer/pupil the Health and Safety/Equalities Violence and Abuse Monitoring Form must be completed and referred to the Equalities Team (see the Reporting and Dealing with Harassment in Bristol Schools ring binder).
- 6.11 After taking advice individuals should decide whether to pursue the matter under the harassment and/or the unacceptable behaviour procedures.
- 6.12 **Headteacher/Manager/Supervisors** must report every event/accusation of an act of racial harassment to the Equalities Officer for Race in Education. Reference must be made to the E&LL ring binder titled: Reporting and Dealing with Harassment in Bristol Schools issued in 2004 which provides comprehensive and accessible guidance on reporting within a much wider policy and strategy context that requires local action.
- 6.13 If members of staff feel they are being harassed at work they should contact their **Headteacher/Manager/Supervisor**. If this is not possible, appropriate contact can be made with TU reps, where applicable, and/or appropriate E&LL officers. Detailed procedures are contained in the Corporate Integrated Equalities Policy (this can be found on the Corporate Intranet under 'Personnel policies'. A section deals with Stopping Harassment in the Workplace, see:  
[http://intranet.bcc.lan/php/equalities/harassment/eq\\_gen\\_harassment\\_intro.phtml](http://intranet.bcc.lan/php/equalities/harassment/eq_gen_harassment_intro.phtml)

**Action if Trespass Occurs**

- 6.14 It is a criminal offence for a trespasser to cause a nuisance or annoyance on E&LL premises (which include play areas, playing fields etc) under Section 547 of the 1996 Education Act. If such a nuisance is brought about, then the **Headteacher/Manager/Supervisors** or any person authorised by the **Headteacher/Manager/Supervisor or the Governing/Managing body** should ask such a person to leave. However, they should not under any circumstances attempt to use physical force to remove a person. If the seriousness of the situation warrants it (ie the person causes a breach of the peace or threatens acts of violence) then the police should be called. If Education Establishment or E&LL staff are aware of whom the person is, then the Establishment or E&LL can write to them banning them from appearing again on the premises. Should they return, then the police or E&LL would then be in a much stronger position to prosecute and/or take out an injunction. An example of this procedure can be found at Appendix D of this policy.

- 6.15 **Headteacher/Manager/Supervisors/Governing/Managing Bodies** need to identify and authorise Section 547 Officers. E&LL's Section 547 Officer, should be considered as one of the Officers nominated. If so authorised, E&LL must be notified.
- 6.16 If a trespasser threatens the premises and anyone within them, the site 'lock down' procedure should be activated. (See E&LL's Emergencies and Business Continuity policy)

### **Support from the Occupational Health and Welfare Service**

- 6.17 It is recognised that following incidents of VAHN&T, professional support and guidance is an essential part of restoring the well being of the person concerned. This is available from the Occupational Health and Welfare Service and can be provided to all employees who have been subjected to VAHN&T whilst at work, to take place after the most appropriate time period has elapsed following the incident. This may vary dramatically depending on individual needs and wishes.
- 6.18 In some circumstances employees may wish to request a referral to the Occupational Health and Welfare Service. To obtain this support a request should be made to their **Headteacher/Manager/Supervisor**, Human Resources Officer or appropriate E&LL officer. (This can be initially requested on an emergency basis via a telephone call, followed up by the completion of the appropriate referral form). In exceptional circumstances it may be possible to request a referral from the Manager of the Occupational Health and Welfare Service.
- 6.19 The support is in the form of a confidential counselling service by qualified personnel and includes critical incident/post traumatic stress debriefing where appropriate.

### **Use of positive handling/restraint**

- 6.20 A model establishment policy for adaptation/improvement is at Appendix H.
- 6.21 Use of positive handling/restraint must be an act of care and not a punishment. Deliberate use of physical contact to punish a pupil, cause pain or injury or humiliation is unlawful, regardless of the severity of the pupil's behaviour or the degree of provocation.
- 6.22 For establishments, DfES Circular 10/98 clarifies the situation regarding Headteacher/Manager's capacity to empower teaching and non-teaching staff to apply positive handling/restraint in appropriate



circumstances. Those authorised will be preventing a pupil from doing, or continuing to do, any of the following:

- committing a criminal offence (including behaving in a way that would be an offence if the pupil were not under the age of criminal responsibility)
- injuring themselves or others
- causing damage to property (including the pupil's own property) and
- engaging in any behaviour prejudicial to maintaining good order and discipline at the establishment or among any of its pupils, whether that behaviour occurs in a classroom during a teaching session or elsewhere.

## 6.23 The Legal Framework

6.23.1 The European Convention on Human Rights makes it unlawful for a public authority to breach any of the rights in the Act. These include the prohibition of inhumane or degrading treatment or punishment (Article 3). The Convention was given effect in UK law by the Human Rights Act 1998, and it seeks to achieve a fair balance between the demands of the general interests of the community and the protection of Human Rights. The Convention sets out the circumstances when an interference with a person's rights is permitted but any interference must be sanctioned by law and go no further than necessary and be proportionate to meet "a pressing social need".

6.23.2 It is a criminal offence to use physical force, or to threaten to use force (for example, by raising a fist or issuing a verbal threat), unless the circumstances give rise to a lawful excuse or justification for the use of force. Applied correctly, and within the parameters set out in law, the use of force to restrain a pupil is likely to be legally defensible when it is required to prevent:

- self-harming
- injury to other pupils, staff or teachers
- damage to property
- an offence being committed
- in establishment settings, any behaviour prejudicial to the maintenance of good order and discipline within the establishment or among any of its pupils and
- no more force was used than was reasonably necessary in the circumstances.

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6.23.3 With regard to establishments, there is a general duty upon governing bodies of maintained establishments to ensure that their establishment pursues policies designed to promote the good behaviour and discipline of pupils. It is for the Headteacher/Manager to settle disciplinary measures and, in consultation with the governing body, to decide what standard of behaviour is to be regarded as acceptable. Disciplinary measures should be publicised in writing so as to make them known within the establishment and to parent/carers (S.61 Establishment Standards and Framework Act 1998). This could, for example, include clear statements about the acceptability or otherwise of swear words, unacceptable language, etc.

6.23.4 Section 550A of the Education Act 1996 allows teachers, and other members of staff at an establishment who are authorised by the Headteacher/Manager to use such force as is reasonable in circumstances where the pupil may need to be prevented from engaging in behaviours which are likely to cause injury to themselves, others or damage to property.

6.23.5 There is no absolute legal definition of reasonable force. The Criminal Law Act (1967) allows any person to use such force as is reasonable in the circumstances to prevent an offence (e.g. physical assault) being committed. Reasonable minimal force must be a matter of personal professional judgement and based on experience of the pupils involved. It is permissible:

- in order to remove the danger of another person being assaulted and
- when a person is wilfully damaging property.

6.23.6 The degree of force employed must be in proportion to the circumstances of the incident and the seriousness of the behaviour or the consequences it is intended to prevent. Any force used should always be the minimum needed to achieve the desired result.

6.23.7 Teachers, Learning Support Assistants, pupils, parent/carers and possibly the Police, may well question the use of physical restraint in an incident. When it is demonstrated actions complied with policies and training and the law in general, members of staff will be deemed to have acted reasonably and will, therefore, receive management and E&LL support. A member of staff who has taken this action and can explain the

rationale for their actions, will have a good defence in any legal action against them.

**6.23.8 If a member of staff does not follow correct procedures they may be liable to civil or criminal proceedings and investigation leading to possible disciplinary action.**

6.24 Assessing the Risks

6.24.1 Under health and safety legislation, employers are responsible for the health safety and welfare of employees and the health and safety of persons not in employment, including, visitors to the establishment or setting, and crucially, in this context, pupils. This requires employers to assess risks to both employees and pupils arising from work activities, including the use of physical interventions. Employers should also establish and monitor safe systems of work and ensure that employees receive suitable training.

6.24.2 When the use of positive handling/restraint is appropriate, it is important that steps are taken to minimise the risk to both staff and pupils.

6.24.3 risks to pupils could include:

- unnecessary use, ie. when other less intrusive methods could achieve the desired outcome
- cause injury, pain, distress, illness eg. an asthma attack or psychological trauma
- become routine, rather than exceptional methods of management
- increase the risk of abuse
- undermine the dignity of the staff or pupils or otherwise humiliate or degrade those involved and
- create distrust and undermine personal relationships.

The main risks to staff include the following:

- as a result of applying a physical intervention they suffer injury
- as a result of applying a physical intervention they experience distress or psychological trauma
- the legal justification for the use of a physical intervention is challenged in the courts and

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- investigation leading to disciplinary action or a pupil protection enquiry that does not reach the Courts, but nevertheless contains all the inherent stresses of such.

6.24.4 Although staff should only restrain if injury/damage will occur, the main risks of not intervening include:

- pupils, staff or other people will be injured or abused
- serious damage to property will occur
- staff may be in breach of the duty of care and
- the possibility of litigation arising out of not intervening.

6.24.5 A calm and measured approach to a situation is needed and members of staff should never give the impression that they have lost their temper, or are acting out of anger or frustration, or to punish the pupil.

6.24.6 There are rare occasions when it may be appropriate to act with only minimal assessment of risks, for example, in exceptional circumstances, where there is an immediate risk of injury; a member of staff may need to take any necessary action that is consistent with the concept of “reasonable force”. Whilst not an exhaustive list, examples include:

- to prevent a young pupil running off a pavement onto a busy road, or falling into water
- a pupil using tools dangerously or inappropriately in a craft or food technology lesson
- to prevent a pupil hitting someone else
- throwing stones (etc...) at a window where there is an immediate risk of injury from broken glass and
- misuse of substances (e.g. cleaning fluids, etc...) where there is a likelihood of immediate injury.

