

Positive environments where children can flourish

A guide for inspectors about physical intervention and restrictions of liberty

Contents

| | |
|--|-----------|
| Introduction | 3 |
| Our approach | 3 |
| Understanding practice | 4 |
| Physical restraint | 5 |
| Restrictions on children's liberty | 6 |
| Types of restriction | 7 |
| Residential special schools and children's homes with education | 8 |
| Recording | 8 |
| Use of isolation and seclusion in schools | 9 |
| Summary | 10 |
| Annex A: Single separation in secure children's homes | 12 |
| Annex B: ECHR | 13 |
| Annex C: References | 14 |

Introduction

1. Inspectors should use this guidance to evaluate how providers, managers and carers create a positive environment for children to live and learn in and where staff interact positively with children. This guidance applies to all social care inspections and to the inspection of schools.¹
2. This guidance is not a summary of the law or guidance on the area of physical intervention and restriction of liberty.² This is about an approach to inspection.

Our approach

3. We start from a perspective that respects the child's rights before we consider whether incidents of physical restraint or restrictions on children's liberty comply with the legislative framework, national minimum standards (NMS) or relevant guidance.³
4. We start from the premise that staff should work positively and confidently with children and find the least intrusive way possible to support, empower and keep children safe. The foundation of good practice in working with children should be:
 - building relationships of trust and understanding
 - understanding triggers and finding solutions
 - if incidents do occur, defusing the situation and/or distracting the child wherever possible.
5. Restraint is permissible. There will be times when staff feel that they need to intervene physically to keep children safe (or to keep staff safe). Nothing in this document is intended to undermine actions of adults that we would expect from any reasonable parent to keep their child safe or to imply a 'no touch' approach. We expect adults to be skilled and confident in finding the best ways to keep children safe; ways that promote their rights, respect their dignity and help equip them for the future.
6. In practice, this means that we can legitimately set out to **question and understand** any type of physical intervention or restriction on children's lives, including the use of isolation/seclusion in schools.

¹ Different guidance applies to practice in schools and this document reflects those differences.

² Inspectors are expected to be familiar with the relevant guidance for the establishment they are inspecting.

³ Our thinking and approach must take account of the European Convention on Human Rights (ECHR) see annex B.

Understanding practice

7. When evaluating a restraint or a restriction of liberty, the legislation requires us to consider:
 - Was this action legal and necessary – for example, was this action taken to prevent a child injuring themselves or someone else or causing serious harm to property or in a school to maintain good order and discipline?⁴
 - Could this action be considered as 'reasonable' in this particular circumstance? Was it the minimum force necessary? Was it proportionate?
8. Restraint that deliberately inflicts pain should not be used.
9. It is always unlawful to use force as a punishment.
10. In all settings and schools, we should expect that staff build effective relationships with the children who they are responsible for. We must not forget that, as well as through their general duty of care, staff in children's homes must (by regulation) build trusting and respectful relationships with children. When looking at how incidents have been dealt with, we need to give significant weight to the requirements around positive relationships. These are set out clearly for children's homes in the 'positive relationships' Quality Standard (regulation 11).⁵
11. Questioning an approach is about being able to challenge constructively. Just because restraint is permissible, it does not mean that it is the best and/or only way to manage a concern or situation. We should be challenging providers through our inspection activity to challenge their own practice and think hard about the most constructive and positive ways to work with children.
12. There are different ways to approach the same situation. Some providers are more likely to find safe, creative and child-focused solutions than intervene physically and/or restrict a child's liberty. As inspectors, by questioning and understanding practice, we have the opportunity to be a force for improvement and encourage providers to find better solutions to challenges that they face.
13. If we always start from the premise of 'does this practice comply with the regulation/guidance about restraint?' we may miss opportunities to question practice and help providers to look differently at how they work with children. We cannot underestimate the emotional impact that incidents can have on children, including long-term, adverse effects on their mental health.

⁴ Note that restraint can be used to prevent a child absconding from a secure children's home or in the case of a school, teachers have the power to use reasonable force to maintain good order and discipline.

