

**OCCUPATIONAL THERAPY, WHOLE LIFE DISABILITY,**  
**POLICY FOR RESTRICTIVE PRACTICES AND CHALLENGING BEHAVIOURS**

## **Definitions**

### **Restriction and Restraint**

HM Gov (2019) uses the terms of restriction and restraint interventions interchangeably in their guidance:

- “planned or reactive acts that restrict an individual’s movement, liberty and/or freedom to act independently; and
- the sub-categories of restrictive intervention using force or restricting liberty of movement (or threatening to do so).” (HM Gov, 2019, pg 9)

Examples include:

- Restricting a child or young person’s independent actions.
- Physical restraint involving direct physical contact.
- Mechanical restraint involving the “enforced use of mechanical aids such as belts, cuffs and restraints forcibly to control a child or young person’s individual movement.” (HM Gov 2019 pg 9) “Mechanical restraint involves use of a device to prevent, restrict, or subdue movement of a person’s body with the aim of controlling their behaviour. Mechanical restraint may be used to manage extreme aggressive behaviour directed towards others or to limit self-injurious behaviour of extremely high frequency and intensity. This contingency is most notably encountered with small numbers of children and young people who have severe cognitive impairments, where devices such as arm splints or cushioned helmets may be required to safeguard them from the consequences of their behaviour... Wherever mechanical restraint is used as a planned contingency, it should be identified within a support plan which aims to obviate the need for its continued use.” (HM Gov 2019 pg 41 -42)
- Withdrawing a “child or young person involuntarily from a situation which causes anxiety or distress to themselves and/or others and taking them to a safer place where they have a better chance of composing themselves.” (When it is voluntary withdrawal for self-regulation not considered restraint.)
- Seclusion, which involves “supervised confinement and isolation of a child or young person, away from others, in an area” they cannot leave because behaviour poses a risk of harm to others.

(HM Gov 2019 pg 9)

- “Locking doors is considered a form of restrictive practice...locking doors would ordinarily be described as environmental restraint, sometimes mechanical restraint.” (BILD 2015, pg 1)

### **Zone of parental responsibility**

Those with parental responsibility for children aged 15 and below, can generally consent to deprivations of liberty on behalf of their child (HM Gov 2019 pg 40). This is considered the ‘zone of parental responsibility’, where parents can exercise their “ordinary parental responsibilities... outside the legal framework governing state intervention in the lives of children or people who lack the capacity to make their own decisions.”

(RadcliffesLeBrasseur, June 2015, quoting Baroness Hale in Cheshire West, paragraph 54 of judgement). When considering whether an action under the parental zone of responsibility is appropriate, each situation needs to be examined in context, considering child’s age (developmental age), health, and developmental and safety needs. There is interplay between zone of parental responsibility and Article 5 of the European Convention of Human Rights (ECHR), which provides that nobody shall be deprived their liberty save in limited circumstances. (RadcliffesLeBrasseur, June 2015)

### **Challenging behaviour**

“Challenging behaviour puts the safety of the person or others in some jeopardy or has a significant impact on the person’s or other people’s quality of life” (Challenging Behaviour Foundation (CBF) 2012 pg 1). Behaviours can include:

- Aggression such as hitting, kicking and/or biting.
- Destruction such as ripping clothes, breaking windows and/or throwing objects.
- Self-injury such as head banging, self-biting and/or skin picking.
- Tantrums.
- Running away/absconding.
- Eating inedible objects.
- Rocking or other stereotyped movements (aimless and repetitive).

(CBF 2012)

“Behaviours that people find challenging can:

- Put a child’s safety at risk.
- Disrupt home life.
- Stop the child taking part in ordinary social, educational and leisure activities.
- Affect the child’s development and their ability to learn.”

