

Behavioural Support and Physical Intervention Policy and Procedure

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Summary

This policy does not, and is not intended to supply guidance on the management of individual children and young people behaviours. This policy is concerned with the provision of appropriate support for behaviour generally. Children and young people support strategies should come from individual assessment.

1. **Policy statement** This policy guides staff in the support of

For the purpose of this policy challenging behaviour is defined as;
“Behaviour can be described as challenging when it is of such intensity, frequency or duration as to threaten the quality of life and/or the physical safety of the child or young person or others and it is likely to lead to responses that are restrictive, aversive or result in exclusion.”

Children and young people will be supported within the framework of positive behaviour support which is defined as;

“Positive Behaviour Support (PBS) is an approach that is used to support behaviour change in a child or adult with a learning disability. Unlike traditional methods used, the focus is not on ‘fixing’ the person or on the challenging behaviour itself and never uses punishment as a strategy for dealing with challenging behaviour. PBS is based upon the principle that if you can teach someone a more effective and more acceptable behaviour than the challenging one, the challenging behaviour will reduce.”

2. Principles

- 2.1 Children and young people displaying behaviour which challenges does so for reason/s.
- 2.3 Communication is paramount and it is the key to ensure effective support.
- 2.4 Good support and intervention is based on a holistic assessment that is focused on children and young people needs.
- 2.5 Good assessment gives understanding for behaviours.
- 2.6 Children and young people's behaviour is individual and each support plan is individual.
- 2.7 Children and young people will be treated with respect and dignity, regardless of the potentially negative impact of displayed behaviour.
- 2.8 Staff supporting children and young people who display behaviour which challenges must do so within an agreed behaviour support plan.
- 2.9 The Aurora Group's services' has a duty to protect and maintain the physical and emotional wellbeing of all its children and young people, staff and volunteers, including those affected by behaviour which challenges so support must include the wellbeing of all.
- 2.10 Specialist advice and input will be sought where required.
Where physical intervention or restrictive intervention is considered, it will be acted on **only** with the appropriate guidance and oversight from the local authority or other relevant body.

3. Who is covered by this policy?

- 3.1 The application of this policy is mandatory for all The Aurora Group services staff, volunteers, foster carers, agency/bank staff and all other Aurora representatives.
- 3.2 Staff understanding of this policy will be assured through training, assessment of competency and supervision.
- 3.3 This policy is applicable to all The Aurora Group staff and representatives who support children and young people who display behaviour which challenges.

Behavioural Support and Physical Intervention Procedure

This procedure has been developed in the context of best practice. Services will need to review local processes to operationalise this procedure in the most effective way to suit the service.

4. Procedure

- Children and young people with learning difficulties can display behaviour which challenges.
- Behaviour which challenges can harm the children and young people and others.
- Effective behaviour support aims to understand the individual's communication and how they like to be interacted with. It is essential that staff understand and reflect on their own behaviour and know what their own triggers are, as well as their children and young people and develop strategies to minimise and reduce the impact that their behaviour has on the individuals' life.
- Children and young people displaying behaviour which challenges may experience inappropriate or restrictive management practices if this policy and procedure is not followed.
- The development of a support plan is dependent on the stage at which an issue is identified.
- This will primarily be before the individual joins the service / transition, or when a child or young person is already within a service and displays or is reported to display some form of behaviour which challenges.

5.2 Before joining a service / transition

Seek information on existing or historic behaviour which challenges.

Information to be gained through the most appropriate sources dependent on the level of potential risk that the behaviour may pose. Source examples:

- Children and young person discussion/observation/direct work.
- Discussion/information sharing with previous service provider.
- Discussion/information sharing with the child or young person's family or other support (with their consent).
- Review of records other relevant documentation.
- Discussion/ advice from specialist staff such as psychologists, behaviour analysts, as is appropriate to each child or young person.

If a behaviour or the likelihood of the occurrence of a behaviour is identified, an assessment should be arranged and completed and a support plan developed.

5.3 Existing child or young person displaying behaviour which challenges

If an existing child or young person displays behaviour which challenges, an assessment should be arranged and a support plan is to be developed.

