

# HOLLYWOOD PRIMARY SCHOOL

## Policy to clarify the Use of Withdrawal, Time Out and Seclusion.

(Incorporating Physical Contact, Physical Intervention, Positive Touch, and Restraint)

### Introduction

This policy has been prepared following consultation with relevant members of staff and was adopted by the Governing Body September 2015. The responsible person for the implementation of the policy is the Head Teacher. The policy will be reviewed **September 2016** by the Head Teacher and the Governing Body.

The policy takes cognisance of relevant legislation, regulations and guidance, including the most recent examples from the Department for Education, Department of Health and the Health and Safety Executive. For young people over the age of 16 years, particularly those with learning difficulties, the Mental Capacity Act 2005 must also be considered.

This policy has been prepared in order to support all staff that will come into contact with children and for volunteers/work place students working within the school to explain the school's arrangements for care and control. The purpose is to give staff the confidence to act in the best interests of the child. This policy will be made available to parents and pupils upon request. Within this policy there will be references to the most current government guidance and legislation and a glossary.

### Duty of Care

All staff have a duty of care towards the children and young people they look after, their colleagues and others, both at common law and under Health and Safety Legislation. They have a responsibility to familiarise themselves with policies and risk assessments, and to participate in any training necessary to assist them in the performance of their duties. They should look out for obvious hazards and reduce foreseeable risks wherever possible. It is compulsory for all (name of setting) staff to access a *Team Teach* training course ASAP and then attend a refresher course within a 24 month period. The Head Teacher will notify staff of both training dates,

The Children Act 1989 makes clear that in any decision involving a child ***'the paramount consideration must be the child's welfare.'*** For that reason staff need to carefully consider what is in the best interest of the child, both in the short term and the longer term. It would require a court to determine that the child's welfare was the paramount consideration.

Staff members' duty of care towards the children and young people in their care and others may, on occasions, require them to balance, often competing, interests of a particular child or young person with those of others who may be affected by that child or young person's behaviour.

Staff should therefore act in the best interests of both the child and those of others in the school and the use of reasonable force may be required to achieve this. Hollywood Primary School acknowledges that physical interventions which use varying degrees of reasonable force are only a small part of a whole setting approach to behaviour management and should only be used as a last resort.

Every effort will be made to ensure that all staff in this centre:

- Understand their responsibilities in the context of their duty of care.
- Understand that the paramount consideration is the welfare of the individual child.
- Understand that 'reasonable' force means that it is necessary and proportionate, i.e. that no more force than is needed is used.
- Only use physical intervention as a last resort.
- Are provided with appropriate training to manage risk and this training is maintained at an appropriate level.

### **Legal Justification**

Section 93 of the Education and Inspections Act 2006 prescribes the circumstances in which use of reasonable force may be lawfully used in relation to a pupil, namely where its use is intended to prevent a pupil from doing (or continuing to do) any of the following:

- Self-injuring.
- Causing injury to other children, staff, parents and visitors.
- Causing damage to property.

***Staff should be aware that reasonable force should only be used when no other effective alternatives are available.***

### **Identifying hazards and making risk assessments**

It is essential to make risk assessments when considering the use of reasonable force. Staff should balance the risk of taking action against the risk of not taking action. The Health and Safety Executive (HSE) has developed a 5 step approach to risk assessment. This can easily be applied to situations where staff need to make a decision whether to use de-escalation or physical contact.

- 1. Look for hazards.**
- 2. Decide who might be harmed and how**
- 3. Evaluate the risk and decide on the necessary and proportionate action.**
- 4. Record your findings.**
- 5. Review and revise if necessary.**

It is not always possible to predict all risks relating to a specific behaviour of a child. When an unforeseeable risk presents itself a '*dynamic risk assessment*' can be used to support staff in conducting a quick risk assessment and then act in the best interests of both the child and other children and staff within the school environment. Staff can use 'dynamic risk assessments' where there is no recorded risk assessment to calculate the level of risk and then use de-escalation strategies before using a physical intervention. Once a risk has been identified or if the risk is already known then a planned risk assessment needs to be put in writing. If physical touch or restraint is required a Risk/Restraint Reduction Plan (see appendix 1) needs to be recorded by staff who work closely with the child using their knowledge of the child's behaviour and the environment they are working in.

