

**Guidance on the use of  
Physical  
Intervention, including other  
physical contact in all  
Education Establishments in  
Essex Local Authority**

**May 2011**



**Essex County Council**

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The following partners have been consulted on this document

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Educational Psychology Team

Children's Support Services: Pupil Referral Units: Secondary and Primary Behaviour Services and Adolescent Units

Head of School Improvement: Primary and Secondary

SIEY Advisers

Lead Members for all Schools

Local Authority Designated Officer: SIEY: CSS Lead Officer Behaviour and Attendance Improvement

Trade Unions Regional Representatives; Unison, GMB, Unite, NASUWT, NAHT, ASCL, NUT, Voice and ATL.

Children Support Services: selected pupils.

## Introduction

This document sets out the Local Authority's guidance to schools and all other educational settings. The Council endorses the non statutory advice guidance from the Department of Education for school leaders, staff and Governing bodies, along with any subsequent review recommendations.

### **Physical Intervention: The use of force-Challenging Behaviour**

In the context of challenging behaviour, physical intervention with pupils is the positive use of '**reasonable**' force (no more force than is needed), in order to avert danger by preventing or deflecting a child's or young adults action, or by removing the physical object which could be used to harm themselves or others. Force is usually used either to **control** or **restrain**. Control means either **passive physical contact** (standing between pupils), or restraint (physically holding in order to bring a pupil under control). Schools should also note that the use of force is only lawful if its use is reasonable, proportionate, necessary, and where no more force than is necessary is used.

### **Physical Intervention: The Use of Force- As an integral part of a child's and or young adults daily physical management care**

The use of force in this instance should always be defined by specific individualised programmes.

While there is no legal requirement to have a policy on the use of force, Essex County Council expects all schools and educational settings in line with DfE advice to have a Behaviour policy which clearly sets out whole school pro-active approaches towards managing behaviour, anti bullying and Physical Intervention-the use of force. Parents/carers, staff, Governors and Management Committee members should be made aware of the schools policy, and this expectation includes Academies, Free Schools, Studio Schools, Special Schools, Pupil Referral and Adolescent Units. Essex County Council endorses DfE advice, which clearly states that schools should not have a 'no contact' policy, as this may breach the 'duty of care' towards a pupil.

The guidance offered in this document is intended to support educational establishments in order for them to draw up or review their own policies. It should be read in conjunction with any relevant DfE advice or guidance, and Essex initiatives:

- Section 550A of the Education Act 1996
- DfE Non statutory guidance 10<sup>th</sup>. 'The Use of Reasonable Force Advice for school Leaders, Staff and Governing Bodies', May 2011: due for review on completion of consultation on 30<sup>th</sup> June.



## Further useful guidance

- Guidance for Safe Working Practices for the Protection of Children and Staff in Education Settings, DfES IRSC/Safe Practice Guidance <http://www.teachernet.gov.uk/docbank/index.cfm?id=8200>
- DfES Guidance Ref. DfES/0027/2004 'Safeguarding Children in Education' <http://publications.teachernet.gov.uk/eOrderingDownload/DfES-0027-2004.pdf>
- Children's Act 2004 <http://www.opsi.gov.uk/acts/acts/2004/20040031.htm>
- DfES Guidance Ref. LEA/0264/2003 'Guidance on the use of Restrictive Physical Intervention for Pupils with Severe Behavioural difficulties' <http://www.teachernet.gov.uk/wholeschool/sen/schools/piguide/pisec1/>
- DfES Guidance Ref: LEA/0242/2002 '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' <http://www.teachernet.gov.uk/doc/6059/PI%20Guidance.pdf>
- Health and Safety at Work Act and subsequent legislation 1974 and Management Regulations 1999
- Children and Young People's Service, Behaviour Support initiative Promoting Positive Behaviour: The Essex Approach (1998), First Steps: Promoting Positive Behaviour in the Foundation Stage (2005), Essex Equality and Diversity Guidance and HR Policy Framework PF06/24.

This guidance is based upon a number of principles.

