Malmesbury Primary School

Physical Contact & Physical Intervention in the Management of Children &Young People

Policy based on Framework for Merton's Children, Schools & Family Services April 2015

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Section 1: INTRODUCTION

Context

This policy framework covers a range of interventions from physical contact to physical intervention (including restraint). Guidance is contained regarding physical contact that is considered appropriate to the ages and stages of children and young people's development, and what level of physical intervention is appropriate for individual settings and circumstances.

1.1 The purpose of this document is to ensure that Malmesbury Primary School provides a safe working environment for all children, staff and visitors.

1.2 Policy and guidance set out in this document provide a framework within which individual staff judgements should be made and specific incidents addressed. The document has been written with the intention of ensuring consistency with legislation and statements of other Merton Departments.

1.3 Any staff involved with children and young people need to be aware that their employment imposes on them a general duty of care, that includes maintaining an acceptable level of safety at all times. The physical proximity of staff and young people may necessitate **physical contact** from time to time. Since the conduct of young people can very occasionally become dangerous, **physical intervention** may be required which, inevitably, is a high-risk activity. **Restraint is not used** at Malmesbury Primary School.
Written guidance cannot anticipate every situation: the sound judgement of staff at all times therefore remains crucial. It is, however, the intention that the guidance in this document should offer children, young people and staff appropriate support and a level of protection.

The Legal Framework

1.4 Merton Council's underlying principle is to promote positive behaviour management. It is recognised that services and their employees have a legal duty to safeguard the health, welfare and safety of all children and young people in their care, and others who may be affected by their actions.
The law recognises circumstances when the use of reasonable physical intervention will not amount to an offence. Examples would include the use of reasonable physical intervention to prevent crime or physical injury to the child or others.
The use of physical intervention in relation to children is a difficult legal area. Inappropriate physical contact or physical interventions can amount to the criminal offences of assault and false imprisonment.

Corporal punishment is prohibited in all services and settings in Merton.

Government legislation and national circulars provide specific guidance on the use of appropriate physical intervention in settings such as schools and social care. These are discussed more fully in Appendix 1.
It should be emphasised that whether an act of physical intervention falls within the law will depend very much on the circumstances of the particular case.

Working Principles
1.5 Malmesbury Primary School's ambition is for:

- All staff to show respect and dignity to all children and young people
- Staff to be aware of the ages and stages of child development and what physical contact is appropriate in individual circumstances
- Staff to be supported by management in the use of physical contact or physical intervention that is appropriate to the individual setting, or individual circumstances of a child or young person.
- The school to promote an ethos where physical intervention should be only be used in exceptional circumstances
- Physical intervention to be used only when the behaviour of a child threatens serious injury or death to themselves or another.
- Only the minimum force of physical intervention to be used, that is proportional to the circumstance.

Merton Council will support any member of staff who:
(a) Has any physical contact as in the context of Section 2;

OR
(b) **Used any physical intervention** as **a last resort** and the level of physical force used was related to:

- The seriousness of behaviour and its potential consequences.
- The size, strength, gender, maturity and physical ability/disability of the child or young person.
- The minimum necessary to secure control.

Any physical intervention undertaken must be appropriate to the nature of the behaviour/s concerned, i.e. when the behaviour of a child threatens serious injury or death to themselves or another.

In emergency situations, the action taken was consistent with **ALL** of the above points **except (a)** above.

1.6 **Malmesbury Primary School adopts the above principles and is explicit in our practice guidelines regarding the role of physical contact and/or physical intervention**. These should be seen in the context of other relevant issues, such as:

- Our behaviour management policies within the context of an equal opportunities policy
- Health and Safety policies including risk assessments (see Section 3/Appendix 4)
- Our Intimate Care policy
- Our behaviour management practices
- Staff/child/young person relationships
- Peer group relationships
- Family based factors
- Curriculum issues
- Early identification of a child or young person at risk

1.7 Malmesbury Primary School publishes in written form, its behaviour management policy. The policy is available via the school website to all staff, governors, young people, parents and carers and particularly specifies the establishment's policy on the use of physical interventions.
All policies are available for inspection in relation to the Health & Safety at Work Act 1974 and the Management of Health & Safety at Work Regulations 1992.
(see Section 4: Roles and Responsibilities/Appendix 1A)

1.8 Our principal aim is for all staff to maintain a safe and secure environment for all children and staff at the school.

All staff will have training which allows them to have an understanding of external factors that may lead to an escalation of bad behaviour, and achieve a prompt and safe resolution as a minimum goal. External factors may include:

- Groupings of young people
- Overcrowding
- Non-stimulating environments or stimulus overload
- Availability of attention
- Task difficulty
- A young person's motivation

The professional practice of staff in such situations needs to be clearly understood by all staff, young people and their parents/carers.

1.9 Any actions taken will be fully recorded in a format which is readily accessible to staff and managers.

Section 2: GUIDELINES FOR GOOD PRACTICE IN PHYSICAL CONTACT
This section gives guidance about the level and type of physical contact appropriate to the context, reflecting the social, emotional, physical and educational needs of a child or young person.