(Social Care Institute for Excellence 2011 pg 1)

## Legislation

Children and Families Act 2014. Under Part 3 of the Children and Families Act 2014, the right to make requests and decisions applies directly to disabled young people and those with SEN [Special Education Needs] over compulsory school age (the end of the academic year in which they turn 16) rather than to their parents. (Preparing for Adulthood Programme (PfA) 2014 pg 4)

Mental Capacity Act 2005. Applicable to adults and young persons aged sixteen and over. “The right of young people to make a decision is subject to their capacity to do so as set out in Mental Capacity Act 2005. However, if a young person is found to lack capacity the decisions relating to part 3 of the Children and Families Act 2014 will be taken on their behalf by a representative (where there is no representative appointed under the Mental Capacity Act 2005 the decision will be taken by the young person’s parent).” Some exclusions apply including consenting to marriage, consenting to sexual relationships and voting in elections. (PfA 2014, pg 4-6)

Human Rights Act 1998. Services to act in line with European Convention of Human Rights (EHCR). Article 5 of the European Convention of Human Rights (ECHR): nobody shall be deprived of their liberty save in limited circumstances. (RadcliffesLeBrasseur 2015)

Fostering Services (England) Regulations 2011. “Regulation 13 requires fostering services to have a written policy about acceptable measures of control, restraint and discipline. The regulations are complemented by statutory guidance, including the National Minimum Standards in Fostering Services (the NMS). Together these form the basis of the regulatory framework under the Care Standards Act 2000 (CSA).

NMS 3 sets out how fostering services should support foster parents to manage appropriately and de-escalate challenging behaviour, including the provision of specialist training where necessary.” (HM Gov 2019 pg 54)

## Guidance

Published guidance about appropriate use of restriction and restraint is generally produced for service providers who care for children and young people, such as Local Authorities, special schools, children’s homes, residential schemes for children with disabilities, foster carers and health services. However, the principles can be considered applicable to the home environment, noting the interplay of zone of parental responsibility and EHCR Article 5.

British Institute of Learning Disabilities (BILD) (2015 pg 1) reported, “There is a tension between duty of care – keeping children and young people safe, and their right to develop and learn to manage risk and not experience unnecessary or disproportionate restrictions.”

BILD (2015 pg 1) reported, “UN Convention on the Rights of the Child (1990) balances rights of the child to be consulted and involved in decisions about their care, and the need to understand risks, limit them or remove them where it is in the interest of the child’s safety and welfare.” “The UK legal framework continues this balance and describes appropriate, reasonable and necessary use of force where risks to individual safety or the safety of others is compromised.” (BILD 2015 pg 1 -2)

“At any particular time, the key question for everyone involved with children and young people whose behaviour challenges should be: What is in the best interests of the child and/or those around them in view of the risks presented?” (HM Gov 2019 pg 6) “Use of restraint [or restriction] carries risks and can be damaging to children and young people. It may, however, be the only realistic response in some situations (for example, to prevent a child running into a busy road or to prevent a violent act against another person). But wherever possible, it should be avoided; and proactive, preventative, non-restrictive approaches adopted in respect of behaviour that challenges” (HM Gov 2019 pg 7). Use of restraint and/or threat of force can be damaging to children and detrimentally affect long-term wellbeing and development (HM Gov 2019).

BILD (2015) key principles when considering locking doors in children’s homes (learning disabilities):

- Individual risk assessment.
- Least restrictive option.
- Consider alternative approaches to locking doors.
- Help the child to learn safety behaviour.
- Interventions should be based on an understanding of why behaviour presented.

HM Gov (2019) key principles when considering use of restriction and restraint for children and young people with learning disabilities, autistic spectrum disorders and mental health difficulties:

- Best interests of the child and those around them to reduce risk: “necessary to prevent risk of serious harm, including injury to the child or young person, other children or young people, to staff, the public or others, if no intervention of a less restrictive intervention were undertaken.” (HM Gov 2019 pg 18). Dignity to be maintained.
- Use of restriction/restraint carries risk, which has to be considered against risk associated with other interventions and doing nothing at all.
- Involve child, young people and their parents/carers as appropriate in decision making.
- Alternative approaches to restriction/restraint to be considered first but if applied, to be reasonable, proportionate and for no longer than necessary.

