

The Use of Physical Interventions – Children’s Services

1 Policy

This policy refers to children and young people using Hesley Group Children’s Services at Fullerton House School and Wilsic Hall School. For ease of reading they will generally be referred to as “people” who use our services.

1.1 Outcomes

In applying this policy and the associated practice guidance in practice all managers, clinicians and staff working for the Hesley Group and contracted by the Hesley Group are expected to achieve the following outcomes:

- i People using Hesley Group services will not generally be subject to physical intervention.
- ii Physical intervention is only ever used as a last resort to prevent harm, when other interventions have not worked.
- iii People using our services will be supported by staff who have been trained by an accredited trainer as part of a recognised and BILD accredited scheme of intervention.
- iv People using our service will be assessed in relation to their likely need for physical intervention and plans will be based on clear evidence of need.
- v This policy will not preclude people acting in an emergency in the best interests of the individual.

1.2 Introduction

To be read in conjunction with the guidance, this policy and associated procedures relate to the use of physical interventions in Hesley Group Services, for the purpose of:

- Making the use of restrictive physical intervention safe, relevant, and practical for staff and people using our services.
- Meeting the requirements of current legislation and practice guidance.

The book *“Physical Interventions: A Policy Framework”* (British Institute of Learning Difficulties, 1996 second edition 2008), underpins this policy and the practice that will be adopted in the Hesley Group. A copy will be made available in every staff base and must NOT be removed.

The main factors underpinning the British Institute of Learning Difficulties (BILD) framework are to ensure that physical interventions are used **as infrequently as possible**, are only employed **in the best interest of the service user**, and when physical interventions are used everything possible is done to prevent injury and to maintain dignity for all concerned.

There is a common misconception that any restrictive physical contact during the course of your work is in some way unlawful. The reality is that where absolutely necessary, reasonable force can be used to control or restrain people at risk or posing a risk to others, in a pre-agreed manner. However, the law

does forbid a member of staff from using any degree of physical contact which is deliberately intended to punish, or primarily intended to cause pain, injury or humiliation. Members of staff, and people using our services and their families should know what is acceptable and what is unacceptable.

1.2.1 Defining Physical Intervention

In this document, the term 'Physical Intervention' refers to a range of physical actions used as techniques for responding to behaviour that presents a challenge to our services and involving some degree of direct physical force to limit or restrict movement or mobility, which can include removal of an aid to mobility, normally used by that person.

There are three main types of physical intervention:

- Direct physical contact between a member of a staff and a service user. Examples include holding another person by the arm to stop self-harm, using manual guidance to stop a person wandering into the road, or two people each holding a person and guiding him or her to a seat, if agitated.
- The use of barriers to limit freedom of movement, for example placing door catches beyond the reach of people, holding a door or a coded lock.
- Materials or equipment which restricts or prevents movement. Examples include using a splint to limit the movement of an arm or leg or use of a harness in vehicles to prevent accidents.

Physical intervention implies restriction of a person's movement maintained against resistance. It is, therefore, different from other forms of physical contact such as manual prompting, physical guidance or simply support.

Over time, the term 'restraint' has acquired a number of negative connotations. It is also a term that is closely linked with a particular kind of approach to the management of aggressive and violent behaviour. For this reason, this document uses the more neutral term 'physical intervention', to indicate a continuum between touching, holding and restraint, and the link with other approaches of de-escalation to be used in conjunction with physical interventions at all times.

1.3 Why we need this Policy

Implementation of this policy will help Hesley Group services to address important outcomes for people who use our services - choice, rights, independence and inclusion. We need to implement the policy in line with the Hesley Group MCA, Capacity and Consent Policy, Hesley Group MCA Deprivation of Liberty Safeguards Policy, and consider the Mental Capacity Act Code of Practice as guidance for everyone using Hesley Group services aged 16 and above.

The guidance reflects standards on the use of physical interventions as outlined in the Children's Homes National Minimum Standards 2011 and Regulation 17a and 17b Children's Homes Regulations 2001 (as amended 2011), (Children), with which all children's homes must comply.

The safety of staff during physical interventions is of equal importance to the best interests of people who use our services, and both take priority over the care of property which can be replaced. Other interventions can be implemented for property destruction which may be less risky than physical intervention at the time.

The British Institute of Learning Disabilities Policy Framework and the Hesley Group stipulate certain principles and values. The use of physical intervention needs to be consistent with the approach that people using our services:

- Are treated fairly and with courtesy and respect.
- Can lead an independent life and are enabled to do so.
- Are helped to make choices and involved in decisions which affect their lives, consistent with their interests, culture and wellbeing.
- Are entitled to the protection of the law.
- Must have their rights upheld regardless of their ethnic origin, gender, sexuality, impairment, disability or age.
- Are encouraged to develop a proper awareness of their rights and responsibilities, and to respect the rights of others.

1.4 **Who does the policy apply to?**

The policy applies to all employees who may need to assess for/consider/use physical interventions for children and young people using Hesley Group children's services. The main policy and related guidance relates to all people using our services that could be subject to a physical intervention.