- In line with the UN Convention on the Rights of the Child, all children and young people have a right to be treated with dignity and respect, and to be protected from their own dangerous behaviour and that of others.
- The use of **approved** physical force to address challenging behaviour should, wherever possible be avoided and only be used after all other strategies have been exhausted.
- Staff should not intervene where they feel that an intervention might place them at risk, either professionally or physically.
- It is strongly advised that staff should **not use physical restraint** techniques unless they have undergone specialist training, particularly with respect to Pupils with Special Educational Needs, Behaviour, Education, Social Disabilities or Autistic Spectrum Disorder.
- When the use of physical force is necessary to address challenging behaviour, it should be reasonable, proportional in the circumstances and maintain the safety and dignity of all concerned. It should be used in a manner which is consistent with the

statutory duty upon schools to safeguard and promote the welfare of pupils and their staff.

- Governing bodies, Management Committee members and Headteachers should ensure that all staff are clear about what constitutes appropriate behaviour and professional boundaries. The maintenance of this good practice is important both to protect children and minimise the risk of allegations being made against staff.

This guidance applies to all members of school staff at a school. It can also apply to people whom the Headteacher has temporarily put in charge of pupils such as unpaid volunteers or parents accompanying students of school organised visits.

For ease of reading, references are often made to 'school'. This term is interchangeable with all other types of education establishments i.e. Special schools, mainstream schools, Pupil Referral or Adolescent Units, Early Years Settings etc. References to 'staff' or 'adults' include teachers, other staff/governors and volunteers working in or on behalf of a local Education Authority, a school, or other education setting, in either paid or unpaid capacity. For the purposes of this document children and young people are referred to as children. 'Child' is defined as any young person up to the age of 18 years.

The term 'allegation' means any complaint or concern however, and by whomever, raised which might indicate that:

- a person has harmed a child or put a child at risk of harm;
- a person has displayed behaviour involving or related to a child that might constitute a criminal offence;
- a person has behaved in such a way that raises concern about his/her suitability to work with children.

## The legal framework

Section 550A of the Education Act 1996 sets out what physical interventions staff in schools may legally use. The Act states that:

"A member of the staff of a school may use, in relation to any pupil at the school, such force as is **reasonable** in the circumstances for the purpose of preventing the pupil from doing (or continuing to do) any of the following:

- committing any offence;<sup>\*</sup>

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\* An "offence" includes anything that would be an offence if the pupil were not under the age of criminal responsibility.

- causing personal injury to, or damage to the property of, any person (including the pupil himself);
- engaging in any behaviour prejudicial to the maintenance of good order and discipline at the school or among any of its pupils, whether that behaviour occurs during a teaching session or otherwise.”

The Act applies to “any teacher who works at the school and any other person who, with the authority of the head teacher, has lawful control or charge of pupils at the school”. This may include classroom assistants, mid-day supervisors, escorts or voluntary helpers, including people accompanying pupils on visits, exchanges or holidays organised by the school.

The Act does not authorise the use of corporal punishment. Indeed, the law forbids school staff to use any degree of physical contact, which is deliberately intended to punish a pupil or which is primarily intended to cause pain or injury or humiliation. The Guidance for Safe Working Practices for the Protection of Children and Staff in Education Settings (2005), states that ‘The use of unwarranted physical force is likely to constitute a criminal offence’.

## **Managing Challenging Behaviour:**

### **1. Preventing the need for physical intervention and the use of force when managing challenging behaviour**

Children’s rights must be respected and effective communication, relevant to the child’s needs must be used to convey important information to them. Consistency in staff approaches towards the management of behaviour, are key to promoting good behaviour.

Techniques to de-escalate a problem should be used first, wherever possible. The following actions should also be used to reduce the risk of escalation:

- the appropriate use of language, gestures and communication support aids, positive tone of voice and non-threatening body stance;
- verbally or responding by gesture, including British sign language or Makaton sign language, PECS (Picture Exchange Communication System) or tactile communication systems) to acknowledge the child’s distress/anger and attempting to calm the heat of the moment;
- listening and/or observing and reassuring;

- negotiating with all parties in different forms;
- asking/requesting in different forms, onlookers to ignore an escalating situation and in some circumstances asking/requesting them to leave the scene;
- respecting the dignity of all concerned;
- taking the child's problem seriously.

## 2. Physical Intervention: Reasonable Force- Control and Restraint

There is **no** legal definition of 'reasonable force'. The degree of force that may be used depends on all the particular circumstances. There are five relevant considerations.