⁵ The Children's Homes (England) Regulations 2015;
www.legislation.gov.uk/ukxi/2015/541/regulation/11/made

Physical restraint

14. There are clear triggers that should always make us curious and want to explore and understand more.⁶ These include:
- the use of prone holds and/or taking children to the floor and/or 'ground' holds⁷
 - restraining children in their bedrooms and/or on their beds
 - periods of physical intervention that are lengthy
 - high numbers of staff involved in an incident
 - situations that are escalating, with restraint being used more frequently
 - restraint practices becoming the norm/being applied universally or indiscriminately
 - children sustaining injuries
 - repeated incidents or patterns that are easily identifiable
 - incidents that involve care staff being used on school premises to 'manage' children's behaviours (as opposed to staff who hold multiple roles)
 - incidents that involve children being administered prescribed medication on an 'as required' basis to calm, relax or sedate them
 - incidents that involve the intentional use of equipment to physically restrict children with or without staff being physically present (e.g. safe space beds, a wheelchair, reins or a safety harness or a seatbelt).
15. While there is nothing in statutory guidance that says that any of the above is not permissible, we need to understand why these were the best or the only solutions, how the action was proportionate to the circumstances and how the child's rights were respected. Staff working with children need to use their professional judgement about how best to respond to a situation and each circumstance can only be viewed on a case-by-case basis. Providers will need to explain to us their understanding of what happened and why any of these were the right intervention.
16. We cannot have a 'zero tolerance' approach. Restraint is permissible⁸. Our starting point should always be the rights, needs and safety of the child (and other children and adults present). The practice needs to be understood in this

⁶ A panel of experts (Physical Control in Care Medical Panel – 2008) identified that certain restraint techniques presented an unacceptable risk when used on children and young people. The techniques in question are 'seated double embrace', the 'double basket hold' and the 'nose distraction technique' as posing unacceptable risk to children.

⁷ None of these 'holds' are illegal but they can pose a risk to children and we should always question whether they are proportionate.

⁸ As long as it is compliant with the legislation.

context. That does not prevent providers from taking the steps they may need to keep children safe. Providers should feel enabled and confident to take appropriate steps to keep children's safe.

17. Inspectors will not know in detail the myriad 'behaviour management' and restraint techniques that exist. The names of holds can be ambiguous and misleading and can differ in different models of physical intervention. If we are in any doubt, we should ask for pictures or diagrams or a demonstration. These can be included in the evidence base if needed. This is all reasonable.
18. There is no universally recognised accreditation system or government standards for models of restraint and/or physical intervention.
19. There are many differences of opinion about whether interventions such as guiding children by the hand are restraint or not. If the intervention does not include an element of force, then it is not restraint. If it is not restraint, it does not need to be recorded as such. A provider may choose to record these interventions to understand what is happening for children – but that is their decision.
20. As inspectors, we should avoid getting into these debates. If staff have the **intent** of using any form of physical intervention to direct a child to do something that they did not want to do, or to divert them away from something they want to do, our concern should be:
 - how managers or staff monitor, understand and review the practice
 - how practice then evolves
 - whether that leads to fewer incidents over time.

Restrictions on children's liberty

21. We should always question the use of any restrictions on children's movement and/or intrusive observations. This will help us to understand whether this was the best and/or only way to support this child and keep them safe. We need to know what else has been tried, that the practice is kept under review and that steps are taken to find/move to a less restrictive approach wherever possible. We would also expect that, in many circumstances, a child's needs change over time. Practitioners need to recognise that and think about what the least possible restrictions are to keep a child safe.
22. We should always question blanket approaches to restrictions so that we understand whether they meet individual children's needs.
23. In all instances, the provider needs to give us evidence about why they have taken a particular approach. They also need to give us evidence that they have been proportionate with individual children, particularly if a situation and/or the response has escalated.

Types of restriction

24. Terms such as time out, isolation, chill out, or single separation may suggest that a child has had their liberty restricted. Locking a door is only one method of preventing someone from leaving a room. Other methods, including leaving alone a disabled child who cannot move independently or a real and/or perceived threat to the child, can equally be a restriction. On some occasions, a child may find that time on their own is a positive intervention at times of distress, but these interventions should be used sparingly and the situation must be managed sensitively.⁹
25. There are many types of equipment that, when used under supervision and with occupational therapy oversight and training, can make children's lives more comfortable. Sensory rooms and tents can offer some children really positive experiences. Specially adapted wheelchairs and seats provide postural support that improves children's inclusion in their surroundings. Weighted belts and limb bands can help children to move around their environment more confidently. Weighted blankets and quilts can help children to block out unwanted sensory information and feel more secure.
26. When this kind of equipment is used, we should take account of how well staff know and use the child's occupational therapy programme and how children are able to contribute to any review of that plan. We should expect that children who are using any kind of additional equipment are constantly observed for signs of distress, with staff taking prompt action to alleviate their discomfort. If children cannot easily leave, or are being actively discouraged by staff from leaving equipment such as sensory rooms or tents, then that could become a restriction.
27. Restrictions can also include the use of high bed sides or high door handles so that children cannot leave the bed or room without staff support. The same principles set out throughout this guidance apply to our approach – that is, to question and understand.
28. In children's homes, the guide makes clear reference to how some restrictive interventions can form part of a child's education, health and care plan; this does not permit poor practice but does exempt the provider from some recording.