6.24.7 The restraint of a pupil should calm the situation – and not lead to greater injury or an escalation of violence. If the circumstances allow, the following factors need to be taken into account in evaluating the risks involved and in determining the techniques to be employed:

- the location of the incident, and the potential for the restraint to be carried out safely
- availability of members of staff – restraint is usually best carried out with two persons and if a larger pupil needs to be restrained, this could need at least three adults

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- the presence of other pupil who might become distressed, or side with the pupil being restrained
- the member of staff's capacity to act calmly, and their own training and expertise in this matter
- the age, gender, physique, special needs or medical condition of the pupil (if known) and the member of staff – as well as any cultural factors. In some cultures, it would be wholly inappropriate for a male member of staff to restrain a girl
- the clothing being worn by the pupil and restrainers, including wearing rings, jewellery or glasses
- any previous history
- whether the pupil is possibly under the influence of alcohol or drugs
- whether the pupil's behaviour may be due to a medical condition – for example, diabetes, a thyroid condition or an allergic reaction
- what would be the outcome of not restraining the pupil – could timely intervention prevent further trouble, or injury to another person and
- the presence of any weapon, or proximity of items that the pupil could use as a weapon.

6.24.8 Whether a member of staff decides to restrain a pupil or not, they must be able to demonstrate that their decision was rational.

6.24.9 Staff must not put themselves at undue immediate risk in restraining a pupil, and if a member of staff does not feel able to intervene, they should be able seek assistance immediately. Each establishment should devise its own system by which assistance can be called.

6.24.10 Whenever possible assistance must be sought when dealing with:

- the possibility of staff being at risk of injury
- an older pupil
- a physically large pupil
- more than one pupil
- a pupil who appears to be under the influence of drugs or alcohol, or who is ill and
- a pupil who appears to have a weapon.

## 6.25 Off Site Activities

- 6.25.1 When planning off-site activities, establishments should consider whether they would need to address behavioural issues, including the potential for positive handling/restraint.
- 6.25.2 For establishments the duties and powers relating to behaviour, discipline and restraint, apply equally when staff are on the establishment premises or where in lawful control or charge of pupils elsewhere e.g. on an off site visit or other authorised off site activity.
- 6.25.3 In some circumstances, the risk may be minimal – a group of well-motivated sixth form students are not generally likely to behave in such a way as to need restraint. Other pupils, where there are known behavioural problems (especially where this is due to a special educational need) will need risk assessing before an off site activity – see the section below on pupils with special needs for further details. Cross reference should also be made to the E&LL Transport policy.
- 6.25.4 A pupil who misbehaves on a bus that has been chartered by the establishment could be disciplined and even restrained, but a pupil who is on public transport is in a different position. Unless it is an organised activity, an individual member of staff has only the powers to intervene that any other citizen has – and for establishments, staff authority to restrain pupils does not apply to pupils in a public place, outside establishment control.
- 6.25.5 Some establishments welcome parent/carers as volunteers on off-site activities; under no circumstances should volunteers be expected to help in the restraint of a pupil, unless they are the pupil's parent/carer. Similarly, employees of the site being visited should not be expected to restrain a pupil, above and beyond what the law allows them to do in self-defence.
- 6.25.6 Ensuring that all pupils (and their parent/carers) are 'signed up' to agreed standards of behaviour before the visit may reduce poor behaviour (see the E&LL off site visits policy etc.). Members of staff should resist any temptation to accept lower standards of behaviour. Pupils must understand what standard of behaviour is expected of them and why rules must be followed. The lack of control and discipline can be a major cause of accidents, and the different hazards that pupils may be exposed to, away from the establishment will require them to

observe standards of behaviour that are at least as high as, or higher than, on site.

6.25.7 Members of staff must do their best to ensure the health and safety of everyone in the group and act as any reasonable parent/carer would do in the same circumstances. They should follow the instructions of the group leader and help with control and discipline. Where a pupil's behaviour may hurt or threaten anyone in the group, consideration must be given as to whether the pupil should go on the off site visit. However, if risk assessment indicates the pupil can be appropriately supported then the pupil may attend. Staff must tell the group leader or supervisor about unacceptable behaviour during off site visits right away.

## 6.26 Safe Handling Methods

6.26.1 The following are the minimum requirements for such interventions:

- adopt a confident but friendly manner – regardless of provocation
- any physical intervention employed must involve the minimum force necessary for the minimum amount of time
- handling must not involve striking the pupil - deliberately or inadvertently
- handling must not involve "punitive" acts: i.e. deliberately inflicting pain on the pupil
- handling must not restrict the pupil's breathing, especially where the pupil is known to be asthmatic, or if they have a heavy cold. Staff must not use throat or neck holds or pressing the pupil's face into soft furnishings, or onto the ground
- an adult must avoid touching the genital area, the buttocks or the breasts of the pupil and
- handling must avoid the adult putting weight upon the pupil's spine or abdominal area or chest.

6.26.2 It can take a number of skilled and fit adults to restrain, without injury, even a small pupil who is out of control. There is a range of techniques that involve degrees of force to discourage a pupil from dangerous behaviour. Whilst not being able to totally restrain a determined pupil the techniques go as far as most thoughtful staff would be willing to go in the use of physical force. The "gentle holding techniques" taught by a number of

organisations are both within the law and are effective. During any incident of restraint an adult must seek as far as possible to:

- continue attempting to communicate with the pupil throughout the incident, and should make it clear that physical contact or restraint will stop as soon as it ceases to be necessary
- seek to lower the pupil or young person's level of anger or distress during the restraint by continually offering verbal reassurance and avoiding generating fear of injury in the pupil
- cause the minimum level of restriction of movement of limbs consistent with the danger of injury (e.g. will not restrict the movement of the pupil or young person's legs when they are on the ground unless flailing legs are likely to injure or be injured)
- take account of the danger of accidental injury during the restraint by using a method appropriate for the environment in which it is taking place (for example, on a paved surface the adult should seek to avoid placing the pupil or young person on the ground)
- ensure that in situations where a group of staff are involved, work together as a team, with one member taking the lead; avoid personal risk
- try to avoid moving the pupil during the restraint. Experience has shown that this can prove problematic and is only justifiable in situations when remaining in the original location would be more physically dangerous and
- If the pupil ceases to struggle, it is important to be vigilant – they may be aiming to break free. Nevertheless, when staff have judged it is safe to release the pupil, they must do so.

**In no circumstances must another pupil assist with the restraint.**

## 6.27 Recording Events and Actions

6.27.1 In establishments, **Headteacher/Managers/Governing Bodies**, must establish arrangements to ensure that all incidents of restraint are logged by the member(s) of staff involved; a reporting form is attached as Appendix I, and this must be completed for each incident that leads to a pupil being restrained.

6.27.2 Following an incident in which positive handling/restraint is employed, both staff and pupils should be given separate opportunities to talk about what happened in a calm and safe



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environment. Interviews should only take place when those involved have recovered their composure. Post incident interviews should be designed to discover exactly what happened and the effects on the participants. Where staff are represented by a trade union, regard should be had for the support available from union officers. Interviews should not be used to apportion blame or to punish those involved. If there is any reason to suspect that a service user or a member of staff has experienced injury or severe distress following intervention, they should receive prompt appropriate attention.

6.27.3 **Headteacher/Managers** must complete the E&LL incident reporting form in compliance with the E&LL policy dealing with these requirements

### 6.28 Witness Statements

6.28.1 It is important that statements are taken from all those who witnessed the incident. Statements should be taken by a senior member of staff as soon as possible after the incident – ideally within an hour of the event. The person involved in the physical intervention should not take statements. If there is any possibility that the incident may require or lead to a pupil protection enquiry, the witness statements should be taken by someone who is independent of the establishment or setting.

6.28.2 When taking a witness statement from another pupil, the following points should be considered:

- the statement must be as contemporaneous with the event as possible
- interviewing witnesses separately to avoid the risk of collusion
- conducting the interview in a quiet place
- considering the language skills of a pupil witness – especially where the pupil is young, or has communication or learning difficulties and
- avoiding whenever possible the use of leading questions, or prompting the pupil.

6.28.3 The member of staff involved in the incident should also make a statement, although they may wish to discuss this with their Professional Association or Trade Union before doing so.

6.28.4 All statements must be signed and dated by the witness (es).

## 6.29 Management Considerations

6.29.1 All incidents involving the physical restraint of a pupil must be reported to the Headteacher/Manager or their delegate as soon as possible. If the incident involves the Headteacher/Manager the chair of governors or an appropriate E&LL manager should co-ordinate the response to the incident.

6.29.2 In all establishments, follow-up actions need to be appropriate to the age and abilities of the pupil. In principle, the **Headteacher/Manager** should discuss details of the event with the pupil, whose view of the incident should be reported as soon as possible after it has occurred. Parent/carers must always be informed of what has happened to the pupil and offered an opportunity to discuss this with the Headteacher/Manager, taking into account possible adverse reactions and how they may best be dealt with.

6.29.3 An incident involving the use of positive handling/restraint should be an unusual occurrence in an establishment. Careful thought needs to be given to de-briefing for those adults and pupils who witness the event.

6.29.4 Consideration should also be given to the possible effects that restraining a pupil has on a member of staff. Apart from suffering physical injury staff may need time to recover in a quiet place with support from a colleague.

6.29.5 Although it is useful in terms of restorative justice for the member of staff involved, the pupil, and his or her parent/carers to meet to discuss the incident, the member of staff should not be forced into this, especially without proper support. That support may take the form of a trade union officer where the member of staff is in a trade union. Where a member of staff has been suspended or even arrested, then such meetings are not appropriate.

6.29.6 After the initial reporting of an incident if **Headteacher/Managers** consider that this and the local policy have not been followed by the member of staff, or it is felt that a criminal offence may have occurred, the incident itself should not be pursued further but referred for action in accordance with E&LL pupil protection procedures. For establishments further

help in these circumstances should be sought immediately from the lead E&LL officer for pupil protection.

6.29.7 Staff should be provided with the opportunities to discuss incidents involving restraint and their subsequent feelings. Where it is clear that the member of staff concerned needs further advice and/or training, the **Headteacher/Manager** must take prompt action to see that it is provided. Members of staff should be encouraged to contact their Professional Association or Trade Union, especially where a parent/carer has made a formal complaint. For maintained establishments or youth or play settings, Education and Community Services Personnel may also be able to assist.

6.29.8 Staff meetings should provide the opportunity for a discussion to take place of the incident. Such discussion is essential to prevent the development of a culture where physical response becomes routine.