1.5 **Our policy and the law**

1.5.1 Under The Children Act (1989) restriction of liberty of children being looked after by a local authority is only permissible in very specific circumstances - for example, when the child is placed in secure accommodation approved by the Secretary of State or where a court order is in operation. In an extreme emergency, for example holding a door to restrict a child or adult's liberty whilst seeking advice, etc., would be a legal justification.

1.5.2 What the Regulations say

Regulation 17 of the Children's Homes Regulations 2001 (as amended 2011) states:

- (1) Subject to paragraph (2) a measure of restraint may only be used on a child accommodated in a children's home for the purpose of -*
- (a) preventing injury to any person (including the child who is being restrained);*
 - (b) preventing serious damage to the property of any person (including the child who is being restrained);*

(2) Where a measure of restraint is used on a child accommodated in a children's home -

- (a) the measure of restraint must be proportionate, and*
- (b) no more force than is necessary should be used.*

Therefore, people using our services cannot, under Regulation 17 of these Children's Homes Regulations, be ordinarily restrained or deprived of their liberty to prevent them from leaving the premises because we are not registered as a secure children's home. Should a situation develop that may be considered a deprivation of a person's liberty and the person has been specifically prevented from leaving the premises discussions must take place **as a matter of urgency** with the funding authority and Ofsted. Please also refer to the Mental Capacity Act 2005 Code of Practice.

1.5.3 Unplanned/Emergency Interventions

Regulation 17 of the Children's Homes Regulations 2001 (as amended 2011) also states:

Nothing in this regulation shall prohibit -

- (a) the taking of any action by, or in accordance with the instructions of, a registered medical practitioner or a registered dental practitioner which is necessary to protect the health of a child;*
- (b) the taking of any action immediately necessary to prevent injury to any person or serious damage to property.*

This means that in an emergency staff may act in good faith and in the interests of protecting people from serious harm. Staff who have taken such action must ALWAYS immediately inform and consult the senior manager on duty in the service and procedures followed as laid out in the incident reporting process).

For example, in circumstances where a door is used in an emergency as a temporary barrier to prevent harm to the individual or another person, or otherwise restrained in an unplanned/unapproved way this MUST be recorded as a major incident, the incident reporting procedure followed and an urgent incident review occur within 24 hours. The incident reporting procedures must be followed and details entered in the major incident log for the service.

Justification (as a legal defence) for using physical interventions needs to address these questions:

- Is there clarity about how the intervention **helps** the person concerned?
- Are there any conflicts of interest where staff experience fewer demands or less stress when physical interventions are used?
- What steps have been taken to reduce the likelihood that the physical intervention will be used in the future?
- Is the justification for this service user specifically, or for 'all' in group?

Under health and safety legislation, employers are responsible for the health, safety and welfare of employees and the health and safety of persons not in employment, including people using our services and visitors. This requires employers to assess risks to both employees and people using our services arising from work activities, including the use of physical interventions.

Employers need to establish and monitor safe systems of work, and to ensure employees are suitably trained. Use of physical intervention may give rise to an action in civil law for damages if it results in injury, including psychological trauma, to the person concerned, making proper training and use imperative.

The Hesley Group owes a duty of care towards people using our services which requires that **reasonable measures to prevent harm** are taken. Hence, in some circumstances, it may be appropriate to employ certain kinds of physical intervention to prevent a significant risk of harm. Physical interventions ought only to be used when other strategies have been tried and found to be unsuccessful, or when the risks of not employing an emergency intervention are outweighed by the risks of using one. The physical intervention needs to use the minimum force to prevent injury or to avert serious damage to property, and be applied for the minimum amount of time.

Use of physical interventions needs to be consistent with the Human Rights Act (1998) and the United Nations Convention on the Rights of the Child (ratified 1991). These are based on the presumption that every person is entitled to:

- Respect for his or her private life.
- The right not to be subjected to inhuman or degrading treatment.
- The right to liberty and security.
- The right not to be discriminated against in his/her enjoyment of those rights.

Physical interventions need to be service user specific, integrated with other less intrusive approaches, and clearly part of a care plan approach to reduce risk, when needed. They must not become a standard way of coping, as a substitute for training in people related skills.

1.6 Other Organisations and Consistency

Linking with the book *"Physical Interventions: A Policy Framework"* (British Institute of Learning Disabilities 1996 revised 2008), and this policy framework, should ensure that the Hesley Group is acting in line with the law and with our partner agencies (PCTs, NHS Trusts and Commissioners of services). Additionally the Guidance issued by DH *"Guidance for restrictive physical interventions: How to provide safe services for people with learning disabilities and autistic spectrum disorder"* (DH 2002) and *Guidance on the Use of Restrictive Physical Interventions for Staff Working with Children and Adults who Display Extreme Behaviour in Association with Learning Disability and/or Autism Spectrum Disorder*, (DH/DCSF 2002).

Furthermore, the Hesley Group recognises its general duty of care as well as its duties under the Health and Safety at Work etc Act 1974 to ensure that it safeguards the health, safety and welfare of its staff and others affected by its work, whilst meeting its other legal responsibilities.