2.1 Physical contact at Malmesbury Primary School is dependent upon a number of factors. It is appropriate for teachers and other staff to use touch with children or young people in their care in a positive and professional manner. For instance:

- In our Early Years classes touching young children is inevitable and can give welcome reassurance or comfort to the child.
- Touching children is likely to occur in some physical education, drama or music activities.
- Specific individual circumstances may arise that require a staff member to comfort a child or young person in distress.
- Where a residential activity is taking place, touch may occur around bedtimes, waking up, meal times or group activities.

2.2 Any form of physical contact should be a conscious, self-aware, reasonable and justifiable act. Staff must seek to make their intentions explicit to the child or young person. Examples of acceptable and appropriate responses in Caring, Supportive and Therapeutic Contacts are contained in Appendix 2.

2.3 Staff must bear in mind that even perfectly innocent actions can sometimes be misconstrued and must therefore conduct themselves accordingly. The following guiding principles are suggested:

- Staff need to be continually aware of critical issues relating to the use of touch with individual children/young people such as age, gender, disability, race and culture
- Consideration needs to be given to the meaning of touch – affection or physical intervention within different cultural norms
- Particular attention needs to be paid to a child or young person who may have experienced previous abuse or traumatising life experiences such as witnessing abusive interaction, exposure to pornography/violent images or neglect
- Staff should be aware of those young people who seek physical contact in inappropriate circumstances
- Staff need to be mindful of the subtle but vital difference between privacy and secrecy, in particular with regard to the expression of affection or comfort
- Staff will find themselves alone with children and some physical contact may be appropriate at such times. Consideration of issues such as leaving doors open, awareness of body language, personal and professional boundaries must be borne in mind
- Commonly very young children and young people with disabilities may need assistance in private with personal care tasks such as toileting and bathing
- Likewise health care and other appropriately trained staff may have physical contact in carrying out health care tasks such as the administration of medication.

Section 3: GUIDELINES FOR GOOD PRACTICE IN PHYSICAL INTERVENTION CONCERNED WITH CONTROL

Positive Behaviour Management

3.1 All staff should adopt and be trained in a positive approach to improving behaviour in order to reward effort and application, and to build self esteem. The school will work in partnership with those who know the child or young person to help those concerned:

- Find out why the young person behaves as he or she does
- Understands the factors that influence the young person's behaviour
- Identify early warning signs that indicate foreseeable behaviours are developing.

This approach will help ensure that early and preventative intervention is the norm. It should reduce the incidence of extreme behaviours and make sure that the use of physical force is exceptionally rare.

De-escalation Techniques

3.2 **Physical Intervention will only be used as a last resort**, identified as an incident where the behaviour of a child threatens serious injury or death to themselves or another.

A range of de-escalation tools to be considered are outlined in Appendix 3.

Escalation of Negative Behaviours

3.3 ***When positive behaviour management strategies are unsuccessful, and negative behaviours continue to escalate***

All staff at Malmesbury Primary School have a duty of care to consider intervention when the urgency of the situation does not allow for other methods to be employed. Such instances may include incidents where the actions of children or young people place themselves, other children, staff or a member of the public at risk of physical injury. For example:

- Attacks against a member of staff or another young person
- Self harming
- Fighting (serious incidents only)
- Trying to leave a service setting without permission and such action is judged to put them at risk. This will be specific to the individual and to any specific risks for the child as they plan to leave the setting.

However, physical interventions must be considered to be an exceptionally rare event. **The use of physical force that is unwarranted, excessive or punitive is not acceptable**. Failure to comply with this principle, when considering or using physical force, will be dealt with under disciplinary procedures.

3.4 When using any physical intervention, staff must always ensure that **the level and duration** of the physical intervention will **always be the minimum necessary to restore safety.**

Risk Assessment
3.5 It is important to consider the scope of any physical intervention undertaken – will the intervention make the situation better or worse for the child or young person?
A formal risk assessment may be undertaken for an individual child where there is an established pattern of behavioural issues.

3.6 In the case of an unexpected circumstance it may not be possible to undertaken a written assessment. The initial response should be to identify potential harm to persons and to consider control measures to deal with the danger. These include danger to:

- The individual
- Other children
- Any member of staff

In all cases each set of circumstances is unique and any written risk assessment will be a continuous process that takes place in relation to changing circumstances. Merton Council emphasises that **physical intervention should not be undertaken unless an authorised member of staff feels confident in the intervention and where practical has carried out a risk assessment**.
Factors to consider when completing a risk assessment are outlined in Appendix 4.

Individual Behaviour Management Plans
3.7 If the school is aware that a child or young person has an established pattern of behaviour that might require physical interventions, it should plan how to respond. **Individual Behaviour Management Plans** should be agreed with parents, carers, and any staff involved in the support and management of a particular child or young person who behaves in ways that pose risk.

Plans should be formally recorded and set out the action to be taken to:
- Meet the child's needs
- Encourage the child to make positive choices and develop self control
- Support the young person in difficult situations
- Safely manage a crisis situation if and when it may occur

Plans should include:
- Ways of managing the child (for example pro-active ways to de-escalate a conflict)
- Briefing staff/carers (to ensure they know what action they should be taking)
- Ensuring that additional support can be summoned if appropriate
- Consistency across settings (home – school)
- Notifying parents or carers of any incidents and how they have been managed.