⁹ When this is used as a punishment, it must satisfy section 91 of the 2006 Act if in school hours and section 92 of the Act if outside school hours.

Residential special schools and children's homes with education

29. The requirements about the use of restraint differ between school settings and children's homes. A member of staff of any school can use reasonable force for the maintenance of good order and discipline.¹⁰
30. A consistent approach to the management of behaviour is what best meets the needs of children and young people. Therefore, we should expect that the regulations and statutory guidance for children's homes about restraint are consistently applied across both the educational and children's home settings where they are co-located. If there are differences between the home and school, we need to understand how this is managed and how this is in children's best interests.
31. We should take into account the likely impact on individual children and their understanding of the distinction between the home environment and the education environment, such as whether they are in separate buildings.

Recording

32. Schools are not required to record and report incidents of the use of restraint. Similarly, informing parents is also good practice but not required. There is more direction in guidance about when there has been a serious incident, but again it is just good practice to inform. If parents have not been informed, we can ask why. If the rationale is that this would place a child at greater risk, then we should expect that a safeguarding referral has been made.
33. Although the Children's Homes (England) Regulations 2015 set out what should be recorded, there are still a number of variables, such as 'description of the measure', that are open to interpretation by providers and inspectors.
34. Given this, it is not helpful for us to over focus on **what** is recorded. Our emphasis should be on the **impact of** what is recorded.
 - How does the recording influence practice?
 - Does the manager or school leader monitor trends and patterns about individual children, individual staff and groups of staff (such as shift patterns or lessons)?
 - Does the manager or school leader take account of the views of children, including those who communicate non-verbally?
35. This requires good-quality recording but also aggregation and intelligent use of the data. Our inspection time should focus on this analysis as a way of

¹⁰ Section 93, Education and Inspections Act 2006; www.legislation.gov.uk/ukpga/2006/40/section/93.

determining how a provider is safeguarding the welfare of the child, rather than focusing on isolated concerns about the content of individual records.

36. Some of the differences in interpretation arise because the records can be designed to serve a number of purposes: for a manager of a children's home to review practice, for the child to understand their history and for the placing authority to know what has happened in the placement, for example.
37. The requirements to hold individual children's case records do not prescribe the level of detail that is required and neither should we. The important thing is to focus on the impact of the records and that there is sufficient information recorded (in the case of children's homes) that sets out the date and circumstances.
38. If the school and residential services are on the same site, it is reasonable to expect that any incidents are recorded where the incident occurred. What is most important is that the relevant managers can review practice and make sense of what is happening for a child. If a provider has different arrangements, our questions should be about what these means for the child and how leaders can use the information to support improvements over time.

Use of isolation and seclusion in schools

39. Schools can adopt a policy that allows disruptive pupils to be placed in isolation away from other pupils for a limited period.¹¹ If a school uses isolation rooms as a disciplinary penalty, this should be made clear in its behaviour policy. As with other disciplinary penalties, schools must act lawfully, reasonably and proportionately in all cases. Any separate room should only be used when it is in the best interests of the child and other pupils. Any use of isolation that prevents a child from leaving a room of their own free will should only be considered in exceptional circumstances and if it reduces the risk presented by the child to themselves and others. The school must also ensure the health and safety of pupils and any requirements in relation to safeguarding and pupil welfare. Isolation can also be used as a means of giving a child a place of safety.
40. Reasonable adjustments should be made to ensure that expectations of pupils who have special educational needs and/or disabilities are developmentally appropriate and fair.¹² It would not be fair, for example, to isolate a child who has attention deficit hyperactive disorder (ADHD) or other special needs because they were not able to sit still when required to do so. Equally, for some

¹¹ 'Behaviour and discipline in schools: advice for headteachers and schools staff', Department for Education, 2016; www.gov.uk/government/publications/behaviour-and-discipline-in-schools.

¹² As set out in 'The special educational needs and disability code of practice: 0 to 25 years', Department for Education and Department of Health and Social Care, 2015; www.gov.uk/government/publications/send-code-of-practice-0-to-25.

children in care the experience can reinforce trauma and/or result in an escalating scenario that leads to disciplinary measures for the child.