5.4 Assessment

Children or young people being supported require an assessment. This assessment will depend on the individual and is normally under taken by the Head Teacher or other member of MDT who writes a plan with the child or young person that explains how they are to be supported. If this is not possible due to their disability, parents and social workers will be

consulted and the best means found to communicate with the child using the most appropriate communication methods. The child or young person should be supported throughout the process to be involved in the discussions and decisions. The means support should be appropriate to each individual. (Please see Appendix for guidance notes- Assessment for more information.)

5.5 Support plan

A support plan, documents the plan for addressing a specific behaviour which challenges in the least restrictive manner as possible in each situation. There is no fixed format for the plan, but it must be a logical extension of the assessment and this should be reflected in the child or young person's personal plan. The reasons for the use of any intervention should be recorded in a clear and transparent manner.

Please see Guidance Notes; Support plan for more information.

(Please see Appendix for guidance notes - Support plan for more information)

5.6 Inappropriate interventions

Children and young people should always be supported within a positive behaviour framework and this should be captured within their personal plan which is led and directed by them. The use of aversive, negative or punishment based strategies is neither appropriate nor acceptable within The Aurora Group.

A support plan must not:

- Make use of reprimands, verbal punishments or 'telling's off'.
- Make use of sanctions or punishments of any kind.
- Sanction the use of aggressive or 'firm' body language, tone or manner.

A support plan may:

- Describe an intervention which is negative for the child or young person, for example removing them from an activity if behaviour is causing significant disruption. Clear justification must be given and reflected in the support plan.
- see 'consequences – agreed responses' as referred to in the Promoting Positive Behaviour Policy

5.7 Behaviour monitoring

Behaviour support plans must be monitored to:

- judge the effectiveness of the plan through reduction/increase in challenging behaviour
- ensure that physical or restrictive interventions are appropriate.

Behaviour monitoring will depend on the behaviour being monitored and the context. (Please see Appendix for guidance notes- Behaviour monitoring for more information.)

5.8 Review and alterations

Behaviour monitoring should be reviewed regularly and reviews should be at least monthly.

If no behaviour change has occurred, it must be assessed why this is and the plan should be revised as necessary.

The reviewer must be clear that:

- The outcome of the assessment is valid and reflects the nature of why the behaviour is occurring.
- The support plan in place is built on a valid assessment.
- All elements of the support plan are in place.
- The support plan is being adhered too and followed through.
- If the review reveals issues these must be addressed.

If no behaviour change is occurring and all the above are in place, then the child or young person may benefit from reassessment, or assessment from an outside agency or professional.

- Review must not be focused solely on measures of the frequency of incidents of behaviour.
- Review must focus on wider quality of life measures with the child and young person views at the centre where possible.
- Family (with the individual's consent) and relevant stakeholders including staff should be involved.

Assessment should be focused on whether the child or young person's life is improved as a result of behavioural intervention.

5.9 Restrictive intervention - physical intervention

A physical intervention is defined as some degree of physical contact and force to guide, prevent or restrict movement

The use of physical intervention and other restrictive practice is guided by the following principals:

- Only use as a last resort where the use of positive behavioural strategies have not been effective in reducing the risk or the occurrence of a behaviour.
- Staff should be adequately trained and competent to use physical intervention and must adhere to all safety measures.
- It should only be used where failing to act will place the child or young person or others at risk of harm.
- Children and young people have the fundamental right of freedom of movement and liberty and this will be central to all strategies that involve or are considered to involve the use of a restrictive measure.
- Must be demonstrated to benefit the child or young person.
- Staff have the right to work in a safe environment and be able to take action which is appropriate to maintain their wellbeing.
- All interventions in all contexts must be **appropriate** to the incident, be a **proportionate** response to the incident, use a **proportionate** degree of force, be the **least restrictive** option available, be **respectful** to the child or young person and be used for no longer than is necessary to prevent harm to the child or young person or to others.

- Physical interventions may take the form of an emergency intervention, or a planned intervention.

5.10 Emergency intervention

- Children and young people at risk due to unexpected incident.
- Staff may intervene to maintain the safety and wellbeing of the child or young person or themselves if they choose to do so. For example, a member of staff may physically intervene to prevent a child or young person from harming themselves, or causing harm to others.
- Staff to report all interventions to the service manager and justify the action.
- Manager to assess the incident following the action as soon as possible and a behaviour support plan drawn up to reflect this.
- If it is judged that the intervention may be required again, this must be drawn up as part of a behaviour support plan and then becomes a planned intervention.