#### 6.30 Reintegration of the Pupil

6.30.1 When an incident has happened, the establishment must consider what to do to re-integrate the pupil, and resolve any bad feelings (although this will not be practicable if the pupil has been excluded permanently). Not doing so could lead to an escalation in challenging behaviour, or disaffection.

6.30.2 Establishments could use the Pastoral Support Programme for effecting reintegration. Explicit risk assessment will be necessary and some form of acceptable behaviour contract, plus a programme of behaviour support for the pupil. Staff will need particular re-assurance and support in such circumstances too and training issues will need consideration.

#### 6.31 Complaints

6.31.1 All people who work with pupils have a duty of care to them. The possibility that a parent/carer whose child has been positively handled/restrained may wish to make a formal complaint cannot be ruled out. This is less likely if the parent/carers are informed about the events that led to the incident and are involved in appropriate discussion about the matter afterwards.

6.31.2 When intervention has been necessary, involving parent/carers in the discussions, together with a clear policy adhered to by the

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staff, should help to avoid complaints from parent/carers. It will not prevent all complaints and a dispute about the use of force by a member of staff might lead to an investigation, leading to possible disciplinary procedures and/or by the Police and social services under pupil protection procedures. Staff must be given the opportunity to be supported by a trade union representative or colleague if an investigation is to be carried out.

6.31.3 Any instance of a restraint being seen as pupil abuse is particularly serious. On the other hand, for an innocent person to be subject to what may be a lengthy period of suspension and investigation, coupled with the threat of possible arrest, is a serious ordeal that can result in long-term damage to a person's health and career. Accordingly very serious consideration must be given before a staff member is suspended, taking into account the potential for mistaken/malicious allegations/accusations being made and should, therefore, be resisted where this and the local policy has been complied with and training properly applied.

6.31.4 If anyone makes an allegation that a restraint amounted to a potential criminal act, or indicates that a pupil has suffered, is suffering or is likely to suffer significant harm, then there must be an immediate referral in accordance with the local pupil protection procedures established by the ACPC. If there is any doubt in these matters, then guidance or clarification can be sought from the Education & Community Services Lead Officer for Pupil Protection.

6.31.5 Any complaint arising from the use of physical restraint must be fully considered in light of existing routes of investigation:

- statutory Routes, which includes Criminal and Pupil Protection proceedings and
- other routes including investigation which might lead to disciplinary measures

6.31.6 In circumstances where a complaint is lodged it would be for an investigatory/disciplinary panel and/or the Court to decide whether the use and degree of force was reasonable in all the circumstances.

6.31.7 Once routes outlined above are exhausted or not applicable, the matter should be dealt with in accordance with the establishment's normal complaints procedure.

## 6.32 Pupils with Special Educational Needs

6.32.1 Some pupil's behaviour is caused by a special educational need - for example, where the pupil has a known behavioural problem. Some pupils have set patterns to their behaviour, which, if unchecked, will lead to it becoming dangerous or exceptionally disruptive. In these circumstances, it might be necessary to use positive handling/restraint at an early stage.

6.32.2 Where some pupils may be more likely to require positive handling/restraint, appropriate E&LL officers and/or the establishment should carry out an individual risk assessment on the pupil, supported by a written management strategy and this should be included on the pupil's IEP. The strategy should be agreed in advance by a multi-disciplinary team. This needs to work in consultation with the pupil (whenever possible) and his or her parent/carers.

6.32.3 Such planning needs to address:

- identifying situations which are known to trigger violent or aggressive behaviour, and how to avoid these
- other strategies to de-escalate any potential conflict
- involving the parent/carers to ensure that they are clear about the specific action the establishment might need to take – including agreeing what positive handling/restraint can be used if necessary; whether mechanical restraints are appropriate, and why
- briefing staff to ensure they know exactly what action they should be taking (this may identify a need for training or guidance)
- who will restrain the pupil – this person **MUST** have taken appropriate training
- ensuring that additional support can be summoned if appropriate
- recording all incidents in writing so that the method of physical intervention and the circumstances when it was employed can be monitored and, if necessary, investigated and
- when and by whom the strategy will be reviewed.

6.32.4 Devices that are required for a therapeutic purpose, such as buggies, wheelchairs and standing frames (including any supporting harness) may also restrict movement. Such devices should never be provided for the purpose of preventing problem behaviour, although, in extreme circumstances, they might be

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used to manage risks. A decision to use therapeutic devices to prevent problem behaviour (for example, strapping someone into a wheelchair) must be agreed by a multi-disciplinary team in consultation with the pupil (whenever possible) and parent/carers and recorded in the IEP

6.32.5 Medication must only be used where a pupil has been prescribed medication as part of a regime to control behaviour, and must only be administered in accordance with E&LL's Administration of Medicines policy and DfES Circular 14/96 "Supporting Pupils with Medical Needs in Establishment".

6.32.6 For more detailed information, please refer to the DfES "Guidance on the Use of Restrictive Physical Interventions for Staff Working with Pupils and Adults who Display Extreme Behaviour in Association with Learning Disability and/or Autistic Spectrum Disorders" (LEA/0242/2002)  
<http://www.dfes.gov.uk/sen/documents/ACFFA3.htm>

### 6.33 Insurance

6.33.1 The council's public liability/employers liability policy indemnifies all employees against claims from third parties or fellow employees, as long as staff are working within the scope of their duties and in the course of their employment and not acting negligently. Foundation and Voluntary Aided establishments and independent early years settings are advised to make similar arrangements.

### 6.34 Pupil Protection

6.34.1 Positive handling/restraint can lead to allegations of inappropriate or excessive use of force. Procedures set out in the Area Pupil Protection Committee's "Pupil Protection Procedures" require **Headteacher/Managers** of establishments (or chairs of governors), to consult with the E&LL lead officer for pupil protection and the Social Services Referral & Assessment team following the receipt of an allegation that a member of establishment staff may have abused a pupil. This does not necessarily mean that a Pupil Protection investigation will take place.

6.34.2 The following information is intended to assist Headteacher/Managers and Governing Bodies, in making

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decisions as to whether the reported action or behaviour of the member of staff should be dealt with in accordance with the Pupil Protection procedures.

If it is alleged that a member of staff:

- slaps, punches, pinches or hits a pupil
- hits a pupil with an object or implement or
- deliberately pushes a pupil

the action should be considered as unacceptable professional conduct. It could also be seen as a potential criminal offence and may need to be investigated through pupil protection or criminal procedures. However, it is expected that in deciding whether to consult with the Social Services, the Headteacher/Manager would take account of the circumstances surrounding the incident. In the first instance, the Headteacher/Manager must seek advice from the E&LL lead officer who will be able to assist in determining the appropriate course of action.

6.34.3 When it is suspected that a member of staff has failed to follow this and local policy for the use of positive handling/restraint, the **Headteacher/Manager** should contact the E&LL lead officer for pupil protection. Advice will be given as to whether it will be necessary to initiate Pupil Protection Procedures. As advised in DfEE Circular 10/95 "Protecting Pupils from Abuse: The Role of the Education Service", staff who are the subject of allegations should not be suspended routinely, or without careful consideration of whether that is the appropriate course of action.

## 7. Information, Instruction, Training and Supervision

- 7.1 E&LL has a duty to provide information, instruction, training and supervision where risk assessments have identified a need. Enabling employees to acquire background knowledge will improve their competence in dealing with unacceptable behaviour and positive handling/restraint.
- 7.2 Specific workplace training in dealing with aggression from clients, customers, third parties, members of the public etc is required in areas where the risk is identified. The general essentials of personal safety, particularly avoiding confrontation, will need to be included.
- 7.3 When confronted by the immediate prospect of violent attack, employees should take evasive/avoidance action. Reasonable self

defence, which means that the response should not be disproportionate to the provocation, is allowed by common law. Training should emphasise breakaway techniques and de-escalation. In any violent physical contact, more than one person may be hurt. If an employee responds with disproportionate aggression he or she may risk a counter claim of assault.

- 7.4 Individual teams/Education Establishments must identify where positive handling training may be appropriate in relation to specific areas of service, for example pupils with special needs. Once determined, all appropriate staff must receive training and regular refresher training in the measures agreed.
- 7.5 Other than certain exceptional circumstances, only trained staff must be authorised to restrain a pupil. It is the responsibility of the **Headteacher/Managers** to ensure that staff are fully informed of the policy and understand what authorisation entails. They should be encouraged to share good practice in an open manner and how to record details of any incident involving physical restraint.
- 7.6 It is the responsibility of the **Headteacher/Managers** to arrange training for staff. The level of training in the use of physical restraint will vary according to setting, depending on age and particular needs of the pupils. Any in-service training on the use and techniques of positive handling/restraint must only be given as part of a programme that puts its use within a full context of care and control.

This training should include:

- creating a positive climate
  - involving young people themselves in discussing the issues of acceptable behaviour
  - dealing with hostility to avoid spiralling tension
  - defusing aggression
  - managing aggression in a non-violent manner and
  - all aspects of administration including completion of forms and gathering of evidence.
- 7.7 The **Headteacher/Manager** must keep an up to date record of all training undertaken (including refresher training), using the training matrix, workforce database or other suitable management tool. An up-to-date list of authorised staff should be maintained within establishments and all other members of staff should know who they are. On joining the establishment all new staff should have an



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explanation of the policy on unacceptable behaviour and positive handling/restraint included in their induction programme.

- 7.8 Consideration should also be given to how supply teachers and other temporary staff are informed on the first day of their service in an easily accessible way of this policy and the local policy and whom they can call upon for support.
- 7.9 Training should be delivered as part of the formal in-service or staff development programme.

