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Good practice guidance for the use of restrictive physical interventions

Appendix 5

INTRODUCTION

Recent legislation and good practice documentation as well as serious concerns regarding the quality of services for people whose behaviour (in particular those with high support needs) presents significant challenges to services, have re-emphasised the need to continually re-evaluate what constitutes best practice in challenging behaviour services.

Given the significant ethical and safety implications this is particularly pertinent to what constitutes best practice in relation to the use of Restrictive Physical Interventions.

The duty of care which is placed upon organisations as providers of services necessitate the need to take into account the safety and wellbeing of the individual, and the impact of the individual's behaviour on those around them.

DEFINITION

Restrictive Physical Intervention refers to the use of force to restrict movement or mobility or the use of force to disengage from dangerous or harmful physical contact initiated by a Service User (in this document the term 'restrictive physical intervention' will refer to techniques that are commonly known as breakaways or restraint as specified within the Team Teach Basic training module).

Restrictive Physical Intervention differs from manual guidance or physical prompting in so far as it implies the use of force *against resistance.*

Physical intervention involves the application of a minimum degree of force and restriction necessary to prevent injury to the person or others – under exceptional circumstances this may include serious damage to property.

KEY PRINCIPLES

To provide conditions (both in a person's environment and also at an organisational level) where service users are respected as individuals and their rights are promoted and where necessary protected.

To ensure that the individual's physical and mental well-being remains paramount at all times and that the focus of all interventions will contribute to the conditions that will enable the individual to safely experience the key principles of rights; choice; inclusion and respect (Valuing People, 2001).

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M2

Appendix 5

That Service Users are assumed to have the capacity to consent unless assessed as otherwise. Active participation will be positively encouraged with each individual Service User and their carers in decisions being made about his/her life, thus empowering the individual, and therefore enabling the individual to understand his/her responsibilities as well as his/her rights.

That the actions of professionals and carers will reflect the good practice guidance contained in this document and that Managers of services will take responsibility for ensuring that the actions of carers are congruent with this guidance.

LEGAL CONSIDERATIONS

The Human Rights Act 1998 sets out important principles regarding the protection of individuals from abuse by organisations or people working for those organisations. Implementation of this good practice guidance will help to ensure that practice within services is consistent with this Act.

More recently the Mental Capacity Act 2007 has detailed best practice relating to issues of consent – including the Assessment of Capacity and *Best Interest* principles.

It may be deemed a criminal offence to use or threaten to use physical force. Similarly it may be an offence to lock an adult in a room (or any other enclosed area) without a legal justification (even if they are not aware that they are locked in). The use of Restrictive Physical Interventions may also give rise to an action in civil law for damages if it results in injury and/or psychological trauma to the person concerned.

Under Health and Safety legislation, employers have a duty of care to ensure the health, safety and welfare of their employees and the health and safety of persons not in employment, including service users, visitors and members of the public. This requires employers to assess risks to both employees and service users arising from work activities, this may include the management of violent situations.

Employers should also establish and monitor safe systems of work and ensure that employees are adequately trained (e.g. in the use of Restrictive Physical Interventions). Managers and Supervisors must ensure that all employees, including temporary staff (i.e. bank), have access to the appropriate information and Team Teach training required to safely support individuals' they are working with.

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M2

Appendix 5

Planned Restrictive Physical Interventions should only be used as part of a holistic multi-agency plan when the risks of employing an intervention are judged to be lower than the risks of not doing so.

Not implementing a planned Restrictive Physical Intervention in a situation that clearly warranted its use may constitute an act of omission or a breach of a duty of care.

Restrictive Physical Interventions must employ the minimum degree of force and restriction to prevent injury to self or others which in exceptional circumstances may include serious damage to property.

Consent

Consent should be sought prior to the introduction of any planned Restrictive Physical Interventions and reviewed on a regular basis.

A Service User's ability to give informed consent needs to be assessed using guidance outlined in the Mental Capacity Act 2005.

If a Service User lacks the capacity to consent the multi-agency team need to discuss whether the physical intervention would be in an individual's best interest. A decision to employ a Restrictive Physical Intervention if a Service User lacks consent must only occur within this context – although it is acknowledged that following the act of consultation not all parties may agree with the decision. If a Service User lacks consent an independent advocate may be appointed. All such discussions should be clearly recorded.