5.11 Planned intervention

- Staff can only use a planned intervention if it has been agreed by the local authority and all necessary safeguards and checks have been made.
- Staff must never put in place a planned physical intervention without consulting with the local authority.
- A physical or restrictive intervention may be planned for if it has been judged as likely to occur following assessment, or other indication such as behaviour history or incident report.
- A planned physical intervention may only be in place if it is in the context of an existing support plan. This should include a risk assessment covering the potential risks of making use of physical intervention.
- A support plan that consists only of a physical intervention or restrictive practice will be deemed inappropriate.

A planned physical intervention should consist of:

- Description of the behaviour the intervention applies too.
- Guidelines for minimising the risk of the occurrence of the behaviour and deescalating or diffusing a potential incident.
- Procedure for physical intervention detailing how staff can intervene, to what degree of force and for how long.
- Strategy for disengaging or bringing an intervention to an end.
- Strategy for ensuring that child or young person has not sustained injury or other adverse effect.

5.12 Monitoring and review

All physical intervention must be recorded.

5.13 Mechanical restraint

A mechanical restraint is defined as the use of specialised materials or therapeutic aids, or other equipment such as straps to restrict movement.

- No service should make use of mechanical restraint outside of emergency circumstances without consulting with the local authority to ensure that all necessary safeguards relating to the deprivation of liberty have been put in place.

- Any use of mechanical restraint must be undertaken with the input and oversight of the local authority.
- Only a registered practitioner can exercise mechanical restraint and only in exceptional circumstances as defined by the law. The appropriate techniques must be followed at all times in order to ensure child or young person safety.
- Mechanical restraint should only be used exceptionally, where other forms of restriction cannot be used effectively.

5.14 Chemical restraint

Chemical Restraint is defined as medication used primarily for the purpose of controlling behaviour.

The use of medication may only be permitted when authorised and overseen by most relevant medical professional, GP, Psychiatrist etc.

It should only be used if other interventions do not produce change within a specific agreed time.

5.15 Psychological restraint

Can include constantly telling the child or young person not to do something, or threatening the child or young person and using fear as a means. That includes depriving individual from equipment they consider necessary, such as lenses, walking aids etc. This is not an appropriate intervention at The Aurora Group and may not be used under any circumstance and is grounds for dismissal.

5.16 Technological surveillance

Such as tagging, pressure pads, closed circuit television, or door alarms - is often used to alert staff that the person is trying to leave or to monitor their movement. Whilst not restraint in themselves, they could be used to trigger restraint, for example through physically restraining a person who is trying to leave when the door alarm sounds. At Meldreth and Orchard Manor there is CCTV **only** for use at main entrances to monitor access to the site.

Due to the significant health needs of the Young people placed, with the residential homes, there are some discrete door opening alarm systems to ensure staff, particularly at night are aware that a child or young person has left their room. These do not sound audibly, and are purely for the safety of the person.

5. Areas of responsibility

Aurora Group Executive Board / Directors

- Ensure availability of resources to ensure the implementation of this policy, completion of training and systems to ratify, communicate and review this policy.
- Ensure there are clear disciplinary and other measures for staff who do not adhere to this policy.
- Ensure the policy is monitored and organisational learning is enabled by systems of data collection and analysis as appropriate.

Service Managers

- Review the frequency of the use of physical interventions.
- Responsible for ensuring the degree of physical intervention used to support a child and young person is appropriate and is not being overused, or used as a primary behaviour management strategy.

Individual Staff

All staff supporting children and young people with behaviour that challenges

- Read child and young persons' Support Plan and one-page profile prior to working with an individual.
- If further explanation is needed then the staff member must raise this and receive training to understand the outcome of the assessment, and their role in the support plan.
- Demonstrate awareness and understanding of the assessment and summary support plan, and demonstrate competence in the elements of the support plan that impact on their own practice.
- Seek guidance from appropriately qualified professionals to support the management of behaviour which challenges.
- Ensure that you are adequately trained and competent to manage behaviour which challenges and to carry out physical interventions.