1. The use of force can be regarded as reasonable **only** if the circumstances of the particular incident warrant it. It should be possible to show that, unless immediate action had been taken, there were strong indicators that injury or damage to property would follow. The use of any degree of force is unlawful, if the particular circumstances do not warrant the use of such physical force, and therefore should be in proportion to the incident.
2. Force can be used to **control** pupils i.e. passive physical contact, such as standing between pupils or blocking a pupils path.
3. Force can be used to **physically restrain** a pupil to bring them under control. It should only employ a **minimum amount of force** - i.e. the minimum force needed to avoid injury, damage to property or to prevent a breakdown in discipline - for the shortest period of time. The degree of force used will also be dependent on the age, understanding, physical maturity, developmental stage, sex of the pupil and whether the pupil has a special educational need. The decision to physically restrain a pupil must take account of these circumstances and be based on an assessment of the risks associated with the intervention, compared with the risks of not employing a physical intervention. **The resulting risk management strategy should be compatible with a positive behaviour management approach, and this should be an integral part of the schools Behaviour Policy.**
4. The **decision** on whether to use a **controlling or restraining force** on pupils is down to the professional judgement of the staff member concerned, however, schools should communicate clearly to their staff the school's approaches towards the use of either controlling or restraining forces. Schools do not require parental consent to use force to control or restrain a pupil, however, where this force is an integral part of a physical

intervention daily management plan, this should be completed in partnership with the parents/guardians and pupil.

### 3. Physical Interventions-The use of controlled force or restraint: Risk Assessments

Whenever it is reasonably foreseeable that a pupil might require the use of a physical intervention i.e. controlled force or physical restraint; **a risk assessment** should be carried out, which identifies the benefits and risks associated with different intervention strategies and ways of supporting the pupil. The use of physical interventions should be minimised by the use of preventative strategies whenever it is foreseeable that a young person might require these types of intervention. The risk assessment must clarify the threshold for intervention and the interventions likely to be required.

Risk assessments and management plans for physical intervention should be the product of an assessment made collaboratively by those professionally involved with the young person and their parents/carers, thus indicating that a broad range of views has been taken into account in its completion. ('Ethical approaches to physical interventions', D Allen, BILD Publications, 2002). Wherever possible, pupils should be involved in this process. This risk assessment should form part of the individual's behaviour management plan.

The decision to use a physical intervention must take account of the circumstances (see 'reasonable force' above) and be based on an assessment of the risks associated with the intervention compared with the risks of not employing a physical intervention. The resulting risk management strategy should be compatible with a positive behaviour management approach.

Risks to young people are that a physical intervention will:

- be used unnecessarily (less intrusive methods could be used);
- cause injury, pain, distress or psychological trauma;
- become routine;
- increase the risk of abuse;
- undermine dignity and self-esteem;
- undermine relationships and create distrust.

Staff must issue children or young people with a verbal warning or an appropriate gesture i.e. British sign language and/or Makaton and/or PECS (Picture Exchange Communication System) or tactile Communication systems that physical intervention will be used unless the challenging behaviour ceases. The tone of voice needs to be



appropriate to the needs of the child and decisive, and statements/signs/gestures must be unambiguous and clear. Staff should also be aware of the measures, developed and taken in advance, which have been designed to prevent the need for physical intervention.

On occasions, there may be no alternative but to intervene physically with a child, either to control or restrain, in their own and others' interests and safety. In such instances no more than minimum necessary force should be used, taking into account all of the circumstances. Such interventions should only be made when they are likely to succeed. Except in emergencies, more than one adult should be present.

There are a wide variety of situations in which the use of physical interventions, either to control or restrain a pupil who is displaying challenging behaviour, may have to be applied. They often fall into three broad categories:

	<b>Examples</b>
Where action is necessary in self-defence or because there is an imminent risk of injury	<ul style="list-style-type: none"> <li>• a pupil attacks a member of staff or another pupil</li> <li>• pupils are fighting</li> <li>• a pupil absconds from a class or tries to leave school - this will only apply if a pupil could be seriously at risk if not kept in the classroom or at school</li> </ul>
Where there is a risk of significant damage to property	<ul style="list-style-type: none"> <li>• a pupil is engaged in, or is on the verge of committing, significant damage or vandalism to property</li> <li>• a pupil is causing, or is at risk of causing, injury or damage by accident, by rough play or by misuse of dangerous materials or objects</li> </ul>
Where a pupil is behaving in a way that is severely compromising good order and discipline.	<ul style="list-style-type: none"> <li>• a pupil is behaving in a way that is severely disrupting the school</li> </ul>

The purpose of any intervention is to restore safety. Physical intervention i.e. to control or restrain, should not be continued for longer than is necessary. Physical interventions should never be used in anger and staff should make every effort to avoid any injury to the child. Staff are **not** expected to physically intervene if by doing so they will put themselves at significant risk, however, this will need to be a professional decision based

on the schools policy and made by the member of staff. Brief periods of withdrawal away from the point of conflict into a calmer environment may be more effective for an agitated pupil than holding to control a pupil or restrain them.