Staff should be made aware of any specific requirements relating to behaviour management plans in school on induction or whenever updates occur.
Individual Behaviour Management Plans should be reviewed regularly in line with the needs of the child.
Copies of Behaviour Management Plans will be held with the setting's Behaviour Management Policy, as well as in the child's personal file and available daily for staff to use.

It is recognised that the above planning process might not be possible in such depth where staff need to act urgently in self-defence or in an emergency.

Physical Intervention Methods

3.8 Currently in Merton there are a range of accredited physical intervention training programmes used within specific services settings. None of these are taught or used at Malmesbury Primary School.

Staff should intervene where appropriate in circumstances outlined above and may be deemed negligent if they fail to do so. Any method of physical interventions employed must use the **minimum force** necessary for the **minimum amount of time.** Examples of **non-acceptable or prohibited physical interventions** are contained in Appendix 5.

Physical Barriers

3.9 **Schools have a duty of care to their service users that requires reasonable measures be taken to prevent harm.** Therefore, the use of "high handles" that are beyond the reach of a child are only used on the Nursery doors. External doors are fitted with exit buttons to ensure that children are discouraged from leaving the school site and visitor access is controlled in line with safeguarding requirements.

It is an offence to lock an adult or a child in a room without a court order (even if they are not aware that they are locked in). However in an emergency situation, when for example the use of a locked room as a temporary measure while seeking assistance, would provide legal justification.

Reflection on Physical Interventions

3.10 It is essential to enable the child or young person to understand the experience of a physical intervention.

As soon as possible after the child or young person has been calmed and/or received any necessary medical attention, they and any staff members involved in the incidence, should be provided with an opportunity to discuss the physical intervention episode. The key aims of the discussion are:

- To enable the child to understand the link between their needs/feelings and behaviour
- To enable the child to develop better coping strategies for dealing with unmet needs and difficult/painful feelings
- To demonstrate respect for, and a genuine interest in, the needs of the child or young person
- To separate the behaviour from the person. To strengthen the relationship of the adult to the child or young person
- To acknowledge and understand the impact of the physical intervention/s experienced by the young person

A written record should be kept of the discussion to assist in planning to avoid a repetition of the crisis incident that led to the use of physical intervention.

Recording Events and Actions

3.11 Immediately following an incident when physical intervention is used, the member of staff involved should immediately inform their manager or senior member of staff. A written record should be made as soon as possible afterwards.

3.12 The report must also be signed and dated by the manager or senior member of staff. A guideline on the content of a report relating to a physical intervention incident is outlined in Appendix 6.

An individual report form should also be completed and sent to the parents. If the child is being looked after by Social Services or is on the Child Protection Register, a copy of the incident report should also be sent to Social Services.
It is important that settings with Merton's Children, Schools and Families Division complete the Merton Council's Accident/Dangerous Occurrence form as soon as possible after the incident.

Witness Statements
3.13 Immediately after the incident has been resolved, the Headteacher or senior member of staff who was not involved in the incident should be verbally informed of what occurred. Because any such incident would be of a serious nature, and it is likely that further action might follow, statements should be taken from witnesses. A senior member of staff should carry this out **as soon as possible after the incident.**
3.14 When taking a witness statement from another child or young person, the following points should be considered:

- Avoid the risk of collusion by accurately recording the child's version of events
- Have a quiet place in which to record the statement
- The language skills of a young witness
- The use of open questions that are objective and do not lead the child

3.15 If, after the initial reporting of the incident, it is considered that the school's guidelines for the use of physical interventions have not been followed, the Headteacher will need to consider whether or not a referral is necessary in accordance with child protection procedures set out in the London Child Protection Procedures.

Management Considerations

3.16 All incidents involving the physical interventions of a child must be discussed as soon as possible with a senior member of staff present at the time. The Headteacher should be involved as soon as practicable thereafter.
3.17 **Parents and carers should always be informed** of what has happened to the child and offered an opportunity to discuss this with the Headteacher.
3.18 Consideration should also be given to the possible effects that any physical intervention with a child has on a member of staff. Staff should be given time to recover in a quiet place with support from a colleague and may require subsequent counselling. They will also need time to reflect upon their involvement in the incident before they continue their duties.
3.19 Members of staff should be advised of their right to contact their Professional Association, Trade Union or colleague before embarking on the reporting procedure. This should not delay proceedings.
3.20 The Senior Leadership Team will ensure appropriate systems for:

- The supervision and support of staff
- An appropriate recording system in the school
- Provision of advice, support and/or training where necessary
- Any disciplinary measures for staff and the involvement of the Local Authority Designated Officer (LADO)

Section 4: ROLES AND RESPONSIBILITIES

Communication

4.1 The school has a clear route through which any incident involving physical interventions is recorded and communicated – and to whom. All staff are made aware of the school's policy on the use of physical interventions at Malmesbury Primary School.