Those on the Childcare Register

- **Must** inform Ofsted if any other person suffers such an incident whilst on The Aurora Group premises. Any physical intervention must be recorded. If in doubt, contact the Regional Children's Services Manager or Group Quality and Governance manager.
- **Services on the Care Quality Commission (CQC) Adult Social Care register or Care and Social Services Inspectorate Wales (CSSIW) register:**
 - **Must notify** CQC of serious injuries, applications to deprive a person of their liberty, abuse, events that prevent or threaten to prevent the registered person from carrying on an activity safely and to an appropriate standard. Outcome 20, Regulation 18). If in doubt, contact the MD of Children's Services or Group Quality and Governance Manager.
 - **Must notify** CSSIW as Regulation 38 of the Care Homes (Wales) Regulations 2002 **places a duty** on registered persons to do so **without delay**.
 - If in doubt, contact the MD of Children's Services or Group Quality and Governance Manager.

6. Learning and development

The Aurora Group is committed to ensuring that all staff are aware of what is expected of them regarding behavioural support and physical intervention so that children and young people are appropriately supported. Staff should speak to their line manager in relation to their learning needs using supervision and the Performance and Development Process (PDP).

- All staff must be trained in the application of a support plan.
- A staff member should only use methods of intervention for which they have been trained.
- Staff who use physical intervention techniques must be trained by a physical intervention trainer or equivalent that is registered with an appropriately accredited organisation. At

Meldreth Manor the BILD accredited training model used is NAPPI (Non-Abusive Psychological and Physical Intervention).

7. Supporting guidance and additional resources

7.1 Overview

The following guidance notes are intended to give staff unfamiliar with Behaviour management an outline of how to prepare the appropriate documentation to support a behavioural intervention following on from The Aurora Group behaviour policy.

This is not intended to be a comprehensive guide to assessment and intervention, but a starting point for staff to begin to build a supportive framework for a person who is displaying behaviour which challenges.

Seriously challenging behaviour should be referred to the appropriate agency for professional support. Behaviour which is not seriously challenging but which has proven resistant to attempts at management and is acting as a barrier to an individual living their life should likewise be referred to the appropriate agency. Any intervention that carries elements of physical intervention must be referred to the appropriate agency as detailed in the policy.

The guidance will cover assessment, support plans and monitoring. This guidance will be focused on what elements should be in place to be considered a sufficient intervention. However, the highly individual nature of different challenges may mean that staff will have to apply these creatively, for example a support plan will be unique to a person and monitoring may take whatever form is most appropriate.

There is no fixed format for a written assessment or support plan. Services should have the elements described below present in their existing behaviour support/management documentation or may create specific documentation to fulfil this purpose.

8.2 Assessment

The purpose of an assessment is to produce a rationale that explains why a particular behaviour occurs for an individual at this point in their life. This should be the logical outcome of the information gathered and then lead naturally to a support plan based on this understanding.

How that assessment is conducted, and the degree of depth of the assessment will depend on the nature and severity of the issue and the resources available.

8.3 Beginning an assessment

Prior to beginning an assessment there should be a clear identification of the issue. For example, if the issue is hitting out then this must be clearly explained. It is not appropriate to give a loose or ambiguous definition of the behaviour under assessment, for example,

Not appropriate:

“Child or young person is reported to be kicking off at staff”

More appropriate:

“Child or young person is being assessed in relation to aggressive behaviour reported by staff. This is reported to be in the form of hitting out and kicking with force.”

A basic assessment process will consist of, but is not limited to:

- Gaining a full understanding of the child’s or young person’s specific needs, the degree of their learning difficulty and how this affects them, an overview of their skill level, communication level and physical/medical needs as is appropriate.
- Discussion with the child or young person if appropriate.
- Interview with individuals relevant to the child or young person. e.g. staff who work with the child or young person, family or other key people.
- Observation of the child or young person, if possible observation of the particular issue under assessment.
- Information gained from monitoring.

This would be considered a reasonable evidence base from which to draw up an assessment. But any avenue of inquiry that may yield additional info can be considered.

8.4 Documenting

Information gained from assessment (notes on observation etc.) should be held together. These notes should then be drawn together to form the written assessment.