### **Physical Interventions-Observation of Principles**

**During an incident of physical intervention to control or restrain a pupil due to challenging behaviour, physical restraint or control techniques which are suitable for pupils staff should observe certain principles. These include:**

- specific techniques should only be used where there is an ethos of anticipating and defusing children/young people whenever possible;
- they must take account of the pupils age, gender and stage of development;
- they should not rely on threatening or inflicting pain;
- holds should not apply pressure that works against joints;
- they should not rely on routinely taking a pupil to the floor, but preferably to a seated position;
- they minimise movement, particularly the risk of toppling over;
- you can continue to talk to the pupil as you restrain or control them;
- you approach the pupil from the side, not face to face;
- techniques allow you to phase down the hold or restraint as the pupil regains control;
- you can break away at any time, so that staff are not tempted to escalate the restraint using desperate and inappropriate techniques;
- the member of staff should continue attempting to communicate with the pupil throughout the incident and should make it as clear as possible in any appropriate form that physical intervention will stop as soon as it ceases to be necessary;
- acknowledgement is always be given to the pupil's rights and dignity.

## **4. Developing a school policy**

Schools are strongly advised to use these guidelines to help formulate school policy and procedures on dealing with physical interventions due to challenging behaviour. It should acknowledge that all staff have the legal power to use **reasonable force**, to prevent pupils committing a criminal offence or injuring themselves or others or damaging property. However, all schools should agree that any type of force should only be used as a last resort.

It is crucial that the school's governing body or Management Committee have a clear and consistent Behaviour policy, which includes guidelines for all staff with respect to the following:

- Anti Bullying
- Physical Interventions: including approaches towards the use of controlled and restraining physical interventions.
- Physical Interventions: including approaches towards the use of physical interventions in relation to the physical management of pupils as an integral part of their physical care.

All members of staff who may have to intervene physically with pupils must clearly understand the options open to them. They must know what is acceptable and what is not acceptable when dealing with the above areas on a day to day basis. Pupils and parents should also be aware of these approaches, and contribute towards the formation of the schools Behaviour Policy.

Essex County Council acknowledges that schools will develop their policy and approaches in response to the needs of their given locality, the pupils and their families and in accordance with DfE advice and guidance, however, it is recommended that school Behaviour policies highlight the following, in order to minimise the risk to both staff and pupils:

All Behaviour Policies should include:

- The name(s) of the person(s) responsible for implementing the policy, and for monitoring and reviewing its impact
- How the behaviour policy relates to other policies and approaches, particularly with respect to SEN, Child Protection, Provision Development and Teaching and Learning;
- Whole School monitoring and tracking systems to ensure that both qualitative and quantitative intelligence within the areas of behaviour, anti bullying and physical interventions, are reviewed on regular basis, and feed into whole school developments. This is particularly relevant to the development of the following; teaching and learning approaches, provision development, safeguarding and child protection.

A clear statement of intent should also be included in the school prospectus towards the management of behaviour and school discipline.

**Reference should also be made with respect to the following:**



- The proactive and preventative approaches adopted by the school, including staff guidance, in order to minimise the use of any physical interventions;
- Procedures staff must follow after an incident has occurred and access to post-incident support, including how parents should be involved and contacted;
- Details of any support to staff who are injured after using physical intervention should be highlighted;
- Pupil support systems;
- The kind of actions, including the use of physical interventions, viewed as unwarranted, excessive or punitive
- Specific guidance and approaches towards professional development and the use of a force to control or restrain a pupil-see recording and reporting section;
- Monitoring systems for the analysis of behaviour patterns and how this feeds into the development of other school areas i.e. teaching and learning approaches, provision development, pupil voice and strategies to encourage positive behaviour management; restorative justice, mediation and de-escalation techniques;
- Monitoring systems of management which include systems for recording the type of any physical interventions used , its circumstances, the justification for its use and actions taken, including any change to future practice;
- Approaches towards physical interventions which are an integral part of the pupils daily physical management plan;
- Approaches towards risk assessment and risk management;
- How the school communicates with pupils and parents about its policy on the use of physical interventions;
- How the school will involve the parents and others who know the child in the process of developing any behaviour management plans;