Informing Parents and Carers

4.2 It is the **responsibility of the Headteacher to inform parents, carers and/or social workers about any physical interventions involving a child** as soon as practical after the incident. This reporting will be recorded as part of the policy. Parental permission is not needed but is advisable. If there is a complaint by a parent about an intervention that has taken place, this will be dealt with in accordance with the school's complaints procedure.

Training

4.3 The school provides appropriate training and awareness of our behaviour management strategies. (Refer to Appendix 7)

Induction and Monitoring

4.4 All new staff have an explanation of the school's policy on behaviour management included in their induction programme. Temporary staff and volunteers are also informed of these policies.

Professional Support

4.5 Staff should feel free to discuss their actions with a professional friend if circumstances require and should seek further advice from a Professional Association or trade Union. Initially, the discussion/de-briefing should be with a senior member of staff.

Review

4.6 The school reviews our policy on behaviour management every two years. All staff are asked to contribute to reviews and fully informed of the outcome.

Section 5: MANAGING COMPLAINTS

5.1 Communicating with parents/carers and children, together with a clear policy that staff adhere to, should help to minimise complaints. However, any dispute about the use of force by a member of staff might lead to an investigation, either under local disciplinary procedures or by the police or social care departments under Child Protection procedures.

5.2 Where disputes cannot be resolved at a school level, the complaint will be escalated using the school's Complaints procedure. Ultimately, it may be necessary to refer the complaint to a disciplinary hearing or to criminal proceedings.

APPENDIX 1
Important Legislation and Regulations
1A General
The European Convention on the Rights of the Child
The UN Convention on the Rights of the Child and the European Convention on Human Rights provide a set of principles and minimum standards against which to test law, policy and practice as it affects children and young people. The European Convention on Human Rights was incorporated into English Law by the Human Rights Act 1998 and includes the prohibition of inhumane or degrading treatment or punishment by any public authority. The administering of any form of corporal punishment in any circumstances at any maintained school has been unlawful since 1987 and at any school since 1999.
United Nations Convention on the Rights of the Child
An international human rights treaty which grants all children and young people a comprehensive set of rights, including the right to express their views and have them taken into account in all matters affecting them (article 12); the right to play, rest and leisure (article 31) and the right to protection from all forms of violence (article 19).
Article 1 defines a child for the purposes of the Convention as 'every human being below the age of 18 years'.
The Committee on the Rights of the Child has identified four of the articles as underlying principles that must be considered in examining implementation of all other articles:
♦ all the rights must apply to all children without discrimination of any kind
♦ the best interests of children must be a primary consideration in all actions concerning children whether undertaken by public or private bodies, social welfare institutions, courts of law, administrative authorities or legislative bodies
♦ the right to life and to the optimum possible survival and development
♦ the right of children to express their views on all matters of concern to them and to have those views given due weight in accordance with the age and maturity of the child.
The Children Act 1989 (Duty of Care)
The Children Act (section 3(5)) provides that a person who has care of the child but does not have parental responsibility may do "what is reasonable in all the circumstances of the case for the purpose of safeguarding or promoting the child's welfare".
It is an offence under Section 1 Children & Young Persons Act 1933 for any person who is responsible for a child to assault, ill-treat, neglect, abandon or expose the child in a manner likely to cause unnecessary suffering or injury to health.
The Human Rights Act 1998
Article 3 – No torture, inhumane or degrading treatment
Article 5 – The right to liberty and personal freedom. The restrainer needs to demonstrate that the risk of intervening is less than the risk of not intervening.
Article 7 - No punishment without law
Article 17 – No one has the rights to destroy or abuse rights

Criminal Law Act 1967

This Act allows any person to use such force as is reasonable in the circumstances to prevent a crime (e.g. physical assault) being committed. Reasonable, minimal force must be a matter of personal judgement. It is permissible:

♦ where a person is being assaulted or is in fear of assault (in order to remove that danger)

♦ where a person is aware that another individual is in immediate danger of being assaulted

♦ when a person is wilfully damaging property

The law requires that force should be used only when every other approach has been tried and that all practical methods to de-escalate the situation, including retreat, have been employed.

The following is a brief summary of the offences that are relevant.

a: *Assault and Battery*

The term “assault” is frequently used to describe both an assault and a battery. Strictly “an assault” is an independent offence. An assault is any act (not an omission to act) by which a person intentionally or recklessly causes another to apprehend immediate and unlawful personal violence. The act must be accompanied by a hostile intent calculated to cause apprehension in the mind of the victim. If there is no hostile intent, there is no assault unless the alleged assailant was reckless as to whether the complainant would fear violence. Where an assault is accompanied by an act by which a person intentionally or recklessly actually applies unlawful force, however, light, that amounts to a battery.

There are various defences (including accident, consent and lawful sport) the most relevant being:

♦ *Self defence:* The self-defence must be ‘reasonably necessary’, but it is not purely an objective test.

♦ It includes what the accused himself thought was reasonable.

♦ *Defence of property:* This justifies the use of reasonable force.