The assessment should document as a minimum;

1. Basic biographical info (name age etc.)
2. The rationale for assessment including the behaviour to be assessed. (Why is this assessment happening, who asked for it, what is the behaviour to be assessed.)
3. A brief overview of the child or young person’s current situation (where they are living, their current support system etc.)
4. An outline of their needs including their physical needs, communication and any information as to the nature and severity of their learning difficulty or other cognitive impairment.
5. An outline of the behaviour gained from assessment activities including:
 - 5.1 What the behaviour is (i.e. a detailed description of the behaviour)
 - 5.2 The history of the behaviour as known.
 - 5.3 The frequency of the behaviour and the degree of severity or intensity if applicable.
 - 5.4 When the behaviour is likely to occur (antecedents).
6. Conclusion.

8.5 Conclusion/outcome of assessment

Every assessment should have a conclusion or outcome. This should be a statement as to why the behaviour occurs in the context of the child or young person’s current situation and taking into account their cognitive/communicative deficits. It is not appropriate to reach a conclusion purely from the circumstances that the behaviour occurs in. For example
 “Child or young person hits out at staff when they get angry. This usually happens when they can’t have their own way.”

More appropriate:

“Child or young person displays aggressive behaviour when they become angry. Child or young person appears to struggle to manage their emotions and becomes angry quickly. At this point their ability to compromise and negotiate is impaired. This usually occurs in scenarios where they cannot have their needs met or are frustrated in some way- this is likely a reflection of them struggling to understand that they cannot have what they want immediately.”

The important point is that the conclusion of the assessment demonstrates why the behaviour occurs as a reflection of the interaction between environmental factors (being frustrated not having their own way etc.) and the deficits that a child or young person may have (elements of learning difficulty, impact of autism, communication impairments etc.). This should then form the basis of a support plan which is naturally geared to supporting an individual in a positive and person centred manner and based on a true understanding of why the behaviour occurs rather than a simple reflection of when it is likely to occur.

8.6 Support plan

A support plan should be the natural outcome of the assessment. If the assessment concludes that the issue is a reflection of a difficulty to communicate then this should be reflected in the support plan. If it is that a child or young person cannot tolerate waiting, then this should be reflected in the support plan. If there are multiple issues, then these may all need to be addressed if possible.

Supporting an individual who displays behaviour which challenges can be a complex task. To produce a positive person centred outcome for a child or young person should involve liaison with the child or young person where possible and all the key stakeholders in the individual's life. It should be aimed at producing tangible positive outcomes for a child or young person, and supporting them in a positive and person centred way.

A support plan should be broken down into at least 3 key areas

1. Antecedent control; what in the individual's current daily life can be adapted or controlled to make the occurrence of the behaviour less likely?

For example, if the assessment concludes that part of the reason the behaviour occurs is that the child or young person does not like demands placed upon them, then can these be removed? If it is identified that a certain type of manner of communicative approach makes the behaviour more/less likely to occur, then this should be reflected here. Are there activities that the child or young person enjoys and therefore make behaviour less likely to occur?

2. Reactive strategy; a set of clear guidelines that should be followed when behaviour occurs. For example, if the behaviour is an aggressive outburst then there should be clear guidelines for how staff should respond. If the behaviour is self-injury, then how should staff respond?

The main element of a reactive strategy is how to bring an incident **to a quick and safe conclusion**. This may mean responding in such a way that reinforces the behaviour if this is appropriate however a reactive strategy is not aimed at modifying the behaviour or teaching the child and young person a new skill – it is solely aimed at bringing the incident to a quick and safe resolution. No staff member or individual should be in a position of coming to harm for the sake trying to maintain a rule, unless it impacts on a child or young person's safety.

Any reactive strategy that requires the use of physical intervention or physical management should be referred to the appropriate service for specialist behaviour input.

3. Positive program; an outline of how the deficits that drive the behaviour can be addressed outside the context of an incident. For example, if the difficulty is being unable to wait, how is a child or young person supported and taught how to wait outside of the context of an incident? If the difficulty is communicating, then how is this being addressed?

A positive program is the area that requires the most creative thinking as the means by which a deficit may be addressed or a new skill taught are not always obvious and not always simple. In some scenarios it may not be possible to address a key deficit. For example, a child or young person with Autism seriously struggles or is unable to accept another person's point of view, or tolerate some feature of the environment. Here the focus should be on supporting them to communicate their needs and so avoid a difficulty as much as is possible.