- “... children and young people with learning disabilities, autistic spectrum conditions, and mental health difficulties whose behaviour challenges have the same human rights as all children and young people and require additional help to overcome the difficulties their behaviour may present.” (HM Gov 2019 pg 17)
- Understand the underlying cause and triggers of challenging behaviour.
- Development of behaviour support plans: “how the child and young person is to be supported, address aspects of their environment which they find challenging, and support them in developing new skills and strategies to better communicate their needs and become more independent in meeting them.” (HM Gov 2019 pg 26)
- Individual risk assessment and understanding of child’s needs
- Positive and proactive approach to behaviour: “behaviour is a means of communication and has a cause and a purpose.” (HM Gov 2019, pg 14)
- Hierarchy of response to reduce need to use restriction/restraint, starting with a “supportive environment in which children and young people are taught, treated and cared for, which seeks to address factors that are likely to increase or decrease the likelihood of restraint.” (HM Gov 2019 pg 15)
- If used, to be in alignment with “clear values and sound ethical principles, comply with the relevant legal requirements and case law and be consistent with obligations under the European Convention on Human Rights, the UN Convention on the Rights of the Child and the UN Convention on the Rights of Persons with Disabilities.” (HM Gov 2019 pg 17)
- Multi-disciplinary approach working with family and/or carers.

National Institute for Health and Care Excellence (NICE) (2018) key principles when considering restriction or restraint for people with learning disabilities with challenging behaviour:

- Comprehensive risk assessment:
  - Any self-injurious behaviours.
  - Risk of harm to others.
  - Behaviour escalation.
  - Physical or psychological issues.
  - Sensory sensitivities.
- Functional assessment of behaviour to gain greater understanding of triggers and what function behaviour serves.
- Interventions in least restrictive setting.
- Least restrictive option.
- Aim to reduce restrictions as part of behaviour support plan.
- Relevant legislation taken into consideration.
- Best interests of the person and to protect them and others from significant harm.
- Reasonable, necessary and proportionate to risk presented.

- Regular review and reassessment.

### **Policy for Restrictive Practices and Challenging Behaviours for Home Safety**

Policy based on best practice recommendations identified by legislation and guidance reviewed.

This policy and guidance focuses upon environmental restraint, which refers to:

- I. The use of barriers to limit freedom of movement, for example door locks of any kind.
- II. The use of materials or equipment to restrict or prevent movement, for example contained beds or bed surrounds used to prevent self-injury.

Where a need for support in relation to safety or risks within the home is identified (in circumstances whereby the eligibility criteria for an Occupational Therapy Assessment, outlined within the Occupational Therapy Services Policy and Procedures, has been met), an assessment by an Occupational Therapist is required.

- Complete individual occupational therapy home safety risk assessment of child and young person in context of home environment to identify commercially available equipment, adaptations and/or specialist equipment to support child and young person to keep them safe. This could include keeping others in the home safe from consequences of child and young person's behaviour. The assessment would consider the following:
  - Size, age and understanding of child or young person (HM Gov 2019 pg 32).
  - Specific hazards they face. (HM Gov 2019 pg 32) Is the risk because of behaviour? If so, when and why does the behaviour happen?
  - Environment e.g. house and furniture layout.
  - Any risks posed to other family members from child or young person's behaviour.
  - Their particular vulnerabilities, learning disabilities, medical conditions and impairments (HM Gov 2019 pg 32).
  - The relative risks of not intervening (HM Gov 2019 pg 32). Use of restriction/restraint carries risk, which has to be considered against risk associated with other interventions and doing nothing at all (HM Gov 2019). What has been tried previously? Why did it not work? Was it tried for long enough with appropriate support?
  - The child or young person/s views and experiences, and those of parents and carers (HM Gov 2019).
  - The method of restriction/restraint that would be appropriate in the circumstances (HM Gov 2019 pg 32).