♦ *Prevention of crime:* A person may use such force as is necessary to prevent crime.

b: *Actual Bodily Harm*

More serious assaults could result in a conviction for occasioning actual bodily harm unlawfully wounding, or causing grievous bodily harm.

c: *False Imprisonment*

False imprisonment is the unlawful physical interventions of freedom of movement that does not fall within the realms of reasonable parental discipline.

c: *Corporal Punishment*

Any action that constitutes corporal punishment is prohibited in schools, children’s homes and foster placements.

The Mental Health Act Code of Practice

Paragraph 18.11:

Any restraint must be reasonable in the circumstances. It must be the minimum necessary to deal with the harm that needs to be preventable.

The Health and Safety at Work Act 1974
This Act places a general duty on employers and others to protect the health, safety and welfare of all other employees. This duty is wide-ranging and extends to the protection of staff against violent incidents where these are foreseeable.
Section 2 of the Act implies that an employer should consider not only the threat of actual injury but also the potential effects on employees' physical and mental health or welfare.
Section 2 (2)(C) requires that employers provide such information, instruction and training as is necessary to ensure, so far as is reasonable practicable, the health, safety and welfare at work of employees.
Section 2(3) of the Act requires employers to prepare a written health and safety policy statement. This should include the organisation and arrangements for dealing with foreseeable risks of violence to staff.

The Management of Health & Safety at Work Regulations 1992
These Regulations generally make more explicit what employers are required to do to manage health and safety under the Health and Safety at Work Act 1974. Like the Act, they apply to every work activity.

Guidance for restrictive physical interventions: How to provide safe services for people with learning disabilities and autistic spectrum disorder 2002
This guidance was issued jointly by Department of Health and Department of Education and Skills, under section 7 of the LASSL Act 1970. It focuses on the need for provider agencies to have effective policies, procedures and training for staff who work with people who may have behavioural episodes where restrictive physical intervention is necessary for their safety and the safety of others. It promotes the concept of including potential strategies and actions in care plans, to help staff and people who use services deal effectively with such episodes. It emphasises training and in using training organisations who have the expertise and experience to provide for this sector.

APPENDIX 1B
Educational Settings
Responsibility for discipline
Section 61 of the School Standards and Framework Act 1998 requires the governing body of a maintained school to ensure that policies designed to promote good behaviour and discipline on the part of its pupils are pursued at the school.
In particular, they should provide a written statement of general principles to which the Headteacher is to have regard in determining any measures (which may include the making of rules and provisions).
The Headteacher shall determine measures (which may include the making of rules and provisions for enforcing them) to be taken with a view to:
(a) Promoting, among pupils, self-discipline and proper regard for authority
(b) Encouraging good behaviour and respect for others on the part of pupils
(c) Securing that the standard of behaviour of pupils is acceptable and
(d) Otherwise regulating the conduct of pupils

The standard of behaviour, which is to be regarded as acceptable at the school, shall be determined by the Headteacher, so far as it is not determined by the Governing Body. The measures should be brought to the attention of all pupils, parents and employees of the school at least annually. Guidance on social inclusion and behaviour is contained in Circular 10/99 and on pupils at risk of exclusion in Improving Behaviour and Attendance (October 2004) has subsequently issued additional guidance. Circular 10/98 contains guidance on physical intervention.

Circular 10/98 – Section 550A of the Education Act 1996
The Use of Reasonable Force to Control or Restrain Pupils
This circular clarifies the addition of Section 550A to the Education Act 1996. It re-states principles derived from common law and statute. It sets out guidance about a school's policy on the use of force to control or restrain pupils and planning for incidents. It also sets out circumstances where Section 550A will allow teachers, and other persons who are authorised by the Headteacher and who have control or charge of pupils, to use such force as is reasonable to prevent a pupil from doing, or continuing to do any of the following:
 Commit a criminal offence
 Injuring themselves or others
 Causing damage to property
 Engaging in any behaviour prejudicial to maintaining order and discipline

Specifically it states that:
" …it is important that schools have a policy about the use of force to control or restrain pupils. All members of staff who may have to intervene physically with pupils must clearly understand the options and strategies open to them. They must know what is acceptable and what is not. The Governing Body, parents and pupils also need to know that.
The Headteacher should draw up a policy setting out guidelines about the use of force to control or restrain pupils and discuss these with the staff who may have to apply them and with the Governing Body and the school. When drawing up such a policy Headteachers of LEA maintained schools should

refer to any model policy about holding or restraining pupils that the LEA has developed. Headteachers of the schools may also find it helpful to refer to any such policy and/or seek advice from that professional association. In all cases Headteachers should take account of the DfES's guidance on pupil behaviour and discipline policies.
A statement of the school's policy on this issue should be included with the information the school gives to parents about the school's policy on discipline and standards of behaviour".
Paragraph 13 says in regard to self-defence or an emergency:
"… Section 550A does not cover all the situations in which it might be reasonable for someone to use a degree of force. For example, everyone has the right to defend themselves against an attack provided they do not use a disproportionate degree of force to do so. Similarly, in an emergency, for example, if a pupil were at immediate risk of injury or on the point of inflicting injury on someone else, any member of staff would be entitled to intervene. The purpose of section 550A is to make it clear that teachers, and other authorised staff, are also entitled to intervene in other, less extreme situations".