8.7 Quality of life.

In addition to specific interventions like reactive strategies, it is worthwhile assessing the quality of life of a child or young person and making efforts to improve them. Improving the quality of life of an individual should be the aim of any intervention – but doing this as a standalone intervention will lead to improvements in a child or young person's wellbeing and the occurrence of behaviour.

8.8 Support plan: implementation

A documented support plan achieves nothing if it is not implemented. When a support plan has been drawn up the staff who will need to take key responsibility should be identified and a date set for any changes that need to be made. When reviewing the situation or assessing why a behaviour has continued to present, it should be possible to identify whether the elements of the plan have been enacted or not.

8.9 Monitoring

Monitoring is a key part of the assessment process as it should provide information vital to understanding why the behaviour is occurring.

There is no fixed format as to how instances of behaviour should be monitored. For high rate behaviour, a simple tick list may be appropriate to demonstrate how often a behaviour occurs or when it occurs. For behaviour which is less frequent more detail may be beneficial, using a form such as the ABC form in the appendix.

The type of monitoring used should enable the assessor to gather key information relevant to the assessment, but it should also enable them to chart how frequently the behaviour is occurring and therefore whether it is getting better or worse. This is the measure of whether a support plan is working and therefore if the assessment is valid. If the assessment states that a certain set of circumstances is causing or contributing to the behaviour and they have been addressed, but the behaviour is still continuing, then there is clearly more going on and so the assessment must be revisited.

The assessment is essentially a hypothesis as to why a behaviour is occurring. The support plan acts as the experiment to determine if the hypothesis is valid, and the monitoring demonstrates whether it is successful or not.

8.10 Useful links:

Challenging behaviour foundation
<http://www.challengingbehaviour.org.uk/>

Institute of applied behaviour analysis
<http://www.iaba.com/index1.html>

British institute of learning difficulties (BILD)
<http://www.bild.org.uk/our-services/positive-behaviour-support/>

National institute of clinical excellence guidelines
<https://www.nice.org.uk/guidance/ng11/resources/challenging-behaviour-and-learning-disabilities-prevention-and-interventions-for-people-with-learning-disabilities-whose-behaviour-challenges-1837266392005>

9. Appendices

Legal and regulatory requirements

This policy sits within current legislation concerning behaviours that challenge, in particular 'ensuring quality services: Core principles for the commissioning of services for children, young people, adults and older people with learning disabilities and/or autism who display or are at risk of displaying behaviour which challenges.' (NHS England 2014).

The following is a list of legislation, regulation and guidance that The Aurora Group is governed by when supporting children and young people in behavioural support and physical intervention.

Legislation:

Nothing in this policy is intended to deprive individuals of their right to defend themselves, or others, in situations where they are in fear of harm in the course of their employment.

The Aurora Group will support staff where this has happened, providing the action taken is in self-defence, and is proportionate to the risk posed to them or others whom they support.

All staff are responsible and accountable for their own actions and omissions. Staff are expected to fulfil their duty of care within the law.

Offences Against the Person Act 1861: Unnecessary use of force during a physical intervention could lead to criminal charge of assault and/or a civil claim for compensation for any harm suffered as a result of the restraint. Restraining another person without their consent may be a criminal act. If convicted, the staff member could be fined or imprisoned. It is important that whenever restraint is used by The Aurora Group staff it is in accordance with accepted training, best practice standards and can be justified in the particular circumstance.

Health & Safety in the Workplace 1974: Concerned with health, safety and welfare at work, protecting others against risks to health and safety in connection with the activities of persons at work, for controlling the keeping and use and preventing the unlawful acquisition, possession and use of dangerous substances and for controlling certain emissions into the atmosphere.

Human Rights Act 1998: Requires ‘public authorities’ to act towards all citizens in accordance with the European Convention on Human Rights.

It is unlawful for public bodies, which include local authorities, to act in a way that is incompatible with those rights and freedoms. A ‘public authority’ includes any organisation that exercises “functions of a public nature”. In some circumstances this includes The Aurora Group, as it acts on behalf of local authorities and other public authorities such as health bodies.