### 8. Reporting, Recording and Monitoring

- 8.1 If nuisance/harassment is being experienced on the telephone, this can be dealt with by use of a speaker phone facility. The caller should be warned of the activation of the facility and that others are present and witnessing the call. Notes can be taken of the call for use as evidence, if necessary.
- 8.2 Should an incident of unacceptable behaviour occur, including verbal abuse/unacceptable language, the **Headteacher/Manager/Supervisor** and employees have a duty to ensure that the reporting procedure in the E&LL Policy and Procedures for the Reporting of Incidents of Violence, Injuries, Diseases and Dangerous Occurrences November 2002, is followed. Education Establishments must be consistent with respect to the severity of incident required to warrant reporting. This decision process must be explicitly established and recorded.
- 8.3 In the case of unacceptable behaviour between employees, both parties will complete an individual incident report form. The **Headteacher/Manager/Supervisor** must prepare a detailed written report of the incident and take the appropriate action.
- 8.4 In the case of harassment, procedures must be followed as stated in section 6, page 14 - 15.
- 8.5 As stated earlier, there may be occasions when employee(s) do not wish the police to be involved. It is important to respect the wishes of the individual and they will need to be balanced with the responsibility of E&LL as an employer to protect its employees eg involvement of the police may assist in preventing a recurrence, whether or not prosecutions follow.
- 8.6 At all times during discussions about the incident, employees should consider being accompanied by a Trade Union representative or colleague.

8.7 All details relevant to the incident, such as statements and medical evidence should be kept by the **Headteacher/Manager/Supervisor** and shared with other members of staff where appropriate. Details of the incident must be recorded on the employee's personal file and, where appropriate a copy of such details included in the client's file etc and the Central Safety Section's flagging system<sup>1</sup>. Information should include:

- ! the circumstances surrounding and a brief description of the incident
- ! the severity of the incident and
- ! the frequency of incidents involving the specific employee/client/pupil/parent/carer.

8.8 **Headteachers/Managers/Supervisors** are responsible for ensuring their employees are aware of an incident of unacceptable behaviour in the workplace, cross-referencing to the Central Safety Section's flagging system<sup>1</sup> (see point 14.0). Employees must ensure they are informed of the identity of any client etc who has a history of unacceptable behaviour. This is to ensure that the appropriate risk assessments are taken prior to future dealings with the person concerned.

## 9. Police and Security Assistance

9.1 The information for this section can be found in Appendix A of this document, which must be photocopied, laminated and put on prominent display in both the **Headteacher/Manager/Supervisor's** office, and any frontline/reception/secretarial staff as appropriate.

## 10. Criminal Prosecution by the Police and Crown Prosecution Service

10.1 Assault (which can be verbal abuse or attempted aggression alone) assault and battery, actual bodily harm causing grievous bodily injury and wounding with intent etc are criminal offences for which the assailant can be charged to appear before the magistrates' court.

10.2 The criminal prosecution will be brought by police in conjunction with the Crown Prosecution Service (CPS), after they have considered all the evidence available.

10.3 The Council's former Corporate Services Committee encouraged employees who had been attacked to co-operate with the police to ensure that criminal proceedings are taken and that assailant(s) are brought to justice.

10.4 **Headteachers/Managers/Supervisors** should encourage employees to come forward with information whenever possible.

- 10.5 If convicted, the court can impose a range of sanctions including a fine and/or a prison sentence on the assailant and order him/her to pay the costs of bringing the prosecution. Any fine and costs are paid to the court and not to the person who has been attacked and injured.

**11. Criminal Prosecution by E&LL**

- 11.1 It is possibly a criminal offence, under Section 547 of the Education Act 1996, to trespass on Establishment sites. See Appendix D for full details.

**12. Legal Support Scheme**

- 12.1 Details of the scheme, compensation, City Council Insurance, advice on Civil Action and Legal Aid can be found at Appendix J.

**13. Criminal Injuries Compensation Authority (Cica) - Compensation Scheme**

- 13.1 The scheme allows applications for compensation from those who sustain personal injury directly attributable to crimes of violence. Details are available from the council's Legal Services.

**14. Corporate Safety Information System (Flagging system)**

- 14.1 This system records addresses where individuals have demonstrated unacceptable behaviour against certain criteria. **Headteacher/Manager/Supervisors** must provide the data necessary for this system and at the same time ensure that staff access it, particularly if home visits are contemplated. See Appendix K for details.

## Appendix A - Procedures to follow in the event of Unacceptable Behaviour

**1. In an emergency, ie**

- ! life is threatened
- ! people are injured
- ! offenders are nearby or
- ! immediate action is needed to secure evidence of a crime.

**....call (9)999 and ask for the appropriate emergency services.** Clear details need to be given of:

- ! What has happened
- ! Where it has happened\* and
- ! Whether it is still going on.

\*With respect to Education Establishments it is particularly important that you emphasise the point and that pupils are present, if applicable. Calls are graded 1 to 4 by the police. The above list equates to "1" - top priority. An immediate response should be forthcoming, (urban area within 8 minutes).

A call to the council's security services on 90 31550 may also secure speedy assistance.

**2. In a situation which causes concern, but is not an emergency as listed above:**

telephone Bristol City Council Central Support Services Security Services on (90 31550) who may be able to provide assistance at the scene and/or the police on their non-emergency number: 01275 818181.

**3. Headteacher/Manager/Supervisors wishing to contact the police following an incident not matching the above must use the non-emergency number 01275 818181. It is also useful to know the contact details of your police Beat Manager which can be added here: NAME ..... Tel .....**

**4. For general enquires on personal and property safety issues a call can be made to your local Crime Reduction Unit:**

Central       Tel: 0117 945 501  
South         Tel: 0117 945 5438  
North         Tel: 0117 945 4541

The police will investigate all complaints of physical assault and criminal damage and when attending disputes will seek to prevent injury, damage or other offences taking place. Given appropriate notice of the probability of a breach of the peace the police are prepared to assist and if necessary intervene.

Assistance can also be provided by appropriate E&LL and other council officers.

## **Appendix B: Strategies for the prevention of Unacceptable Behaviour**

It is not an employee's "fault" if he/she is assaulted at work. The blame for this lies with the person carrying out the act of Unacceptable Behaviour. In order to minimise such incidents effective risk assessments must be carried out by the **Headteacher/Manager/Supervisor**.

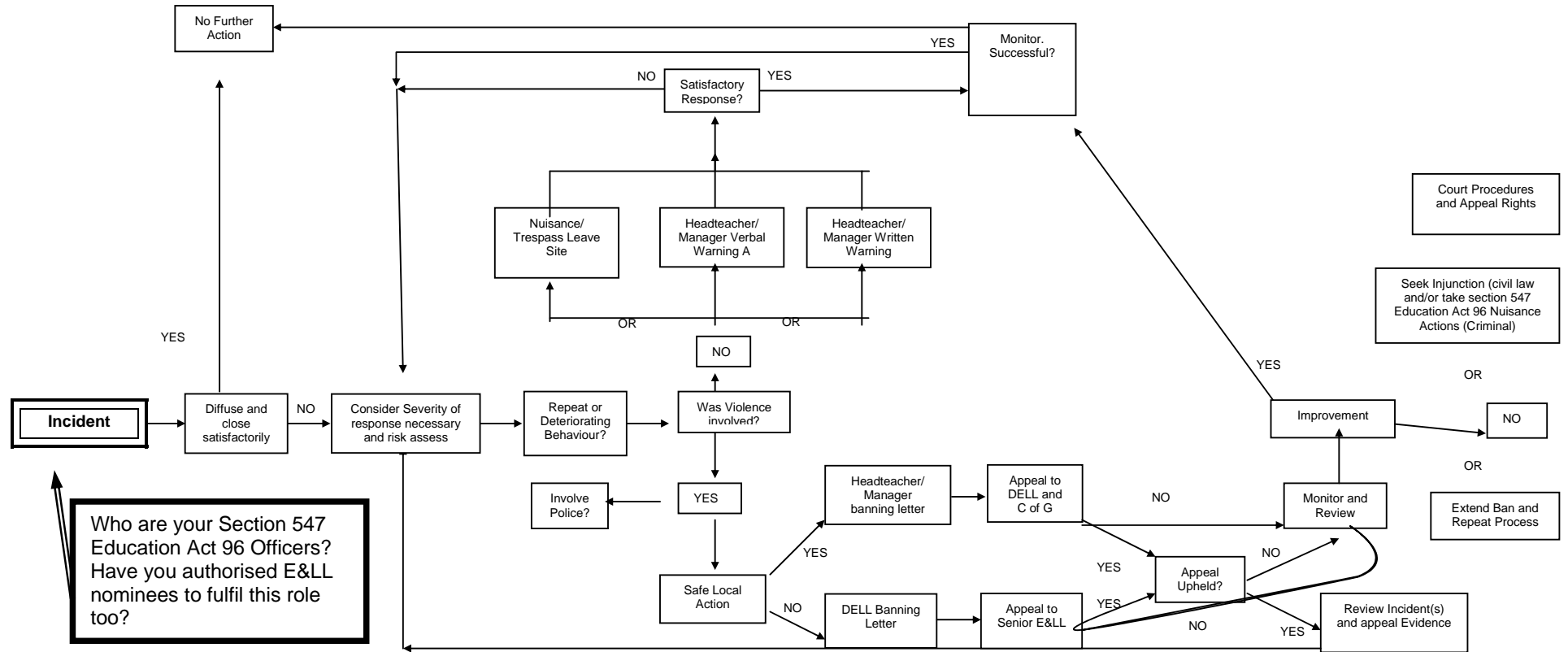
Specific attention should be given to those members of staff who may potentially be put into vulnerable situations. These include:

- ! those who handle money eg secretarial staff
- ! those who look after premises (site managers, caretakers etc)
- ! those who are lone working or work in isolated locations
- ! those who visit clients in their own homes eg Education Welfare Officers, teachers, home tutors etc.
- ! those working with pupils with special education needs eg. Learning Support Assistants
- ! staff who have to discipline pupils eg Headteachers/Managers and
- ! staff who deal with angry parents or carers eg Education Establishment secretaries, Headteachers, Managers, Supervisors, receptionists etc.

Strategies principally include:

- ! Designing buildings so that entrance for aggressors is more difficult and that there are no "back routes into buildings"
- ! Designing reception areas with the safety of the receptionist as a primary concern: glass barriers, buzzers (panic alarms), barrier desks etc.
- ! Work practices and patterns are revised and assessed
- ! Training to counteract acts of Unacceptable Behaviour will be run by, amongst others, the Continuing Professional Development Programme at the Bristol Education Centre. Those who attend the training should then cascade this information to all levels of staff
- ! Exchange of information eg flagging system<sup>1</sup> and
- ! Equipment eg personal alarms, speaker 'phones, alarm buzzers etc.