**\* It is essential that all schools clearly define their approaches towards the use of reasonable force and adopt the key principles on page 10, when controlling or restraining a pupil. Essex County Council endorses BILD accredited Physical Intervention Training and Behaviour Management Support training offered by PRICE, and strongly recommends that key members of staff receive appropriate training and are able to disseminate this practice within the school, particularly when methods of physical restraint are used, and where the movement of a pupil may be severely restricted or constrained. Schools should always seek to ensure**

**that any training other than the recommended training provider, is appropriate for the use of children and young people.**

It is also important that governors and Management Committee members understand the context in which staff operate, in particular because the governing body and/or Management Committee may need to hear disciplinary cases involving members of staff who have used physical interventions.

All staff should be given a copy of the school behaviour policy, and should receive physical intervention guidance on their induction and at regular intervals including when revisions are made. The school policy should also be available at all times to be referred to, ideally on a well maintained school website.

It is recommended that the governing body or Management Committee ensure that staff sign a central list to indicate that they have received the policy. This central list should be stored securely.

## Physical contact with pupils in other circumstances

There are occasions when physical contact with a pupil may be appropriate other than those covered by Section 550A of the 1996 Education Act. The Guidance for Safe Working Practices for the Protection of Children and Staff in Educational Settings states that: "A 'no touch' approach is impractical for most staff and may in some circumstances be inappropriate. When physical contact is made with pupils, this should be in response to their needs at the time, of limited duration, and appropriate given their age, stage of development, gender, ethnicity and background. Appropriate physical contact in schools may occur most often with younger pupils or those with special educational needs or physical disabilities.

It is not possible to be specific about the appropriateness of each physical contact, since an action that is appropriate with one child in one set of circumstances may be inappropriate in another, or with a different child. Staff should, therefore, use their professional judgement at all times.

Physical contact should never be secretive, or for the gratification of the adult, or represent a misuse of authority. If a member of staff believes that an action could be misinterpreted, the incident and circumstances should be recorded as soon as possible in the school's incident book and, if appropriate, a copy placed on the child's file.

Physical contact, which occurs regularly with an individual child or young person, is likely to raise questions unless the justification for this is part of a formally agreed plan (for example in relation to pupils with SEN or physical disabilities). Any such contact should be the subject of an agreed and open school policy and subject to review.

Where feasible, staff should seek the child's permission before initiating contact, using an appropriate system of communication. Staff should listen, observe and/or take note of the child's reaction or feelings and – so far as is possible - use a level of contact which is acceptable to the child for the minimum time necessary.

Extra caution may be required where it is known that a child has suffered previous abuse or neglect. In the child's view, physical contact might be associated with such experiences and lead to staff being vulnerable to allegations of abuse. It is recognised that many such children are extremely needy and seek out inappropriate physical contact. In such circumstances staff should deter the child sensitively by helping them to understand the importance of personal boundaries.

This means that adults should:

- be aware that even well intentioned physical contact, may be misconstrued by the child, an observer or by anyone to whom this action is described;
- never touch a child in a way which may be considered indecent, unless the child is subject to a physical intervention management programme;
- always be prepared to explain actions and accept that all physical contact will be open to scrutiny.

This means that schools should:

- provide staff, on a 'need to know' basis, with relevant information about vulnerable pupils in their care;
- make staff aware of current DfE guidance in respect of physical contact with pupils and meeting the medical needs of children and young people in school.

## Physical Education and other activities which require physical contact

Some staff will on occasions have to initiate physical contact with pupils in order to support a child so they can perform a task safely or to ensure the prevention of further deformity from a physical condition to maximise functional skills, and to demonstrate the use of a particular piece of equipment/instrument or assist them with an exercise. This should be done with the pupil's agreement and/or as a part of a physical management programme.

This means that adults should:

- consider alternatives, where it is anticipated that a pupil might misinterpret any such contact, perhaps involving another member of staff, or a less vulnerable pupil in the demonstration.

Contact under these circumstances should be for the minimum time necessary to complete the activity and take place in an open or agreed environment; staff should remain sensitive to any discomfort expressed verbally or non-verbally by the child.