Abolition of corporal punishment in schools – Section 548 Education Act 1996 (as amended by Section 131, Schools, Standards and Framework Act 1998)

(1) Corporal punishment given by, or on the authority of, a member of staff to a child
(a) For whom education is provided at any school, or
(b) For whom education is provided, otherwise than at school, under any arrangements made by a local education authority, or
(c) For whom specified nursery education is provided otherwise than at school
cannot be justified in any proceedings on the ground that it was given in pursuance of a right exercisable by the member of staff by virtue of his position as such.
(2) The above applies to corporal punishment so given to a child at any time, whether at the school or other place at which education is provided for the child, or elsewhere.
(3) Any reference to giving corporal punishment to a child is to doing anything for the purpose of punishing that child (whether or not there are other reasons for doing it) which, apart from any justification, would constitute a battery.
(4) However, corporal punishment shall not be taken to be given to a child by virtue of anything done for reasons that include averting:-
(a) An immediate danger of personal injury to, or
(b) An immediate danger to the property of, any person (including the child himself)

Apprenticeships, Skills, Children and Learning Act 2009

Requirement on all maintained schools and academies to cooperate and form behaviour and attendance partnerships to improve behaviour and tackle persistent absence among pupils

APPENDIX 1C
Early Years Settings
Statutory Framework for the Early Years Foundation Stage

Setting the standards for Learning, Development and Care for children from birth to five years of age.

The EYFS is given legal force through an Order and Regulations made under the Childcare Act 2006.

From September 2008 it is mandatory for all schools and early years providers in Ofsted registered settings attended by young children – that is children from birth to the end of the academic year in which a child has their fifth birthday.

Early years providers includes: maintained schools; non-maintained schools; independent schools; and childcare registered by Ofsted on the Early Years Register. Providers must meet their legal responsibilities to ensure their provision complies with the welfare regulations, as required by Section 40 of the Childcare Act.

Safeguarding and promoting children's welfare: Children's behaviour must be managed effectively and in a manner appropriate for their stage of development and particular individual needs.

Behaviour Management: Providers must:

- Not give corporal punishment to a child for whom they provide early years provision
- Have an effective behaviour management policy which is adhered to by all members of staff
- Physical intervention should only be used to manage a child's behaviour if it is necessary to prevent personal injury to the child, other children or an adult, to prevent serious damage to property, or in what would reasonably be regarded as exceptional circumstances.
- Physical intervention incidences should be recorded and parents informed on the same day
- Have a named practitioner responsible for behaviour management issues (except in childminding settings)
- Named practitioners should be supported to acquire skills to guide other staff and to access expert advice if ordinary methods are not effective with a particular child

Appendix 2
Examples of caring, supportive and therapeutic contacts

1 Caring responses

(a) Greetings:

- Handshake, hand on hand, arm on shoulder and spontaneous hug from child

(b) Personal care:

- Washing hands/face, brushing/combing hair, cleaning wounds on head/limbs
- Assistance with toileting, clothing, cleaning and general washing/drying for the very young and as appropriate for some children with special needs **with due respect for personal privacy and dignity**
- Assistance with mobility for some children as required

2 Supportive Responses

(a) Accident Prevention:

- Holding forearms or elbows e.g. to support balance
- Supporting body, head or limbs for disabled children to meet individual need
- Support by trained staff in acceptable methods within a specified subject such as gymnastics and swimming
- Adjusting equipment and outer clothing

(b) Skill Promotion:

- Correcting hand, finger, arm and body position in the use of instruments, tools and implements. Correcting body position in the acquisition of a sporting skill, e.g. holding a racquet or performing a headstand in gymnastics

3 Therapeutic Responses

(a) Comforting contact

- Holding a hand, hand on shoulders, arm around shoulders
- Sitting on an adult's lap (as appropriate to the child's age, gender and needs)

(b) Therapeutic contact

- Administration of medicine

Non-Acceptable Responses

Avoid Contact with parts of the body other than shoulders, arms and hands in all but exceptional circumstances, e.g. staff working with physical disabled pupils. Teachers responsible for physical education should refer to 'Safe Practice in Physical Education and School Sport' published by the Association of Physical Education (formerly BAALPE). Another exception would be sitting a young child on one's lap.

Avoid Contact when a young person is in a reactive emotional state unless essential for reasons of safety

Avoid any contact when alone with a child unless it is clearly relevant

(a) When teaching a skill e.g. individual instrumental tuition
(b) The need for dignity of young or disabled children e.g. when helping with toileting

Any denial of food or drink is forbidden.

Children should be offered food or drink if it is a normal meal or snack time. Food or drink should not be withdrawn as a sanction.

REMEMBER The way our behaviour is experienced and interpreted may not match our intentions, however well meaning. Children should always be helped to understand the purpose of physical contact.

APPENDIX 3
De-escalation Strategies

- **Structuring the Environment**

Where we choose to speak to the child, whether we sit or stand can communicate the nature of the discussion e.g. warm and friendly or cold and business-like and may help the child to modify its own behaviour.