**Appendix C - Violence, Aggression, Harassment, Nuisance and Trespass: Response Chart**



**Appendix D - Section 547 powers to remove and to prosecute trespassers**

(Taken from The Education Act, 1996)

- 1 Certain people may remove from the Education Establishment premises anyone whom they reasonably suspect is committing or has committed an offence under section 547. These people are:
  - ! a police constable
  - ! a person authorised by the local education authority or
  - ! in a voluntary-aided, special agreement or grant-maintained Education Establishment, a person authorised by the governors.

It is open to the local education authority under the legislation to authorise a person to take this action in respect of a voluntary or grant-maintained Education Establishment, but the LEA is required to obtain the consent of the governors before doing so. E&LL officers may be nominated as one of these authorised officers. There is no requirement in section 547 that the person authorised needs to be an employee of the LEA or Education Establishment - an external contractor, for example from a security company, could be authorised.

- 2 Headteacher/Managers need to have a clear understanding with the LEA and/or governors about the procedures for authorising themselves or some other member of staff, such as the caretaker, to exercise those powers of removal. The authority will not want to authorise staff to use the power that are unwilling to do so. There should also be arrangements for how the power should be exercised - for example, in most cases, it would be appropriate for more than one adult to be present. Any arrangements should be known to the local police, and there should be discussion of the circumstances in which the Education Establishment would call for police assistance in exercising those powers.
- 3 It is important to recognise that section 547 is not intended to deal with the more serious offences and more serious misbehaviour. It provides only a limited exception to the principle that trespass is generally a civil rather than criminal matter. Consistent with the relatively low level of misbehaviour which this offence aims to deal with:
  - ! a police officer or other authorised person may remove a person committing such an offence from the premises. They would be entitled to use reasonable force, to escort them from the premises, if the trespasser declined to leave when required to do so. Authorised staff are not, of

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course, expected to take such action if they judge that they might put themselves at risk in doing so

- ! neither a police officer nor other authorised person would have a power to arrest the trespasser
- ! any prosecution resulting from the offence will be by summons: the alleged offender cannot be detained in custody or granted bail and be restrained by bail conditions, but must appear in court when summoned
- ! The maximum sentence, which the court would apply only in the most serious example of the offence, is a level 2 fine -at present, £500. In addition to any sentence imposed on a person aged 16 or under, that young person's parent/carer or guardian may be bound over. This would mean that, in the event of further similar offences, the parent/carer or guardian could suffer financial penalties of up to £1,000 ordered by the court.

**Prosecution procedure under section 547**

- 4 Proceedings for this offence may be brought only by:
  - ! a police constable
  - ! a local education authority - with, in the case of a voluntary or grant-maintained Education Establishment, the consent of the governing body or
  - ! in an aided, special agreement or grant-maintained Education Establishment, a person authorised by the governing body.
- 5 The procedure for initiating a prosecution under section 547 is familiar to the legal department of the local authority, or any solicitor. An Education Establishment should therefore seek advice from such a source before bringing proceedings.
- 6 For a prosecution to succeed there will need to be evidence to confirm the identity of the trespasser, and evidence that his or her behaviour was a 'nuisance or disturbance'. Education Establishments should ensure that their records of incidents which might result in a prosecution under section 547 cover these points (see part 8.10). Records of earlier incidents may also be useful in assessing the seriousness of a new incident, and may help the police to gather evidence needed for a prosecution.
- 7 Local education authorities have been recommended to make letters available to Headteacher/Managers, or send such letters themselves, which warn



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trespassers of the possibility of action under section 547. These are included below:

LETTER A - warning letter

Mr, Mrs, Ms or Miss [as appropriate] and surname

RE: Incident at [name of Education Establishment] on [date]

[Date and details of the incident - be as detailed as possible]

Such behaviour is completely unacceptable, and poses a serious threat to the proper running of the Education Establishment, which as a [parent/carer/relative etc] you ought to support.

In light of this behaviour, the Education Establishment is entitled to consider banning you from entry on any part of the Education Establishment premises, without making a prior appointment with the Headteacher/Manager/Chair of the Governing Body.

If there is a recurrence of such behaviour on your part, the Education Establishment is minded to impose such a ban. You would have the right to make representations as to why you should not be banned from the Education Establishment premises. You may therefore wish to take legal advice with regard to your rights in this matter.

You should further understand that under Section 547 of the Education Act 1996 it is a criminal offence to cause or permit nuisance or disturbance to the annoyance of persons who lawfully use the premises of the Education Establishment and that proceedings will be taken against you should you cause or permit such nuisance or disturbance.

Yours sincerely

[Name]

[Position of Authority]

LETTER B: letter to member of the public/trespasser/intruder

Re: Education Establishment

[Add summary of incident(s) and of its effect on staff, pupils, parent/carers]

I must inform you that the Education Establishment will not tolerate conduct of this nature on its premises and will act to defend its staff and pupils. You are therefore instructed not to reappear on the premises of the Education Establishment. For clarification, you should be aware that Education Establishment premises includes playgrounds, playing fields and any part of the Education Establishment used for outdoor recreation.

If you do not comply with this instruction, arrangements will be made for you to be removed from the premises and prosecuted under Section 547 of the Education Act 1996. If convicted, you are liable to a fine of up to £500.

If you wish to appeal this ban you can do so within 10 working days by writing to ....

Yours sincerely

[Name]

[Position of Authority]

## **Appendix E - Guidelines for Searching Pupils who may be in Possession of Dangerous or Prohibited Items**

Guidelines for searching are required:

- θ to inform and protect staff and pupils
- θ to maintain a safe Education Establishment environment
- θ to inform and involve parent/carers and
- θ to encourage a consistent approach throughout E&LL

### **Some points to consider**

1. In an emergency always ring 999
2. The context in which a search may be carried out will depend on
  - θ the nature of the item concealed
  - θ the immediacy of risk to others and
  - θ the level of co-operation from the pupil(s) involved
3. Exclusion might be the outcome e.g. non-compliance by the pupil where the grounds for suspicion are clear.
4. A growing number of young people carry a "weapon" with them and Police officers can now enter Education Establishment premises in order to conduct a search for offensive weapons.
5. The use of drugs is on the increase.
6. Any member of E&LL staff with substantial evidence that a pupil is in possession of a knife or firearm has an obligation to inform the Headteacher/Manager, who should contact the parent/carers. There is no legal duty to inform the police, but there is a moral obligation to do so. The Offensive Weapons Act 1996 created a new offence 'to carry an article with a blade or point, or an offensive weapon, on Education Establishment premises.'

### **Guidelines for conducting a search**

The following procedures apply equally to individual pupils, or a group if more than one pupil is suspected of being involved. Risk assess and address appropriate PPE eg. gloves:

#### Starting Point

It is believed that a pupil is in possession of or is concealing a dangerous or prohibited item (weapon, drugs, matches/lighter, alcohol or solvent, drugs).

### **Step One**

The pupil volunteers to hand the item over when requested

This might be achieved through a combination of gentle persuasion and staff feigning more knowledge than they actually possess!

This will also apply in cases where a pupil has concealed stolen property.

### **Step Two** (item not volunteered at Step One)

Before proceeding further, the Headteacher, Manager or senior member of staff on site should authorise a search to be carried out.

- Ø A senior member of staff is summoned as an adult witness and
- Ø The pupil is told that a search will be carried out and is asked to consent verbally to this.

Hopefully the item is surrendered at this stage. If not

### **Step Three**

**CAUTION!** Staff searching bags or coat pockets might encounter sharp objects - such as hypodermic needles - and should take appropriate safety measures by shaking the item of clothing.

either: bag check, locker turn-out etc. or

- self-search"
- remove coat/jacket/cap;
- turn out pockets;
- "pat" body.

Before this happens, the young person's parents or carers should be informed and, if necessary – such as where the young person is refusing to co-operate - asked to attend. However, the presence of some parent/carers might be unhelpful to the situation and senior staff at the Education Establishment need to consider this.

- Ø At this stage, members of staff (both female in the case of a girl pupil) must be present
- Ø No attempt should be made to assist with the "self-search", although staff may search pockets of items of removed clothing (eg jacket) and
- Ø It is recommended that the second member of staff makes it clear to the pupil that she/he is witnessing the actions of the person carrying out the

search. This will help avoid subsequent allegations of items being "planted".

If the pupil refuses to co-operate and it is known or strongly suspected that he or she is concealing a prohibited or dangerous item, then

#### **Step Four**

- θ Having fully assessed the situation and concluded that there is every likelihood that a weapon or drugs is being concealed, a senior member of staff contacts the Police and requests assistance.
- θ The pupil should be asked to remain in an appropriate place (eg Education Establishment office or "quiet room") until a police officer arrives. The pupil in question should be supervised by members of staff during this time and
- θ Parents or carers **must** be informed as soon as possible, once the decision is made to call for Police assistance - unless they have already been asked to attend (Step Three ).

#### **Storing Confiscated Property**

- θ If a pupil hands in a prohibited or dangerous item, or if such an item is recovered during a search, it should be put into a suitable container, labelled and stored in a safe place - pending further action being taken (eg a police officer attending) and
- θ Two members of staff should be present when this happens, one as a witness to the actions of the other. Again, the presence and role of the witness should be made clear to the young person.

#### **End Point**

Depending on the outcome of the above, establishment sanctions may need to be applied - including exclusion where a pupil, in refusing to comply, presents threatening or defiant behaviour towards staff (or other pupils).

Subsequent actions taken by the Police will depend on the nature of the items recovered (if any).

#### **Recommendations**

1. Headteacher/Managers and Governors are advised to consider whether these guidelines are applicable in the context of their Education Establishment.

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2. A statement on maintaining a safe environment should be included in the Education Establishment information booklet.
3. For particular pupils (e.g. those with drug/tobacco habit) it may be necessary to register broad parent/carer and pupil understanding and agreement of the actions taken at Steps 3 and 4. This could be done via the pupil's IEP which is read and signed by the parent or carer.
4. Many Education Establishments already monitor their use of sanctions - such as pupil withdrawal to a "quiet room" - for positive reasons, on the basis of race and gender. Education Establishments should be aware that the concept of "searching" may have an impact on different communities and faith groups and, for this reason, needs to be handled in a sensitive manner.
5. It is vital that staff involved in a search record the events immediately afterwards on the Education Establishment Incident forms.