This means that staff should:

- be familiar with and follow recommended DfE guidance: British Association of Advisors and Lecturers in Physical Education Guidance for Schools and LEAs;
- always explain to a pupil in an appropriate form which meets the child's needs the reason why contact is necessary and what form that contact will take.

## Pupils in Distress

There may be occasions when a pupil is upset and needs comfort and reassurance. Staff should remain self-aware at all times in order that their contact is not perceived as threatening, intrusive or subject to misinterpretation.

This means that adults should:

- consider the way in which they offer comfort to a distressed pupil;
- always tell a colleague when and how they offered comfort to a distressed child, unless it is an integral part of a physical management programme;
- record situations which may give rise to concern.

Where a member of staff feels it necessary to provide this type of care and reassurance s/he should seek further advice from a senior manager.

## Intimate Care

The Guidance for Safe Working Practices for the Protection of Children and Staff in Educational Settings states that: "All children have a right to safety, privacy and dignity when contact of an intimate nature is required (for example assisting with toileting or removing wet/soiled clothing). A care plan should be drawn up and agreed with parents/carers for all children who require intimate care on a regular basis. This includes children and young people who need care for a time-limited period, or example, following injury or surgery.

Children should be encouraged to act as independently as possible and to undertake as much of their own personal care as is practicable. When assistance is required, staff should ensure that another appropriate adult is in the vicinity or is aware of the task to be undertaken.

Additional vulnerabilities that may arise from a physical disability or learning difficulty should be considered with regard to individual teaching and care plans for each child. As with all arrangements for intimate care needs, agreements between the child, their parents/carers and the establishment must be negotiated, agreed and recorded. In addition, the views and/or emotional responses of children with special educational needs, regardless of age and ability, must be actively sought in regular reviews of these arrangements.”

## Restriction of liberty

Pupils should never be locked in a room and should not be required to remain in a building for an unreasonable length of time without relief. If a child is being required to wait in a room while their parent/carer, social services or the police attend, a member of staff should remain with them. If a child is being required to wait in a ‘time out’ area, this should be logged as an integral part of monitoring the effectiveness of such strategies.

Staff are reminded that if a child or young person is determined to leave the premises, and the use of physical intervention does not successfully prevent them doing so, the child or young person should be allowed to leave. Staff should advise the police and the child’s parents/carers at this stage. A child who cannot be controlled by reasonable physical intervention and absconds on a regular basis, and thus places him/herself at risk of serious harm, is likely to be a child who requires some form of individualised behaviour programme or further intervention strategies and/or multi-agency support.

For some schools and settings it may be necessary to prevent children with severe and complex learning difficulties from leaving the school site for their own safety. In this case it is important that parents and carers are involved in the personalised plans for their child or young person, and that care is taken to follow the same guidelines for minimum and reasonable force.

## The searching of children

In the interests of safety for other children, common sense dictates that staff must have some right to search children if they have reasonable grounds for suspecting a child of concealing a particular item where there are concerns about health and safety. The present legislation; Education Bill 2011, is currently going through parliament and clearly states that teachers will be able to search pupils without their consent, for an item that has been or is likely to be used to commit an offence or cause injury to the pupil, others or damage property. It will also give powers to teachers to search for items that have



banned under the school rules. If the child refuses to disclose willingly the item they are suspected of concealing, the staff should explain to the child that the parent/carer and Police will need to be called to the school.

Essex County Council recommends that searches should only take place in the presence of the Headteacher or another senior member of staff and be conducted by a member of staff of the same sex as the child. Searches must not include intimate touching or strip-searching.

If drugs, stolen property or concealed weapons are suspected, it would be more appropriately dealt with by the police in any event. Weapons and knives should always be handed over the police, otherwise it is for a member of staff to decide when and if to return a confiscated item, and this could be highlighted within the behaviour policy.

