
NUT ADVICE TO DIVISIONS ON NEGOTIATING ISSUES WITH LEAs ON POSITIVE HANDLING STRATEGIES FOR PUPILS WITH SEVERE BEHAVIOURAL DIFFICULTIES

Background

1. In June 2000, the DfES carried out a consultation on a draft document: 'Promoting Positive Handling Strategies for Pupils with Severe Behavioural Difficulties.' The NUT welcomed the draft document because it attempted to address the challenges presented to teachers by pupils with serious behavioural problems by providing practical guidance to enable staff to respond appropriately.
2. In April 2001, the DfES wrote to all Chief Education Officers updating them on its work since the consultation and the further steps it proposed to take. The DfES proposed to:
 - commission, jointly with the Department of Health (DoH), the British Institute of Learning Disabilities (BILD) a system of accreditation of organisations offering training in the use of physical restraint of pupils;
 - work with the DoH to produce joint guidance on the use of physical interventions with children and adults with learning disabilities; and
 - ask BILD, with the aid of an expert panel, to produce model physical intervention policies for LEAs and schools to draw upon when developing their own.
3. As a result, BILD will shortly produce a voluntary code of practice for all training providers.

DfES Guidance

4. Attached to the DfES letter to Chief Education Officers is guidance on the development of LEA-wide policies on the use of physical force to control or restrain pupils. The letter contains new advice on related school based policies and on recording and monitoring incidents. The advice of the DfES is that:
 - LEAs should have a formal policy on the use of physical restraint;
 - LEA policies on the use of physical restraint should be linked to LEA Behaviour Support Plans; and
 - LEA policies on the use of physical restraint must be cleared with area child protection committees.
5. The DfES accepts that there will be occasions when staff have no option but to use reasonable force in order to restrain pupils. The DfES recommends that teachers and other staff should only use techniques for using physical restraint on pupils with which they are familiar and confident and which are consistent with their schools' policies on the use of physical restraint.

6. The DfES also reiterates advice contained in the DfES circular 10/95 'Protecting Children from Abuse: The role of the Education Service', that staff who are the subject of allegations should not be suspended automatically, or without careful consideration of whether that is the appropriate course of action.

The Union's View

7. The Union welcomes the recognition within the letter to Chief Education Officers that 'LEAs' policies should fully support staff who need to use reasonable force in the circumstances set out in s550A.' The Union has made it clear consistently that staff deserve full support, both in practical and emotional terms, to work appropriately and safely in often charged situations where physical interventions might be needed to be used. Faced with difficult pupils and problems of behaviour, teachers can feel isolated, challenged, insecure and even failures. A culture of blame that identifies teachers as failures neither helps teachers achieve order, nor pupils to raise their general levels of behaviour. The NUT believes that within all educational settings, systems of support should be available to all staff faced with challenging pupil behaviour. Asking for such support should never be perceived as a sign of weakness or failure. The provision of support should be a normal expectation.

Agreeing Procedures for the Use of Physical Force on Pupils

8. The DfES recommends that:
- LEAs have a written policy on the use of physical force to control or restrain, where necessary, pupils in school, and on procedures for monitoring the use of physical force;
 - LEAs should ensure that maintained schools' behaviour policies, and those of independent and non-maintained special schools at which places are funded by the LEA, are in line with the general principles described in their Behaviour Support Plan;
 - a school's policy on the use of physical force on pupils should draw on its LEA's policy;
 - LEAs should consider whether to make model policies available to their schools for each to fine tune to meet its particular circumstances;
 - when reviewing their Behaviour Support Plans, LEAs should incorporate their policy on the use of force into the Plan – at a minimum the two documents should be clearly cross-referenced; and
 - where LEAs and schools place under 16 pupils with special educational needs at colleges, they should ensure that the colleges are aware of their policy on the use of physical force.
9. **Divisions are advised to press their LEAs through relevant consultative arrangements:**
- **to establish working groups of appropriate LEA Officers and advisory staff, teachers and teacher organisation representatives to draft LEA model policies on the use of physical restraint by teachers and support staff;**
 - **to ensure that LEAs incorporate their policy on the use of physical restraint in their Behaviour Support Plans; and**

- **to ensure that LEA model policies on the use of physical restraint cover all educational settings, including schools, special schools, nurseries, colleges, PRUs and other types of units catering for children with severe behavioural difficulties.**

Agreeing Policies on the Use of Physical Force on Pupils with Regulatory Bodies

10. The DfES recommends that:

- LEAs' policies should fully support staff who need to use reasonable force in the circumstances set out in s550A;
- when drawing up policies on the use of physical restraint, LEAs should work closely with the local Social Services Department and with those responsible for health and safety policy across the Local Authority;
- the LEA policy on the use of physical restraint on pupils is compatible with the Local Authority's corporate policy on managing violence against staff, and in accordance with its duty to safeguard the health and safety of its employees and/or the welfare of the children in its care;
- LEAs policies are cleared with their legal advisers prior to consultation with other local statutory bodies;
- at a minimum, LEAs should agree their policies through their local Area Child Protection Committee (ACPC) and that much could be gained by LEAs working collaboratively on their policies through SEN Regional Collaboration Projects; and
- children looked after by the Local Authority, in respite care, or cared for by others with legal responsibility for them, should be subject to the same policy on the use of physical restraint in and out of school.

11. In relation to children looked after by local authorities the DfES advises that policies on physical restraint should be developed jointly by the LEA and the Social Services Department and, where appropriate, the relevant NHS Trust.