This record should include the following information:

- ! Name of pupil
- ! Name(s) of member(s) of staff conducting the search
- ! Date/Time/location of the incident/search
- ! Reason for the search
- ! Actions taken during the search -including notes of discussion which may have taken place between staff and pupil
- ! Outcomes (did the search discover anything?)
- ! Next step sanctions (within the Education Establishment or exclusion)
- ! who was informed, when and by whom (Police involved?)  
eg parent/carers rung by Headteacher/Manager immediately following the search, pupil's social worker rung by deputy head and copy of incident report sent by post
- ! Whether or not the young person felt that the actions taken by staff were appropriate and
- ! Names of staff and/or pupil witnesses. Witness statements should be attached, where applicable.

## Appendix F - Useful Addresses and Telephone Numbers

**NB** It may be useful to take what is considered to be the key contact details from this appendix and place them on a pocket size card that can be laminated and issued to staff for their use.

### **BRISTOL CITY COUNCIL:**

#### **Education and Lifelong Learning**

Health and Safety Advisers: Tel: 0117 90 37726  
Tel: 0117 92 24259  
Health and Safety Administration Team: Tel: 0117 92 24399  
90 37622  
92 24021  
Equalities Team for Race (Education) Tel: 0117 37 73238

#### **Central Support Services**

##### **Property and Finance Division**

Security Services Tel: 0117 90 31550

##### **Legal Services**

Corporate and Community Legal Tel: 0117 90 36677

##### **Human Resources Division**

Central Safety Section Tel: 0117 92 23402  
Employee Development Team Tel: 0117 92 23536  
Occupational Health and Welfare Service Tel: 0117 90 37633  
Equalities Unit Tel: 0117 92 22329

##### **Finance Division**

Insurance Section Tel: 0117 92 22446  
Chief Internal Auditor Tel: 0117 92 22448

##### **Cabinet Office**

Corporate Communications Tel: 0117 92 22647

##### **Neighbourhood and Housing Services**

Emergency Control Tel: 0117 92 22050

### **TRADE UNION CONTACTS**

#### **Education and Lifelong Learning**

Tony Havens Tel: 0117 90 37665

### **THE POLICE**

Police: Emergency (9) 999  
Non-emergency Tel: 01275 818181

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Crime Reduction Unit, Bristol:

Central

Tel: 0117 945 5012

South

Tel: 0117 945 5438

North

Tel: 0117 945 4620

CRIMINAL INJURIES COMPENSATION AUTHORITY (CICA)

Head Office

Morley House

26-30 Holborn Viaduct, London EC1A 2JQ

Tel: 020 7842 6800

THE SUZY LAMPLUGH TRUST

(National Charity for Personal Safety)

Training and Resources

14 East Sheen Avenue

London SW14 8AS

Tel: 020 8876 0305

VICTIM SUPPORT

36 Dean Lane,

Bedminster, Bristol, BS3 1BS

Support Line

(9am-9pm Mon-Fri, 9-7 at weekends)

Tel: 0117 963 1114

Tel: 0845 3030900



## Appendix G Associated Documents

**CSS** Integrated Equalities Policy, March 1999

Frequently Asked Questions (from Legal Services), May 2003

**SS&H** Code of Practice on Dealing with Violence, Aggression and Harassment in Pupils and Young Peoples Residential Services

**E&LL** Policy and Procedures for the Reporting of Incidents of Violence, Injuries, Diseases and Dangerous Occurrences, November 2002

E&LL Risk Assessment Policy, March 2003

E&LL Lone Working Policy, June 2003

E&LL Reporting and Dealing with Harassment in Bristol Schools

Guidelines for dealing with possible BNP disturbances outside establishments (Education Bulletin No. 4 dated 23<sup>rd</sup> October 2002)

The Health & Safety At Work Etc Act 1974 and associated Regulations and statutory guidance.

Section 550A of the Education Act 1996,

DfES Circular 10/98 - Section 550A of the Education Act 1996: The Use of force to control or restrain Pupils

Education Staff and Pupil Protection: Staff facing an allegation of abuse – Guidelines on Practice and Procedure” – NEOST – September 2002

DfEE Circular 10/98 – “Section 550A of the Education Act 1996: The Use of force to Control or Restrain Pupils” -

[http://www.dfes.gov.uk/publications/guidanceonthelaw/10\\_98/summary.htm](http://www.dfes.gov.uk/publications/guidanceonthelaw/10_98/summary.htm)

<http://www.dfes.gov.uk/sen/documents/ACFFA3.htm>

DfEE Circular 14/96 "Supporting Pupils with Medical Needs in Establishments" Off-site activities -

[http://www.teachernet.gov.uk/Management/guidance\\_and\\_legislation/visits/](http://www.teachernet.gov.uk/Management/guidance_and_legislation/visits/)

- Physical Interventions – A Policy Framework; Harris, J *et al* – British Institute of Learning Disabilities, 2000
- DfEE Circular 10/95 “Protecting Children from Abuse: The Role of the Education Service”.

Ethical Conduct in Youth Work – National Youth Agency

## Appendix H Model local policy.

### Model Appendix 1a



### Positive Handling Policy Statement<sup>1</sup>

#### Establishment Expectations

The management takes seriously its duty of care towards pupils, employees and visitors to the establishment. This policy has a clear focus.

- The first and paramount consideration is the welfare of the children in our care
- The second is the welfare and protection of the adults who look after them

Pupils with severe behavioural difficulties sometimes present a risk to themselves and others. Section 550A of the Education Act 1996 describes the circumstances in which teachers and others authorised by the Head Teacher may use reasonable force to control or restrain pupils. Examples of when such action may be reasonable are to prevent injury to people, damage to property or the breakdown of discipline. If a member of staff ever needs to intervene physically they will follow the establishment's positive handling policy as detailed in the staff practice guide. Any parent/carers wishing to view this may do so on request.

#### Positive Behaviour Management

The term "Positive Handling" includes a wide range of supportive strategies for managing challenging behaviour. Included in this framework are a small number of responses which may involve the use of force to control or restrain a pupil. The term "physical restraint" is used when force is used to overcome active resistance. All physical interventions at this establishment are conducted within a framework of positive behaviour management. The establishment behaviour policy is intended to reward effort and application, and encourage pupils to take responsibility for improving their own behaviour. Part of our preventative approach to risk reduction involves looking for early warning signs, learning and communicating any factors which may influence behaviour and taking steps to divert behaviours leading towards foreseeable risk. Pupils

<sup>1</sup> Some establishments have a brief policy statement which refers to more detailed guidance contained in a staff handbook or practice guide. Others prefer to keep separate policies.

are encouraged to participate in the development of their own Positive Handling Plans by focusing on positive alternatives and choices. Parent/carers are also encouraged to contribute. However if problems arise staff have an additional responsibility to support all pupils when they are under pressure and safely manage crises if, and when, they occur.

### Training

Teachers and anyone authorised by the Head Teacher who are expected to use planned physical techniques should be trained. This establishment has adopted the .....<sup>2</sup>model of training. All training courses have been fully accredited by the British Institute of Learning Disabilities (BILD) in accordance with DfES and Department of Health guidance.<sup>3</sup> Positive handling training is always provided by qualified instructors within rigorous guidelines.

### Recording

All staff involved in an incident should contribute to the record which should be completed within 24hrs. Read through the establishment recording form carefully.

### Monitoring and Evaluation

The Head Teacher<sup>4</sup> will ensure that each incident is reviewed and instigate further action as required. The establishment incident log is open to external monitoring and evaluation.<sup>5</sup>

### Follow Up

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

Effective date of this policy:

.....

Date of next policy review:

.....

<sup>2</sup> Add the name of the training organisation

<sup>3</sup> Delete this section if the establishment does not use a BILD accredited provider

<sup>4</sup> We have used the term “Head Teacher” to reflect the 1996 Education Act. Use “Principal” or other titles as appropriate

<sup>5</sup> Add details of arrangements for external monitoring and evaluation of physical interventions

**(Name of Establishment) Positive Handling Policy<sup>6</sup>**

**Policy Statement<sup>7</sup>**

Staff at this establishment are trained to look after the pupils<sup>8</sup> in their care. Staff have a duty to intervene in order to prevent pupils from hurting themselves or others. There may also be situations in which a child seriously disrupts good order in the establishment or causes damage to property. If a member of staff ever needs to intervene physically they will follow the establishment's positive handling policy. Any parent/carers wishing to view this policy may do so on request.

Effective date of this policy: .....  
Date of staff discussion: .....  
Person responsible for this policy: .....  
Accredited training model in use: .....  
In-House instructors: .....  
Person responsible for Health and Safety:.....  
Person responsible for Child Protection: .....  
List of authorised staff is located: .....  
Date of next policy review: .....  
Location of bound incident book: .....  
Location of incident recording sheets: .....

**Introduction**

The term "Positive Handling" includes a wide range of supportive strategies for managing challenging behaviour. Included in this framework are a small number of responses which may involve the use of force to control or restrain a pupil. The term "physical restraint" is used when force is used to overcome active resistance. These are referred to as "Restrictive Physical Interventions" in national Guidance (DfES/DoH 2002). A clear and consistent positive handling policy supports pupils who have social, emotional and behavioural difficulties within an ethos of mutual respect, care and safety.

Pupils with severe behavioural difficulties sometimes present a risk to themselves and others. Section 550A of the Education Act 1996 describes the circumstances in which teachers and others authorised by the Head Teacher may use reasonable force to control or restrain pupils. Examples of when such action may be reasonable are to prevent injury to people, damage to property or the breakdown of discipline.

<sup>6</sup> Alternative titles include Care and Control, Physical Intervention or Restraint.

<sup>7</sup> This may be included in the establishment brochure or in the information sent to parent/carers and referral agencies.