## Planning for individual pupils including those with significant special educational needs

If a school is aware that a pupil is likely to behave in a way that may require physical contact or physical intervention, it would be advisable to plan how to reduce the chances of an incident occurring as well as to plan a response if the situation arises. Such planning needs to address:

- Involving the child in the compilation of any behaviour management plans;
- the changes that have been made to the curriculum, and teaching and learning strategies;
- how incident records will be monitored to ensure that appropriate changes to the environment and whole school systems have been made (an example of such an approach can be found in, 'Promoting Positive Behaviour: The Essex Approach');
- strategies for managing the pupil's behaviour in a proactive manner;
- involving the parents to ensure that they are clear about what specific action the school might need to take;
- drawing up a written agreement and/or an agreed plan in consultation with the parents and other professionals involved with the child, which clearly defines the situations in which physical intervention may occur;
- writing a behaviour care plan for the child and agreeing this plan with the parents and other professionals involved;
- briefing staff so that they know exactly what action they should be taking (this may identify a need for training or guidance on a whole school level);
- ensuring that additional support can be summoned if appropriate;

- in some cases, particularly in SEN settings, the school may also need to take medical advice about the safest way to hold pupils with specific health needs, these pupils will need a written handling plan which has been drawn up with parental agreement.

There are two sets of guidance which deal with particular types of needs.

Guidance on the use of Restrictive Physical Interventions for Staff Working with Children and Adults who display Extreme Behaviour in Association with Learning Disabilities and /or Autistic Spectrum Disorders [DfES LEA/0242/2002].

Guidance on the Use of Restrictive Physical Interventions for pupils with Severe Behavioural Difficulties, DfES, Part 3 – Model Policy Guidelines for Special Schools. [LEA/0264/2003].

Should the need for physical intervention with a particular child be assessed as being a frequent requirement, an individualised behaviour plan will need to be devised/reviewed to ensure the child's needs are being met in the best possible way.

Schools are advised to conduct a risk assessment for assessing and managing foreseeable risks for children who present with challenging behaviours. A specimen risk assessment proforma is available on the DfE website: <http://www.teachernet.gov.uk/doc/5334/PI%20risk%20assessment%20proforma.pdf>

Further support and advice can be sought from the Educational Psychologist or Behaviour Support specialist teams/professionals.

## Recording and monitoring-serious incidents

All incidents where physical intervention and/or restraint has been necessary, and is not part of a physical management programme, should be reported and recorded in accordance with Essex County Council's incident reporting procedures. Schools are encouraged to report serious incidents using the Essex on-line reporting system and to seek advice from Essex Health and Safety division and/or the DfE. Incidents need to be reported to the appropriate senior manager in a school setting immediately following an incident and clearly recorded in an incident book with consecutively numbered pages. As in the section entitled 'Post Incident Support' schools need to ensure that they report any incidents/injuries to staff or pupils in accordance with RIDDOR (Reporting of Injuries, Diseases and Dangerous Occurrences Regulation 1995).

It is important that there is a detailed, current, written record of any occasion when a physical intervention and/or restraint is used. It may help prevent any misunderstanding or misrepresentation of the incident and it will be helpful if there is a complaint. Written

reports should be recorded at the earliest opportunity but within one working day after the event, stating:

- the pupil's name;
- the date, time and place the physical intervention occurred;
- what led up to the incident;
- the strategy used to defuse the situation;
- what exactly happened (a brief factual account);
- whether the pupil was warned before any physical intervention;
- why physical intervention was necessary;
- how physical intervention was carried out;
- who physically intervened;
- how long this physical intervention lasted;
- who was present during the period of physical intervention;
- any marks or injuries noted on the child or member of staff as a result of the incident and how they occurred;
- action taken such as treatment in relation to any marks or injuries occurring as a result of the incident to either the child/ren or member/s of staff concerned;
- the child's response and the outcome of the incident;
- the details of the debrief with the pupil and parent/carer;
- what could be done differently next time;
- details of any damage to property and how it occurred.
- Details of any whole school developments as a consequence of such an incident, along with any staff support given.

The child's parent/carer must be informed when physical intervention has been necessary by, at the latest, the end of the working day though preferably by the end of the morning or afternoon session in which the incident occurred.

The use of physical interventions should be monitored in order to help staff learn from experience, promote the well-being of children in their care and provide a basis for appropriate support. In particular, this should cover the frequency with which they are used in relation to the staff and pupils involved. Monitoring of records should also help the school to develop its policy and practice, inform risk assessment and management,



and to identify training and development needs. The policy should specify the role of governors or Management Committee members in the review of policy and procedures.

## Post incident support

After incidents have subsided it is important to ensure staff/children are given emotional support and basic first aid treatment for any injuries. Immediate action should be taken to ensure medical help is accessed for any injuries. All injuries should be reported and recorded in accordance with school procedures. The school should take action to report any injuries to staff/pupils in accordance with RIDDOR (Reporting of Injuries, Diseases and Dangerous Occurrences Regulation 1995).