- Least restrictive option considered, which is reasonable, proportionate and implemented for no longer than necessary. For example, BILD (2015 pg 2 -3 ), suggests when considering locking an internal door, such as a kitchen door, could the kitchen hazards be locked away or made safe, and/or could snacks be left accessible in own snack cupboard outside kitchen.
- Least restrictive options include supervision, commercially available cupboard, draw, tap, window and appliance locks, movement sensors, magi plug, changing furniture layout etc.
- Preventing access to be based on individual risk assessment and not staff/family/carers convenience. (BILD 2015)
- Restriction only considered if necessary to prevent risk of serious harm, including injury to the child or young person, other children or young people, to staff, the public or others, if no intervention of a less restrictive intervention were undertaken. (HM Gov 2019)
- If risk assessment indicated it was not developmentally appropriate for child to have unsupervised access outside the home environment e.g. no safety awareness, least restrictive option remains extant e.g. secure garden, assistive technology virtual fences.
- If restriction used routinely in an emergency to prevent harm, assessment required to determine if the least restrictive measure has been used.
- Seclusion is not a therapeutic method of behaviour support and it is likely to be psychologically damaging. (BILD 2015 pg 4)
- The impacts of the restriction/restraint on the future relationship with the child or young person (HM Gov 2019 pg 32).
- Signpost to other agencies and/or charities to access behavioural intervention support for development of behaviour support plan to enable de-escalation or removal of restrictive/restraint measures in place. See behaviour support information sheet.
- If restriction or restraint recommended, plan to be reviewed on a case by case basis, depending on the potential of the child to develop and the level of restriction/restraint recommended. Review to take into consideration developmental and environmental changes. Specialist seating which involves the use of mechanical restraint routinely reviewed at least annually.
- Documentation and actions to be saved and recorded onto LiquidLogic computer system.

Home Safety Risk assessment can be found in the Whole Life Disability, Occupational Therapy (WLD OT) shared drive> Templates>Forms. Assessment to be countersigned by Service Manager, in addition to Occupational Therapy Whole Life Disability Team Manager and assessing Occupational Therapist, on a case by case basis. This would be

dependent on type and contentious nature of restriction or restraint recommended e.g. locking bedroom door would require Service Manager counter signature, but ankle supports to secure child's feet to specialist seating footplate to keep safe while seated and to promote development would not, or use of high safety bed sides would not.

### **Assumptions that underpin assessment**

- All children with or without disabilities should have the opportunity to learn to manage everyday risks and there should be a developmental plan in place if a restriction is used, using a restriction should not be the only strategy. (BILD 2015 pg 3) What is being done to enable the young person to develop the appropriate skills or use an alternative?
- Involve child, young people and their parents/carers as appropriate in decision making.
- Positive and proactive approach to behaviour:
  - Behaviour can be a way for a child to communicate.
  - Understand behaviour: it has a cause and purpose. Causes could include communication frustration, pain/discomfort, medical issues, sensory issues, lack of understanding of rules and boundaries, and no appropriate consequences for actions.
  - Enable the child to learn and develop to manage risk independently to enable de-escalation of identified measures.
  - Behaviour support plan to be implemented with support of other agencies.
- For children under 16 years of age consider interplay between zone of parental responsibility and EHCR Article 5 in family home. For children over 16 years of age consider Mental Capacity Act 2005 and Children and Families Act 2014, subject to child or young person having capacity. Otherwise, outside the home, such as residential care, legal framework governing state intervention in the lives of children or people who lack the capacity to make their own decisions applies. Note zone of parental responsibility would not apply to foster carers. As employees of Local Authority, foster carers would come under the Health and Safety at Work legislation, whereby the Local Authority would have a duty to reduce risks to employees, where practicable.



## References

HM GOVERNMENT (HM GOV) (2019). Reducing the Need for Restraint and Restrictive Intervention, Children and Young People with Learning Disabilities, Autistic Spectrum Disorder and Mental Health Difficulties in Health and Social Care Services and Special Education Settings. GOV.UK, HM Government.

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