<sup>8</sup> Our focus is establishments so we have used the term "Pupils" which can be replaced by "Children" or "Young People" as appropriate

This policy details how we implement the guidance at this establishment. It should be considered alongside the most recent LEA<sup>9</sup> policy statements and recent local and national guidance. It is designed to help staff to ensure that any actions they take are reasonable, proportionate and absolutely necessary.

### **Establishment Expectations**

The management takes seriously its duty of care towards pupils, employees and visitors to the establishment. Staff protection is an important part of child protection; both depend on confident and competent staff who feel supported by the management. This policy has a clear focus.

- The first and paramount consideration is the welfare of the children in our care.
- The second is the welfare and protection of the adults who look after them.

### **Positive Behaviour Management**

All physical interventions at this establishment are conducted within a framework of positive behaviour management. The establishment behaviour policy is intended to reward effort and application, and encourage pupils to take responsibility for improving their own behaviour. Part of our preventative approach to risk reduction involves looking for early warning signs, learning and communicating any factors which may influence behaviour and taking steps to divert behaviours leading towards foreseeable risk. Pupils are encouraged to participate in the development of their own Positive Handling Plans by focusing on positive alternatives and choices. Parent/carers are also encouraged to contribute. However if problems arise staff have an additional responsibility to support all pupils when they are under pressure and safely manage crises if, and when, they occur.

### **Alternatives to Physical Controls**

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

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

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<sup>9</sup> In the case of non maintained or independent establishment insert the relevant corporate documents.

## **Modifications to the Environment**

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

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

## **Help Protocols**

The expectation at this establishment is that all staff should support each another. This means that staff always offer help and always accept it. Help does not always mean taking over. It may mean just staying around in case you are needed, getting somebody else or looking after somebody else's group. Supporting a colleague does not only mean agreeing with their suggestions and offering sympathy when things go wrong. Real support sometimes means acting as a critical friend to help colleagues become aware of possible alternative strategies. Good communication is necessary so that colleagues avoid confusion when help is offered and accepted. They need to agree scripts so that all parties understand what sort of assistance is required and what is available.

## **Well Chosen Words**

A well chosen word can sometimes avert an escalating crisis. When pupils are becoming angry there is no point in getting into an argument. Telling people to calm down can actually wind them up. Pointing out what they have done wrong can make things worse. The only purpose in communicating with an angry person is to prevent further escalation. It is better to say nothing and take time to choose your words carefully than to say the wrong thing and provoke a further escalation.

## **The Last Resort Principle**

At this establishment we only use physical restraint when there is no other realistic alternative. This does not mean that we always expect people to methodically work their way through a series of failing strategies, before attempting an intervention in which they have some confidence. Nor does it mean always waiting until the danger is imminent, by which time the prospect of safely managing it may be significantly reduced. 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*

It does mean that we expect staff to conduct a risk assessment and choose the safest alternative. It also means that we expect staff to experiment and think creatively about any alternatives to physical intervention which may be effective.

## **Proactive Physical Interventions**

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

## **Reasonable and Proportionate**

Any response to extreme behaviour should be reasonable and proportionate. People should not react in anger. If they feel they are becoming angry they should consider withdrawing to allow someone else to deal with the situation. 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:

- How is this in the best interests of the pupil?
- Why is a less intrusive intervention not preferable?
- Why do we have to act now?
- Why am I the best person to be doing this?
- Why is this absolutely necessary?

If staff can answer these questions it is more likely that a physical intervention will be judged to be reasonable and proportionate.

### **Unreasonable Use of Force**

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

### **Health and Safety**

If dangerous behaviour presents a significant risk of injury to people, there is a legal Health and Safety issue to be addressed. Dangerous behaviour should be regarded just as seriously as dangerous equipment. Dangerous occurrences should be reported to the person responsible for Health and Safety in the establishment.<sup>10</sup> 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 establishment policy and guidance, and to cooperate to make the establishment safer. It is also a requirement that they participate in training if they are directed to do so. This does not necessarily mean that all staff can be involved in all the physical activities. The non physical aspects of positive handling training are crucially important too.

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

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

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<sup>10</sup> Add the name of the person responsible.



## **Risk Assessment**

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

Factors which might influence a more immediate risk assessment, and therefore a decision about how to intervene, might include the state of health and fitness of the staff member, their physical stature, competence, confidence and relationships with the pupils concerned.

Confidence and competence are often related to the level of staff training. Other than in an emergency, staff should only attempt physical controls when 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 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.

## **Getting Help**

At this establishment the follow support structures are in place.<sup>11</sup>

## **Positive Handling Plans**

Risk management is regarded as an integral part of behaviour management planning. All pupils who have been identified as presenting a risk should have a Positive Handling Plan. The plan 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 not proved ineffective or which caused problems in the past. Positive Handling Plans should be considered alongside the Statement and any other planning documents which relate to the pupil. They should take account of age, sex, level of physical, emotional and intellectual development, special need and social context. Positive Handling Plans should result from multi-professional collaboration and be included in any Pastoral Support Plan or IEP.

## **Responding to Unforeseen Emergencies**

Even the best planning systems cannot cover every eventuality and the establishment recognises that there are unforeseen or emergency situations in which staff have to think on their feet. It is not enough to thoughtlessly apply rules without thinking through the likely consequences. The key principals are that any physical intervention should be:

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<sup>11</sup> Fill in the relevant support structures and mechanism naming individuals and buildings as relevant

- in the best interest of the child
- reasonable and proportionate
- intended to reduce risk
- the least intrusive and restrictive of those options available which are likely to be effective

Whenever a physical intervention has to be made there should be a verbal warning. Where possible staff should always attempt to use diversion or defusion in preference to physical interventions. They should only use the techniques and methods approved for use in this establishment. In general if staff act in good faith, and their actions are reasonable and proportionate, they will be supported.

### **The Post Incident Support Structure for Pupils and Staff**

Following a serious incident it is the policy of this establishment to offer support for all involved. People take time to recover from a serious incident. Until the incident has subsided the only priority is to reduce risk and calm the situation down. Staff should avoid saying or doing anything which could inflame the situation during the recovery phase. Immediate action should be taken to ensure medical help is sought if there are any injuries which require more than basic first aid. All injuries should be reported and recorded using the establishment systems.<sup>12</sup> It is important to note that injury in itself is not evidence of malpractice. Even when staff attempt to do everything right things can go wrong. Part of the post incident support for staff may involve a reminder of this, as people tend to blame themselves when things go wrong. Time needs to be found to repair relationships. When careful steps are taken to repair relationships a serious incident does not necessarily result in long term damage. This is an opportunity for learning for all concerned. Time needs to be given to following up incidents so that pupils have an opportunity to express their feelings, suggest alternative courses of action for the future and appreciate other people's perspective. When time and effort are put into a post incident support structure the outcome of a serious incident can be learning, growth and strengthened relationships.

### **Complaints**

It is not uncommon for pupils to make allegations of inappropriate or excessive use of force following an incident. The establishment has a formal complaints procedure.<sup>13</sup> Pupils should be reminded of the procedure and encouraged to use the appropriate channels. The complaints policy applies equally to staff. We are an open establishment and promote transparent policy and practice in order to protect the interests of pupils and staff alike. Any staff concerns regarding the welfare of children should be taken to

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<sup>12</sup> Establishments may want to remind staff what they are in this section.

<sup>13</sup> Establishments may want to add details here.

the designated person for child protection<sup>14</sup>. Any safety concerns should be reported to the designated person for Health and Safety.<sup>15</sup>

## Training

Teachers and anyone authorised by the Head Teacher who are expected to use planned physical techniques should be trained. This establishment has adopted the .....<sup>16</sup> model of training. All training courses have been fully accredited by the British Institute of Learning Disabilities (BILD) in accordance with DfES and Department of Health guidance.<sup>17</sup> Positive handling training is always provided by qualified instructors within rigorous guidelines.

The level of training recommended is related to the level of risk faced by the member of staff. Our preferred approach is for whole staff team training. Office staff may not require the same level of training in physical techniques as those working directly with the most challenging pupils. However all staff benefit from whole establishment training. The level of training required is kept under review and may change in response to the needs of our clients. Once trained, staff should practise regularly under the guidance of our in-house instructors<sup>18</sup> and bring any problems or concerns to them.

## Recording

Whenever overpowering force is used the incident must be recorded using the approved forms. The bound book is kept ....and incident sheets are kept .....<sup>19</sup>

All staff involved in an incident should contribute to the record which should be completed within 24hrs. Read through the establishment recording form carefully. Take time to think about what actually happened and try to explain it clearly. Names should be completed in full and all forms should be signed and dated. Bear in mind 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. Serious incident reports should not be completed until the individuals concerned have recovered from the immediate effects of the incident. They should not be rushed. A concise record should be written into the bound incident 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 are archived alongside the individual records each year.<sup>20</sup>

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<sup>14</sup> Establishments may want to add the name of the person

<sup>15</sup> Explain the relevant procedures for the particular establishment.

<sup>16</sup> Add the name of the training organisation

<sup>17</sup> Delete this section if the establishment does not use a BILD accredited provider

<sup>18</sup> Add names

<sup>19</sup> Add the location and any other relevant details.