- **Planning to ignore**

For some children not giving attention to minor, harmless attention seeking behaviours can reduce the behaviour. Don't forget that it is equally important to praise appropriate behaviour.

- **Prompting**

Gentle reminders to a child of what they need to do to stop doing or to prepare for can help the child to adjust to a change. This can be verbal or sensory input. Be careful to avoid 'nagging' the child.

- **Active Listening**

Sometimes listening to what the child has to say, exploring and acknowledging their feelings through the use of reflective responses, can help a young person to stay in control.

- **Backing Away**

This is not the same as backing down; you are not giving in, simply giving the child time to calm down before you discuss the situation with them. Staying and continuing to challenge someone who is already aroused is likely to exacerbate the situation. Alternatively, allow the child to back away through offering them a verbal or physical way out.

- **Humour**

Often suggested as a way of taking the heat out of a situation, but care is needed. Humour can be experienced as critical, demeaning and a superficial reaction to real feelings. If this is the case the child is likely to become more annoyed rather than less. So use humour with great care.

- **Affection**

If a child's behaviour is motivated by fear, anxiety or uncertainty, a gentle injection of affection, verbal or physical, can help to head off a crisis. Children do not always appreciate the care that is provided for them on a daily basis and need additional affection to understand how much the adults really care for them.

- **Hurdle Help**

Where the child is 'stuck' (e.g. in an activity, thought or action) then providing assistance can help overcome feelings of failure or inadequacy.

- **Non-verbal Interventions including:**
  - ✓ Nods or looks to signal when a change of behaviour is needed
  - ✓ Proximity control - using an adult's physical presence to help children modify their own behaviour
  - ✓ Touch control – a gentle touch on the arm maybe enough for the child to stop.

- **Redirecting**

Divert and distract - Try to refocus the child away from what they are doing now, on to something else as a way of avoiding trouble.

- **Summon Assistance**

Send for another appropriately trained member of staff.

- **Offer choices**

Reason with the young person and offer appropriate choices.

- **Time Out**

Involves restricting the young person's access to all positive reinforcements as part of a behavioural programme.

- **Withdrawal**

Removing the young person from the situation that causes anxiety or distress to a location where they can be continuously observed and supported until they are ready to resume their usual activities. At Malmesbury, we ask a child to go to another classroom, usually that of the Phase Leader.

Whatever strategies you use; staff must take care to **remember:**

- Be aware of the meaning of touch from the child's perspective.
- Talking quietly and in a low key manner can reduce the "heat" in a situation
- Reduce the amount of language that you are using when appropriate.
- Consider your body language, avoid threatening body posture and be aware of the non-verbal messages your body is communicating.
- Be positive about the child or young person; do not call them names or make derogatory remarks.
- Only make promises you can keep.
- Do the things that you have promised.
- Consider the level of eye contact you make with the child or young person. Too much could be threatening, too little could make it appear that you don't care or you are frightened/uninterested.

APPENDIX 4
Risk Assessment Factors

In order that the **physical interventions of a child or young person should calm the situation**, and **not** lead to greater injury or an escalation of violence, the following factors need to be taken into account in assessing the risks involved and in determining the techniques to be employed on any particular situation or specific service setting:

- What is the relationship between the staff member and the child or young person?
- How does the child or young person respond to authority?
- The age, and relative physiques and known medical conditions of both the adult and the child or young person.
- The relative genders of staff and the child or young person
- Their ethnic and cultural background
- The possibility of securing the presence of a second adult to assist, if required.
- Spectacles, hearing aids, jewellery and clothing being worn by staff, child or young person
- The adult's capacity to act calmly and systematically.
- The location of the incident.
- A child or young person with a history of violence.
- A child or young person who is/or maybe high on alcohol, drugs or solvents.
- The presence of other young people who may attempt to intervene.
- The presence of any weapons

APPENDIX 5
Examples of Non-acceptable or Prohibited Physical Interventions:

Physical interventions must not take place at Malmesbury Primary School unless the child is at immediate risk of serious injury or death.

In any such extreme situation the physical intervention must NOT:

- Involve hitting or kicking the child or young person
- Involve “punitive” acts: i.e. deliberately inflicting pain on the young person (so, for example, cannot involve joint locks, finger holds or twisting limbs).
- Restrict the child or young person’s breathing (so, for example, must not involve throat or neck holds or pressing their face into soft furnishings).
- On no account should the weight of the adult be placed on the chest, neck or head areas of the child or young person; continuous checks should be made to ensure they are breathing adequately.
- Adults should not use another young person in assisting with the physical interventions.

Staff must:

- Avoid intentional touching of the genital area, buttocks or the breasts of a child or young person.
- Avoid the adult putting any weight upon the young person’s spine, chest or abdominal area.
- Avoid taking a child or young people down, especially to the floor.