12. **Divisions are advised to urge LEAs to:**

- **facilitate joint training for teaching and social services staff whose responsibilities are to liaise with Area Child Protection Committees; and**
- **emphasise within their model policies for schools on the use of physical restraint, the importance of risk assessment.**

Schools' Policies

13. The DfES recommends that:

- schools which have pupils with severe behavioural difficulties should take particular care in the preparing the physical force element of their behaviour policies;

- the use of physical restraint should be considered within the wider context of other measures – for example,
 - ❖ strategies for using diversion
 - ❖ defusing situations
 - ❖ negotiation
 - ❖ establishing and maintaining good relationships;
- school policies describe situations where physical restraint may be necessary and those where it would be inappropriate to use it;
- school policies draw on LEA policies, which would make it easier for a school, or a member of staff, if challenged, to show that their actions were reasonable and lawful; and
- schools consider policies prepared by other schools catering for pupils with similar special educational needs.

14. Divisions are advised to:

- **ensure that the areas identified above are taken into account in LEA guidance to schools; and**
- **urge LEAs to collate school policies on the use of physical force in their area and make them available to schools for reference.**

Agreeing Policies

15. The DfES recommends that schools agree their policies on the use of physical restraint with their governing bodies and their LEAs. This is important as governing bodies may need to hear disciplinary cases involving staff who have used physical restraint on pupils.

16. Each school will be different and circumstances may dictate, to some degree, how the policy is written.

17. Divisions are advised to press LEAs to:

- **make clear that decisions on policies are those of school governing bodies and that LEA model policies are advisory in nature; and**
- **urge schools to develop policies in full consultation with teaching and non-teaching staff.**

Schools Taking Pupils from Outside the LEA

18. The DfES recommends that:

- prior to placing a pupil at a school, the placing authority should satisfy itself that it is content for the pupil to be subject to school's policy;
- if adjustments, which are significantly different from the school's policy, are necessary to meet the needs of a prospective pupil, then it would be advisable for the school to discuss the proposed agreement with the local Social Services Department; and
- parents or those with responsibility for caring for pupils with special educational needs and/or severe behaviour difficulties should, where practicable be involved in agreeing procedures on physical intervention.

19. In relation to a placement the school may wish to seek formal confirmation of this point prior to offering a place. In the event that the LEA or the co-sponsoring Social Services Department is unable to agree to the general principles of a school's policy, it is recommended that the pupil is placed elsewhere.

Recording Incidents

20. The DfES recommends that:

- staff in special schools should follow the same procedures on recording incidents involving the use of physical force as outlined in the DfES Circular 10/98;
- incidents should be recorded in an incident book with consecutively numbered pages within 24 hours of the incident, but wherever feasible on the day it occurs;
- entries in the incident book should be cross-referenced to any more detailed records kept elsewhere;
- schools produce, or build into their behaviour policies explicit instructions on:
 - procedures staff are expected to follow when completing records and the time scales they should normally work to; and
 - guidance on where copies should be lodged (including where the master set can be found);
- schools catering for pupils with severe behavioural difficulties should be especially careful to follow set procedures when recording incidents, as this may be a useful aid to staff who are wrongly accused; and
- the appropriate authority should be informed where there are 'reportable' incidents as defined under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995, for example, if employees or pupils are injured whilst using techniques in the use of physical force i.e. in the case of death or "major injury".

21. **Divisions are advised to:**

- **urge LEAs to include appropriate recommendations to schools on recording incidents in their model policies; and**
- **urge LEAs to put in place an identifiable contact at LEA level for each school for immediate advice where pupils represent a physical threat or are violent towards staff.**

Monitoring Incidents and Reviewing Procedures

22. The DfES recommends that:

- the LEA's policy on the use of physical force should set out the circumstances in which incidents should be reported to it;
- the LEA's school link officer or SEN adviser should regularly review a cross section of incident reports from each school catering for pupils with severe behavioural difficulties;

- LEAs may wish to agree common practices across all schools for both recording and passing to the LEA records of incidents involving the use of physical force, to aid monitoring of specific or general trends;
- schools should assess, at least annually, the effectiveness of any training in physical intervention techniques used;
- at school level, it is important to regularly review the records of incidents to ascertain trend information and to assess the impact of training; and
- headteachers should involve the school's governing body on monitoring the impact of procedures on physical restraint within the context of school behaviour policies.

Training

23. Divisions are advised to press LEAs to:

- **develop a list of trainers who comply with the forthcoming BILD voluntary code of practice for training providers, that LEAs would recommend to schools and whose approach is in line with LEAs' Physical Intervention Policy;**
- **ensure that if members of school staff do become monitors/coordinators of their school's physical intervention policy, that they are able to maintain links with an accredited external training organisation, once BILD have developed a system of accreditation;**
- **ensure that education welfare officers, education psychologists, peripatetic teachers, and others employed by the LEA who visit schools, are properly prepared and trained and made aware of their powers within the terms of the DfES Circular 10/98 and within the terms of this guidance;**
- **circulate to local schools the details of the preparation and training programme so that headteachers can be confident in automatically authorising such persons when they are visiting or working within the individual school;**
- **make available training for staff on the use of physical interventions for younger children, especially at Key Stage 1 or below;**
- **offer or facilitate annual refresher sessions for school staff on the use of physical force; and**
- **put in place a system of support such as counselling, if necessary, where staff have been assaulted or subject to serious physical intimidation.**

Further advice will be provided, where appropriate, on the issues contained in bullet points 1 and 2 above, when the work commissioned by the DfES from BILD has been completed.