<sup>20</sup> A copy of the current policy should be archived to provide a context for the incident reports for any future investigation

## **Monitoring and Evaluation**

The Head Teacher<sup>21</sup> will ensure that each incident is reviewed and instigate further action as required. The establishment incident log is open to external monitoring and evaluation.<sup>22</sup>

## **Follow Up**

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

## **Other Relevant Policies**

This policy should be read in conjunction with:

Behaviour Policy

Exclusion Policy

Staff / Pupil Disciplinary Policy

Health & Safety Policy

Child Protection Policy<sup>23</sup>

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<sup>21</sup> We have used the term “Head Teacher” to reflect the 1996 Education Act. Use “Principal” or other titles as appropriate

<sup>22</sup> Add details of arrangements for external monitoring and evaluation of physical interventions

<sup>23</sup> Add of delete as necessary

## 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” - London: H M S O
3. Department for Education & Employment – 2000 - “Positive Handling Strategies For Pupils With Severe Behavioural Difficulties” - London: DfEE (Draft Guidance which received favourable responses during consultation but which was never released)
4. Department for Education & Employment – 2001 - ‘Positive Handling Strategies for Pupils with Severe Behaviour Difficulties’ - Letter sent from Chris Wells Head of SEN Division to Chief Education Officers (Same title but nothing like the same document)
5. 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)
6. 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)
7. LEA/0264/2003 - September 2003 - “Guidance on the Use of Restrictive Physical Interventions for Pupils with Severe Behavioural Difficulties”
8. Birmingham LEA – May 2003 – “The Use of Reasonable Force to Control or Restrain Pupils – Guidance for Birmingham Maintained Establishments and the City Council Education Service – Model Policy

## Appendix

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**Appendix I**

<b>RESTRAINT REPORT</b>	
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**NAME OF ESTABLISHMENT**

**child's name**

**date**

Start time of incident (beginning of de-escalation)

Finish time (return of child to usual routines)

**Location**

~~~~~

~~~~~

**REASON FOR INTERVENTION**

- |   |  |   |
|---|--|---|
| <input type="checkbox"/> Immediate danger of personal injury to pupil | <input type="checkbox"/> immediate danger of personal injury to another person | <input type="checkbox"/> disruption to other pupils |
| <input type="checkbox"/> to avoid damage to property                  | <input type="checkbox"/> Absconding  |   |

~~~~~

**ANTECEDENT** (description of events leading up to incident)

~~~~~

~~~~~

~~~~~

**DE-ESCALATION TECHNIQUES USED**

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Verbal advice and support | <input type="checkbox"/> Reassurance                  | <input type="checkbox"/> Calm talking    |
| <input type="checkbox"/> Humour                    | <input type="checkbox"/> Distraction                  | <input type="checkbox"/> Options offered |
| <input type="checkbox"/> Negotiation               | <input type="checkbox"/> Other (please specify below) |  |

**BEHAVIOUR** (description of behaviour)



***NATURE AND DURATION OF POSITIVE HANDLING STRATEGY USED***

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> Standing              | <input type="checkbox"/> Kneeling              | <input type="checkbox"/> Sitting           |
| <input type="checkbox"/> Wrap                  | <input type="checkbox"/> Single person escort  | <input type="checkbox"/> Two person escort |
| <input type="checkbox"/> Rest position (prone) | <input type="checkbox"/> Other (please specify |  |

**Duration of Incident**

**DESCRIPTION OF HANDLING STRATEGIES USED** (staff involved and how held)

**SIGNIFICANT DAMAGE TO PROPERTY** (describe damage)

**MEDICAL INTERVENTION** (describe injuries and treatment)

Reported by	
Designation	

***ACTION TAKEN***



## Appendix J

### LEGAL SUPPORT SCHEME

#### Availability of scheme

The Council has agreed to make funds available to pay for the legal expenses of an employee bringing a private criminal prosecution in certain circumstances. Access to these funds will only generally be considered in accordance with all of the following:-

- (i) Where the employee wishes to bring a private criminal prosecution against the perpetrator or perpetrators of an assault.
- (ii) Where the assault was committed whilst the employee was carrying out his/her duties or on approved Council business.
- (iii) Where the assault resulted in physical harm being caused to the employee, or where there is damage to the employee's personal property or where the circumstances of the assault are such that action is necessary to deter similar occurrences.
- (iv) Where the relevant Director considers that the employee should be supported in bringing a prosecution.
- (v) Where the Police are not willing to take action.
- (vi) Where the employee is unable to obtain Legal Aid.
- (vii) Where the employee's own Solicitors report in writing to the Legal Division that in their opinion there is sufficient evidence available to bring a case with a reasonable chance of success.

Access to the funds **WILL NOT** be available in the following circumstances:-

- (i) To pursue a civil claim for damages (except where the claim for compensation can be made alongside a criminal prosecution at no additional cost).
- (ii) Where the Police bring court action against the perpetrator of the assault, whether successful or not.

#### Application procedure

An employee who has suffered an assault should in the first instance complete a Incident/Violence Report Form and prepare a full written statement of the circumstances, accompanied by statements from any witnesses if possible. This should be presented to the employee's Line Manager who is responsible for ensuring that the incident has been recorded fully, investigated and the relevant documentation has been forwarded. The employee may if he or she so wishes consult his/her Union or Professional Association.

The Director will then decide whether the case is such that the employee should receive support. The Director's decision in this matter will be final. If the Director decides that it is a suitable case for the scheme, the employee will be supplied with a letter to be taken to a firm of private practice Solicitors of his/her own choice. In limited circumstances the

Legal Division reserves the right to object to that choice. Should the employee require assistance in the selection of a Solicitor, the Legal Division can provide information to assist the employee.

Before instituting any proceedings the employee's Solicitors will report to the Legal Division with an opinion as to whether the employee's case has a reasonable chance of success. If the opinion is positive and accepted by the Legal Division the Solicitors will receive a letter of instruction authorising them to proceed and informing them of the method of reporting and charging costs to the Council. If the opinion is negative, the matter will end there and the Council will reimburse the costs incurred up to that stage. Should the employee decide to take the matter further, any future work done by the Solicitors will be a matter between themselves and that employee. The employee's Solicitors will be reimbursed by the Council at the same rate of remuneration as is currently provided by the Legal Aid Board. This will be based on the current legal aid rates. Should any fees be incurred in excess of these rates payment of such excess fees will be the responsibility of the employee.

A condition of Council support is that the employee's Solicitors will make available to the Council on request any of the papers involved in the case and will report to the Council on conclusion of the proceedings, or otherwise on request. The employee and his/her Solicitors will be deemed to agree to this disclosure. This relates only to advice given under the scheme. Any other advice received by the employee in relation to other matters will be subject to the usual rules of Solicitor/Client confidentiality. Any legal costs recovered by a successful prosecution should be reimbursed to the Council. Corporate Services Legal Division is able to offer informal legal advice and if necessary direct an employee to a suitably qualified Solicitor. Initial contact with the Legal Division can be made by telephoning the Corporate Services Directorate.

The Trade Union Solicitor or the Solicitor in private practice will be able to advise on the likelihood of bringing a successful case in the county court for damages and will, if appropriate, handle the matter. Assuming the civil action is won, the judge will order an award of a payment of damages. However, if the assailant does not have sufficient funds or insurance it may be that in the end the money awarded will not be received.

## **COMPENSATION**

Awarded by the magistrates court.

If clothing is damaged or there is some other loss (eg broken spectacles) the police should be informed and asked to apply to the Magistrates Court for a payment of compensation in respect of such broken or lost articles. The payment of compensation will be forwarded once it has been received by the Magistrates Court from the assailant.

## **CITY COUNCIL INSURANCE**

As required by nationally agreed terms and conditions of employment, the City Council has arranged insurance for death or permanent disability arising from assault. This allows for compensation equivalent to five years gross remuneration with a minimum payment of £35,000 (with dependants) or £950 (no dependants) in cases of death arising from assault, with a percentage reduction in the event of permanent total or partial disablement according to the nature of the injury. Claims should be made to the Director of Corporate Resources. It is the Line Manager's responsibility to ensure that the Corporate Resources Insurance Division are notified immediately of any serious assaults that have occurred.

## **CIVIL ACTION**

It may also be possible for the employee to bring a civil action in the County Court against an assailant for damages, that is, a payment of money designed to compensate for pain, suffering and injuries received as a result of violence and aggression, together with compensation for any loss which may have been incurred eg loss of overtime repair of broken spectacles, damage to a watch etc.

If an employee wishes to bring a civil action against an assailant the employee should consult his or her trade union official who will, if appropriate, refer the employee to a Solicitor instructed by the Trade Union. Alternatively the employee can consult a Solicitor in a private practice. The Solicitors employed within Corporate Services Directorate are NOT permitted under the Professional Conduct Rules of the Law Society to undertake private legal work of this nature.

## **LEGAL AID**

The employee may also be eligible for legal aid, the solicitor consulted will be able to advise further in this respect.

## **Appendix K**

### **'Corporate Safety Information system' (Flagging)**

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As an employee do you work in properties, parks or business addresses within the city boundaries?

If you do read on.....

Bristol City Council's Corporate Safety Section has for a number of years been developing a computerised record system to hold data on potential hazards at specific addresses within the city boundary. This information can be retrieved and taken into account when carrying out risk assessments for the task, ensuring suitable control measures are in place to ensure your health and safety.

The system is available via the intranet (click on 'Health and Safety' and then on the 'Corporate Safety Information system' link) or at <http://intranet.bcc.lan/CorporateSafetyServlet/index.html>.

To search the database, enter part of the street name in to the search box (eg park for park street), and press return. All street names matching the search criteria will be displayed. Click on the address to view the data stored and the multimap link, to view a map of the location (only if the user has internet access). Please remember the system will **NOT** check adjacent streets.

Two guidance notes which support the use of the system are available via the intranet (click on 'Health and safety' and then on 'Guidance notes') or at [http://intranet.bcc.lan/php/home/people/safety/pdfs/CSIS\\_guidance\\_managers.pdf](http://intranet.bcc.lan/php/home/people/safety/pdfs/CSIS_guidance_managers.pdf) and [http://intranet.bcc.lan/php/home/people/safety/pdfs/CSIS\\_guidance\\_users.pdf](http://intranet.bcc.lan/php/home/people/safety/pdfs/CSIS_guidance_users.pdf).

The complete procedure document is available at [http://intranet.bcc.lan/personnel/CSIS\\_policy.pdf](http://intranet.bcc.lan/personnel/CSIS_policy.pdf)

As you will be aware, the system has been produced to allow the collection and dissemination of information relating to an incident at a specific address to be available to those making visits or working at that or adjacent addresses. Although the information is brief, this can be included into the departmental risk assessment process to ensure the risks are addressed with suitable and sufficient control measures. It is essential this review of the assessment is undertaken to ensure it applies to the situation/location and the information that is available.

It is essential that all incidents are recorded using the corporate incident reporting procedure (<http://intranet.bcc.lan/php/home/people/safety/incident.phtml>). This is the mechanism for capturing the required data.

For Managers and Supervisors, could I please ask you to disseminate the details of this system to your employees to ensure there is knowledge and understanding of the system.

Please make use of this system as it is in all our interests this project succeeds.

Thank you

Nick Gurney  
Chief Executive