Schools will need to identify:

- who will provide staff/children with support after incidents;
- who will check for injuries, provide first-aid/arrange for medical aid.

## Complaints and Allegations

Complaints can be avoided by involving parents/carers when an incident occurs, together with a clear policy about the use of physical interventions that is followed by all staff. However, this will not always be the case and a dispute about the use of a physical intervention by a member of staff might lead to an investigation, either under disciplinary procedures or by the Police and Social Services under child protection procedures.

## Consequences of inappropriate physical intervention

Where there is an allegation that a member of staff has used unreasonable force against a pupil, procedures should be followed with regard to the Essex Safeguarding Children Board - SET procedures. This indicates the process for considering whether a Strategy Meeting is necessary. If such a meeting is called, the Strategy Meeting would consider whether or not further investigation by the Police or Social Care is necessary.

Such an investigation may result in internal disciplinary action being taken against the staff member for unreasonable or excessive use of force.

Unreasonable or excessive use of force may result in criminal proceedings for assault. Civil proceedings for damages of trespass to the person may also be instituted. Where it is possible, it should be shown that:

- unless immediate action had been taken, there were strong indications that injury would follow;
- the member of staff has acted in a professional, considered and informed manner and the actions taken are considered to be a reasonable response to the situation.

In the event that physical intervention leads to court proceedings, a court would judge retrospectively whether a reasonable and acceptable level of force was used to control a child, and each case would be examined on its own merits. However, there are certain physical actions that would almost certainly be considered unreasonable under any circumstances.

Examples of these are:

- hitting a child;
- shaking a child;
- pulling a child's hair;
- holding a child's arm behind his/her back;
- excessively squeezing any part of a child's body (e.g. with hands or by kneeling);
- punching, slapping, dragging, smacking and kicking;
- twisting or forcing limbs against a joint;
- tripping;
- holding a pupil by the hair or ear;
- holding a pupil face down on the floor;
- holding a pupil around the neck, or by the collar, or in any way that might restrict the pupil's ability to breathe.

No one set of guidelines can advise for every eventuality. Professional staff are expected to make their own judgements in the light of this guidance and, if acting within the policy guidelines should reasonably expect the support of their Governing bodies and Management Committees.

## Insurance

There may be circumstances when a member of staff may have to decide between making an intervention by placing him/herself in a hazardous situation or standing back, and thereby allowing colleagues or pupils to face a potential hazard. There will always be

an element of personal judgement in these decisions and there is the possibility of someone being injured. However, it is reasonable for the employer to expect a member of staff to engage in some risk where there is evidence of danger to others and intervention has a good chance of being effective, and as an integral part of a members of staff duty of care towards the young person.

Employees should not, however, put themselves in personal danger merely to safeguard property. Schools need to check that all staff, and volunteers are adequately covered by insurance. (It is recommended that those schools which have arranged their insurance programme through the Local Authority confirm their position with the council's Insurance & Risk Manager.) Full details of such cover can be requested from the Local Authority.

## Training for staff

Members of staff who use physical interventions should follow the key principles defined on Page 10. The nature and extent of any training will depend upon the characteristics of the pupils who may require a physical intervention, the behaviours they present and the responsibilities of individual members of staff. Training should help staff to link meeting children's needs with positive behaviour management strategies.

When schools commission Physical Intervention training, they should;

- keep a record of which staff members are permitted to use different techniques;
- the date when the training was attended;
- A copy of any certificates that were awarded;
- Dates of renewal.

## LA contacts

Further consultation and discussion in the area of behaviour management and physical intervention can be obtained through the Local Authority, the Learning and Development Team or the Children's Support Services (CSS): Primary and Secondary Services.

Education Safeguarding Service also provides an advice and consultancy service for schools and the LA in relation to child protection cases, safeguarding issues and allegations made against an adult working within an education setting.

Further guidance can be found on: [www.teachernet.gov.uk](http://www.teachernet.gov.uk)

- BILD Accredited Physical Intervention Training & Behaviour Management & Support Training [www.PriceTraining.co.uk](http://www.PriceTraining.co.uk)

Useful LA publications available from Essex Information Services:

The Essex Approach: Promoting Positive Behaviour;

First Steps: Promoting Positive Behaviour in the Foundation Stage;

Creating a Telling School: Anti-bullying Guidance;

LA Anti-bullying Policy-this item is currently under review.