APPENDIX 6
Example of content for Physical Intervention Incident Reporting

- Name(s) of child or young person/s involved
- The names of staff involved and of all witnesses
- Details of when and where the incident took place (a sketch plan might be helpful)
- Circumstances and significant factors (antecedents) which led to the incident
- Detail of the incident
- The duration and nature of any physical interventions used
- The pupil's response and the outcome of the incident
- Details of the de-escalation and defusing techniques and strategies undertaken
- A description of any injury sustained by the child, young person or staff and subsequent medical attention
- A description of any relevant action taken after the incident
- Details of any damage to property

APPENDIX 7:
Behaviour Management Training

At Malmesbury Primary School staff are not trained in strategies for physical intervention, and physical intervention is only acceptable where the behaviour of a child threatens serious injury or death to the child or another person.

For all staff, in-service training promotes positive behaviour management. Appropriate training is available to all levels of staff, including support staff. This training includes:

- Malmesbury Primary School behaviour expectations
- The school rules
- De-escalation and Defusing Strategies
- Behaviour Management Strategies at Malmesbury Primary School.
- Adult language choices to support good behaviour
- Links between the setting and Merton Council's policy and guidance

Appendix 8 – Information for Parents and Carers: Physical Handling and Restrictive Intervention

1. Purpose of this appendix

This appendix explains how Malmesbury may use physical contact, physical intervention or other restrictive interventions to keep pupils, staff and others safe.

The school's approach is based on the principle that physical intervention should be **necessary, proportionate, reasonable and used for the shortest possible time**. Staff will always seek to prevent the need for physical intervention through positive relationships, appropriate support, de-escalation and other less restrictive approaches wherever reasonably possible.

Physical intervention must never be used as a punishment.

2. What we mean by physical handling

Not all physical contact with pupils constitutes restraint or restrictive intervention.

Appropriate physical contact may include:

- providing first aid;
- supporting a pupil who is injured or unwell;
- guiding or escorting a pupil where appropriate;
- helping a pupil move safely around the school;
- comforting a distressed pupil, where appropriate;
- supporting participation in physical education or other activities; or
- intervening to prevent an immediate risk of harm.

Where physical contact involves the use of force to restrict a pupil's movement, it may constitute a restrictive intervention and will be managed in accordance with the school's policy and applicable statutory guidance.

3. When physical intervention may be used

Staff may use reasonable force or another appropriate restrictive intervention where they reasonably consider it necessary to prevent or stop, for example:

- a pupil causing injury to themselves or another person;
- a pupil committing or attempting to commit an offence;
- serious damage to property; or
- serious disruption where intervention is necessary to maintain safety and good order.

The decision will depend on the circumstances at the time. Staff will consider the potential risks of intervening against the risks of not intervening.

4. Our commitment to reducing restrictive intervention

The school will seek to understand the circumstances and triggers that lead to incidents requiring physical intervention.

Where a pupil is repeatedly involved in such incidents, the school will consider whether additional support, reasonable adjustments, risk assessment, a behaviour support plan, SEND provision or other preventative measures are required.

Where appropriate, parents/carers and relevant professionals will be involved in reviewing the pupil's individual support arrangements.

5. Prohibited or unacceptable practice

Physical intervention must not be used for the purpose of punishment.

Staff must not use techniques that intentionally interfere with a pupil's airway, breathing or circulation, including pressure to the neck, throat or abdomen, or covering the pupil's mouth or nose.

Restrictive intervention should be avoided wherever possible because restraint can cause physical and psychological harm. Where an intervention does occur, staff must use the least restrictive response reasonably available in the circumstances.

6. Recording incidents

The school will record significant incidents involving the use of force in accordance with its legal and safeguarding responsibilities.

Records will normally include relevant information such as:

- the date, time and location;
- the circumstances leading to the intervention;
- why intervention was considered necessary;
- the type and degree of intervention used;
- the duration of the intervention;
- any injuries or concerns arising; and
- any subsequent actions or review.

7. Information for parents and carers

Parents/carers will be informed of significant incidents involving the use of force as soon as reasonably practicable, in accordance with the school's procedures and statutory requirements.

Information provided will normally include the circumstances of the incident, the nature of the intervention and any injuries or other relevant consequences.

Parents/carers may be offered an opportunity to discuss the incident with an appropriate member of staff and, where necessary, participate in a review of the pupil's support arrangements.

Where an incident forms part of an established behaviour or support plan, the school will still follow the applicable recording and reporting requirements.

8. Seclusion and separation

Where the school uses any practice that amounts to seclusion or otherwise prevents a pupil from leaving a space, this will only be undertaken in circumstances permitted by law and the school's policy.

Such incidents will be recorded and reported to parents/carers in accordance with the applicable requirements.

9. Individual circumstances and SEND

The school recognises that some pupils, including pupils with special educational needs or disabilities, may have particular communication, sensory, medical or behavioural needs.

The school will take relevant individual circumstances into account when planning preventative and supportive strategies. Where restrictive intervention is used repeatedly or where there is an identified risk, the school will consider whether the pupil's individual plan, risk assessment or provision needs to be reviewed.

10. Questions, concerns and complaints

Parents/carers who have questions or concerns about physical intervention involving their child should contact [Designated Staff Member/Headteacher].

Concerns will be considered in accordance with the school's complaints procedure.

11. Review

This appendix will be reviewed alongside the school's Physical Handling/Restrictive Intervention Policy and relevant statutory guidance.