Mental Health Act 1983: This Act of Parliament covers the reception, care and treatment of mentally disordered persons, the management of their property and other related matters. In particular, it provides the legal means by which people diagnosed with or believed to have a mental disorder can be detained in hospital or police custody to be assessed or treated against their wishes, commonly known as “sectioning”. Its use is reviewed and regulated by the Care Quality Commission. The Act has been significantly amended by the Mental Health Act 2007.

Legislation and Regulation - Children and Young People:

The Education Act 1996 forbids corporal punishment, but allows teachers to use reasonable force in order to prevent a pupil from:

- Harming him/herself or others*
- Seriously damaging property.
- Committing a criminal offence
- Acting in a way that is counter to maintaining good order and discipline at the school.

*Injury (or harm to self or others) is” ...actual or grievous bodily harm, physical or sexual abuse, risking the lives of or injury to self or others by wilful or reckless behaviour and self-poisoning”.

Section 93 of the Education and Inspections Act 2006 and DfE (July 2011) ‘Use of Reasonable Force’ enables school staff to use such force as is reasonable in the circumstances to prevent a pupil from doing, or continuing to do, any of the following:
Committing a criminal offence (or for a pupil under the age of criminal responsibility, doing what would be an offence for an older pupil);
Causing personal injury to or damage to property of any person (including the pupil himself); or
Prejudicing the maintenance of good order and discipline at the school or among any pupils receiving education at school, whether during a teaching session or otherwise.

The staff to which this power applies are defined in Section 95 of the Act as: Any teacher who works at the school and; any person that the Head teacher has authorised to have control or charge of pupils. This: includes support staff whose job normally includes supervising pupils such as teaching assistants, learning support assistants, learning mentors and lunchtime supervisors; can also include people to whom the head has given temporary authorisation to have control or charge of pupils such as paid members of staff whose job does not normally involve supervising pupils (e.g. catering or premises-related staff) and unpaid volunteers (e.g. parents accompanying pupils on school organised visits); does not include prefects.

The Children Acts 1989 and 2004: The Children Act 1989 is designed to help keep children safe and well. If necessary, it helps a child to live with their family by the provision of services appropriate to the child's needs.

Ofsted: Services on the Early Years Register and Childcare Register *must* inform Ofsted about any serious accident, injury or death that occurs to a child while the child is in their care. This includes

times off the premises such as on an outing. *Statutory Framework for the Early Years Foundation Stage*, page 26. *The Childcare Register (General Childcare Register) Regulations 2008*, Regulation 6 Schedule 3 paragraph 25 and Regulation 12 Schedule 6 paragraph 26.

Additionally, those on the Childcare Register must inform Ofsted if any other person suffers such an incident whilst on your premises. Any physical intervention must be recorded.

Legislation and Regulation - Adults:

Must notify CQC of serious injuries, applications to deprive a person of their liberty (and their outcome), allegations of abuse, events that prevent or threaten to prevent the registered person from carrying on an activity safely (Guidance for providers on meeting the regulations Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (Part 3) (as amended) Care Quality Commission (Registration) Regulations 2009 (Part 4) (as amended) Regulation 18). If in doubt, contact a Quality Manager.

The Human Rights Act 1998 (Article 3) specifically relates to the protection from inhuman or degrading treatment or punishment.

The Mental Capacity Act 2005 sets out the legal framework under which a decision can be made for someone over 16 years in England and Wales who lacks capacity to make it themselves, with the decision being made in their best interests. The MCA should therefore be referenced when behavioural support plans are developed.

Additional Regulation and Guidance

British Institute of Learning Disabilities (BILD) ten-point Positive Behaviour Support Mission commitments and child and young person involvement in support planning:

- British Institute of Learning Disabilities code of practice for the use and reduction of restrictive physical interventions (BILD, 2014).
- Mental Health Code of Practice (2015).
- Restrictive physical intervention and therapeutic holding for children and young people - Guidance for nursing staff (Royal College of Nursing, 2010).
- Care and Social Services Inspectorate Wales (CSSIW): Regulation 38 of the Care Homes (Wales) Regulations 2002.
- The Children's Homes (England) Regulations 2015
- Residential Special Schools regulations (Amendment) 2015.
- Statutory Framework for the Early Years Foundation Stage.
- DfE (July 2013) 'Use of Reasonable Force'
- DfE Working together to safeguard children 2015