The Health & Safety Executive is keen to stress that risk assessment is a simple process. It should focus on the most likely and serious risks. Formal risk assessments should be clear and concise so that staff can recall useful information. Information should be explicit and honest. Parents need to be informed and involved with this process as they need to be notified of why and how reasonable force is being used in the best interests of their child. Where possible the child's views should be sought and included in the risk assessment.

Assistance can be sought from other members of staff to help reduce the risk. Physical intervention is seen as a proactive response to meet individual pupil needs and any such measures will be most effective in the context of the overall ethos of the centre, the way that staff work together as a team, share their responsibilities and the holistic behaviour management strategies that are used.

## **Withdrawal, Time Out and Seclusion.**

Consideration must be given to clarify the distinction between:

- **Withdrawal:** this term is used when removing the person from a situation which causes anxiety or distress, to a location where they can be continuously observed and supported until they are ready to resume their usual activities.
- **Time Out:** As a term 'Time Out' properly describes a behavioural intervention that restricts a child's access to the curriculum of their setting. Time Out is usually implemented as part of the child's individual behaviour support plan or a specific behavioural target, and is used in conjunction with other behaviour interventions. Importantly, the use of Time Out is not contingent on placing a person in a specific room. There is usually limited staff supervision and the child is left alone for a period of time before staff resume de-escalation strategies.
- **Seclusion:** This is the term used where a child is forced to spend time alone against their will in a room or restricted space which they cannot leave. Seclusion of a child should only be considered as an emergency response and where it is in the best interests of the child. Staff working with young people aged 16 years and older should consider an application to the Court of Protection under the Mental Capacity Act if they believe that planned use of seclusion may be required in the future.

***Staff need to consider other alternative strategies before the above interventions are implemented.***

***It is important for staff to consider the differences between Seclusion and Time Out and to use the correct terminology.***

### **Identifying Withdrawal & Time Out**

- Does the child access the room or space voluntarily and the member(s) of staff closely support and monitor the child?
- Is the child accompanied by a staff member(s) when withdrawn to a specific environment to implement time out?
- Can the child leave that space or room independently? Do they know how to leave the area or room they are in?
- Is the use of Time Out part of an agreed positive behavioural support plan that suggests ways of reducing the use of Time Out with the child and is assessed by those staff involved?

- Can the Time Out strategy be implemented outside of the area where the child is normally educated?

***If the answer to each of the above questions is 'Yes', then it is likely this would be considered to be a Withdrawal and/or Time Out strategy.***

### **Identifying Seclusion**

- Is the child left on their own in a room or space?
- Is the child unable to leave the room or space when they want to?
- Is the room only used for confining children?

***If the answer to each of the above questions is 'Yes', then it is likely to be Seclusion and may be illegal except in specific emergency circumstances.***

### **Rooms/spaces used for withdrawal or Time Out:**

The rooms or spaces that are considered at (name of setting) are:

- Chill out room – resource base
- Nurture Room
- Head Teacher office
- Deputy Head Teacher Office
- Meeting Room

***Refer to individual risk assessment plans for safe spaces that the child prefers.***

Any such room or space must not be presented as a place of punishment but as one of support and reassurance. The room or space can display calming messages or pictures, be equipped with bean bags, soft toys, cushions etc. Children could use this room or space for a variety of positive reasons, such as working 1:1 with a staff member, a place to which children are allowed to go to be alone or to vent certain feelings, to access curriculum activities or work as part of a group activity.

***If a child is placed in a room or a space on their own, against their will and cannot leave the room or space, this may lead to allegations of false imprisonment and/or restriction of liberty, which can be considered unlawful unless it is an emergency and normally requires a court order.***

### **Support for staff and children after a child is placed in seclusion**

The Head Teacher will ensure that each incident is reviewed and take such action as is deemed necessary, for example:

- Review the child's risk assessment, including the frequency of the use of seclusion.
- Review curriculum access.
- Review staffing levels.
- Consider the Involvement of outside agencies.
- Review provision.