41. We should question and seek to understand any use of isolation or seclusion in any setting.¹³
42. Some pupils are likely to feel locked in even if they are not. A threat or the presence of staff outside the door may be enough to keep them from leaving of their own free will. Inspectors will explore these incidents if they believe that this has happened.
43. Whether an act is called seclusion or isolation should not be our focus. Children's experiences are what matters.

Summary

44. There is no automatic judgement of inadequate attached to any of the matters raised in this guidance. As always, each case needs to be carefully assessed on its own merits. What we are making clear is that our starting point should be about the child and their experiences. There are triggers that should always make us question practice. If we have concerns, we identify whether and how the practice has failed to meet the relevant regulatory requirements.
45. Similarly, providers' decisions to intervene to keep children safe may be an important part of ensuring that they do not hurt themselves or others. In some instances, the decision to intervene may be right but the actions not proportionate. In others, the actions will be proportionate and legitimate.
46. We know that emergencies and unforeseen circumstances can happen. We may find instances of an unplanned response to prevent harm in an emergency. If this has happened, we expect an immediate review and risk assessment and a plan that considers the use of proactive strategies and less restrictive options.
47. In all cases, we should focus our attention on the rationale for the intervention (physical or restriction) and the impact of the post-incident review – that is, the experience of the child and the extent to which both staff and children experience a restorative approach following any incident. Inspectors should recognise the progress providers make and an innate willingness to keep reflecting on and challenging their own practice.
48. We must always recognise when providers are doing the best that they can and when children are having difficult times. There may be times when interventions increase but when these changes can be explained clearly by the provider. We need to take the time to understand what is happening and why it is happening.

¹³ The particular issues relating to secure children's homes are set out in annex A.

49. Our primary focus should be on what is happening for children. We should be more focused on how information is used to improve practice than how information is recorded.
50. We can and should continually question practice from inspection to inspection because we would expect to see changes in response to children's needs and development. This may mean that what is acceptable at one inspection is less acceptable at the next and vice versa. We should always have 'fresh eyes'. This is not the same as being inconsistent.

Annex A: Single separation in secure children's homes

Enforced or directed 'single separation' in a secure children's home is locking a child/young person into their room or other area by themselves or placing them in the said areas and they have the perception that they cannot leave.

'Managing away' is locking a child into an area of the home but with a staff member present, or placing them in the said areas and they have the perception that they cannot leave. This can also be used in secure children's homes.

The criteria for use of both of these methods of control are that young people are: 'a serious risk to themselves, serious risk to others, or cause significant damage to property.'

This measure of control should not be used as a sanction/punishment and only used when no other means can keep young people or staff safe and when it is the only means of preventing significant damage to property.

Both these methods of control must be supported by clear policies and procedures, recorded as required by regulation 35 of the Children's Home (England) Regulations 2015¹⁴ and subject to oversight and governance by managers.

¹⁴ The Children's Homes (England) Regulations 2015;
www.legislation.gov.uk/uksi/2015/541/regulation/35/made.

Annex B: ECHR

The Human Rights Act 1998 sets out the fundamental rights and freedoms which belong to everyone in Britain and under its protection. It incorporates the rights from the European Convention on Human Rights (ECHR) into domestic law. Some rights are absolute, but most are qualified, which means the state may 'interfere' with them in specified circumstances, provided that it has good reason and abides by strict safeguards.

The key human rights from the ECHR that need to be considered in relation to restraint are: [Article 3](#) (prohibition against torture, or inhuman or degrading treatment), [Article 5](#) (right to liberty), [Article 8](#) (right to private and family life, including personal autonomy and respect for physical and mental integrity), and [Article 14](#) (non-discrimination in the enjoyment of ECHR rights).

Annex C: References

- **'Use of reasonable force in schools'**, Department for Education, 2013;
www.gov.uk/government/publications/use-of-reasonable-force-in-schools.
- **The Children's Home regulations 2015**;
www.legislation.gov.uk/uksi/2015/541/regulation/20/made
and **'Guide to the Children's Homes Regulations, including the quality standards'**, Department for Education, 2015;
www.gov.uk/government/publications/childrens-homes-regulations-including-quality-standards-guide.
- **Children's home guide to the quality standards**; Department for Education, 2015; www.gov.uk/government/publications/childrens-homes-regulations-including-quality-standards-guide.
- **Education and Inspections Act 2006**, Section 91–93;
www.legislation.gov.uk/ukpga/2006/40/section/93.
- **'Behaviour and discipline in schools: advice for headteachers and school staff'**, Department for Education, 2016;
www.gov.uk/government/publications/behaviour-and-discipline-in-schools.
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