The priority after a child is placed into seclusion is to look after all of the people involved in the incident, not least the child.

### **Reporting and Recording**

Whenever a staff member places a child in Time Out or seclusion, a record of the incident needs to be kept. If a physical intervention is used to take the child to a place that either is considered to be Time Out or seclusion then this needs to be recorded in the Bound and Numbered Book which is retained by the Head Teacher. There needs to be a clear and accurate explanation why the child was restrained and why it was considered necessary and reasonable to take that child to a Time Out space or placed in seclusion. It should be considered reasonable and good practice for staff to collaborate when recording an incident in order to ensure the most clear and accurate record possible. This is because the necessary and honest information is more likely to be recorded.

If staff do not agree on details of an incident, they should write separate reports. Records should normally be completed within 24 hours of the use of Time Out or seclusion but the welfare of those involved takes precedence over paperwork. If this is not possible, the Head Teacher needs to be informed as soon as possible of both the use of Time Out or seclusion and the reason for the delay in recording the incident. Records should be kept for at least 25 years, although this period may need to be extended if the child or young person concerned lacks capacity (in which case, the usual rules in relation to the limitation of legal actions do not apply).

After the review of the incident, a copy of the details will be placed on the pupil's file. Parents/carers of the child should be informed following the use of reasonable force. A record of this communication will be retained by the centre. When a child has been secluded, there needs to be an open and honest discussion of why this was necessary and how further seclusion can be avoided in the future.

A Health and Safety Accident/Incident Form will be completed and returned to The Local Authority in situations where injury has occurred to either members of staff or

pupils. Where staff have been involved in an incident, they should be given time to recover and have access to support such as counselling and debriefing.

The fundamental aspect of using seclusion is that there was no other alternative intervention to prevent the child's behaviour causing serious harm to themselves and/or other children/adults. If a child is secluded repeatedly over a period of time, staff and managers are obliged to consider advanced Team Teach training, outside help from specific agencies and alternative provision.

### **Listening and Learning**

Any incident in which seclusion or Time Out is used provides a teaching and learning opportunity for the child or young person concerned. Staff should try to explain the reasons for any use of seclusion to the level of understanding of the child. They should clearly distinguish between restraint, which is designed to keep people safe, and sanctions or consequences. Staff should reinforce simple messages:

- We use a range of non – physical and physical interventions with children to keep them safe from harm.
- We care about children too much to let them be out of control.

### **Complaints**

The availability of an accessible policy about reasonable force and early involvement of parents should reduce the likelihood of complaints but may not eliminate them.

All allegations will be investigated thoroughly; however, it is the responsibility of the person making the allegation/complaint to prove that the member(s) of staff involved in the incident acted inappropriately.

## **Glossary**

**Child:** In this policy the legal definition of “child” to mean a person up to and including the age of 18 years. However, staff should be aware that the provisions of the Mental Capacity Act 2005 apply to young people from the age of 16 years.

**Risk assessment:** Risk assessments consist of a simple process rather than elaborate paperwork. It is a process to determine a level of risk. Once a risk has been observed, staff should make a formal plan to reduce it. Dynamic risk assessments allow staff to consider the risk in real time that requires an urgent response in the best interests of the child.

**Guides or prompts:** The use of assertive touch to move or direct a child usually in a low risk situation.

## **Appendix**

Team Teach Risk/restraint reduction plan.

## **References**

Allen, B. (2012) The Legal Framework for Restraint. Steaming Publishing.

Allen, B. (2012) Risk Assessment for Behaviour. Steaming Publishing.

BILD (2009) Factsheet: Time out and seclusion.

DFES/DOH (2002) Guidance on the Use of Restrictive Physical Interventions for Staff Working with Children and adults who Display Extreme Behaviour in Association with Learning Disability and/or Autistic Spectrum Disorders.

DFE (2014) Use of Reasonable Force – Advice for head teachers, staff and governing bodies.

HSE (2007) 5 Steps to Risk Assessment. Health and Safety Executive.

The Education and Inspections Act (2006), Section 93.