Where a Service User has the capacity to consent but refuses to consent to the planned use of Restrictive Physical Interventions – *Duty of Care* principles may apply although discussions must occur within the Multi-Agency Team where this is anticipated.

PREVENTION

The use of Restrictive Physical Interventions will be preceded by a range of proactive preventative strategies (e.g. primary preventative and secondary preventative approaches) that are individualised and evidence based. It is important that proactive strategies are also employed after the use of physical intervention to minimise the likelihood of multiple aggressive incidents occurring.

All prevention strategies should be carefully selected and reviewed to ensure that they do not routinely restrict opportunities or have an adverse effect on the welfare or quality of life of Service Users (including those in close proximity to the incident).

OA Reablement Service	OA Day Care	OA Residential Care	DMH Day Services	DMH Supported Living	DMH Residential Services	EIA'd
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M2

Appendix 5

In some situations it may be necessary to make a judgement about the relative risks and potential benefits arising from activities which might trigger challenging behaviour.

Examples of Primary Preventative Strategies will include as a minimum:

- Ensuring that the number of staff deployed and their level of competence corresponds to the needs of the service user and the likelihood that Restrictive Physical Interventions will be needed.

- Staff should not be expected to support Service Users in situations that are unsafe.

- Supporting service users to avoid situations which are known to provoke violent or aggressive behaviour.

- Supporting the development of communication skills and opportunities for positive decision making.

- Supporting Service Users to use and develop existing skills including the development of self-control strategies.

- Creating opportunities and support for Service Users to engage in meaningful activities which include opportunities for maximising choice and achieving positive experiences.

- Developing staff expertise in working with service users who present challenging behaviours.

- Talking to the service user, their carer's and advocate about the way in which the individual would prefer to be managed when they pose a significant risk to themselves or others. Some Service Users may prefer to withdraw to a quiet area, for others it may involve other strategies.

Examples of secondary preventative approaches will include one or more of the following:

- Diffusion
- Distraction
- Environmental change
- Communication approaches known to be effective with the individual

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✓	✓	✓	✓	✓	✓	✓

M2

Appendix 5

- Managing personal space zones
- Responding to specific needs
- Problem solving with the individual
- Reducing demands

Secondary prevention involves recognising the early stages of a behavioural escalation that is likely to develop into violence or aggression and employing the appropriate strategy to prevent further escalation.

Where there is clear documented evidence that the outcome of a behavioural escalation may be serious violence or behaviours that present a significant and immediate risk to self or others, the *planned* use of Restrictive Physical Interventions at a clearly identified stage may be justified if:

- Proactive prevention has not been effective
- They constitute part of a planned gradient of support
- The risks associated with not using a physical intervention are greater than the risks of using a physical intervention
- Non-physical reactive strategies are not appropriate to the situation.
- There is multi-agency agreement for their use.
- The contra-indications of utilising Restrictive Physical Interventions have been considered and, if necessary, discussed with a health professional.
- Staff have been trained in the specific Restrictive Physiical Interventions to be applied.

MEDICATION

In limited situations, the use of medication may be indicated as a method of managing extreme behaviour. Medication must only be administered upon medical advice and must only be used as a routine method of managing difficult behaviour where it is included within the individuals care plan and agreed by a qualified medical practitioner.

Medication should never be used routinely in isolation from other management approaches. Their use will be subject to regular monitoring and review.

Medication will not be used as an alternative to appropriately trained staff or the availability of positive behaviour management plans.

RISK MANAGEMENT

When the use of a physical intervention is being considered, it is important that appropriate steps are taken to minimise the immediate risk to both staff and service users.

OA Reablement Service	OA Day Care	OA Residential Care	DMH Day Services	DMH Supported Living	DMH Residential Services	EIA'd
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M2

Appendix 5

The main risks to service users are that a physical intervention may:

- Be used unnecessarily, when other less intrusive methods could achieve the desired outcome
- Cause injury
- Cause pain, distress or psychological trauma
- Become routine, rather than an exceptional method of management
- Expose the Service User to abuse
- Undermine the dignity of service users or otherwise humiliate or degrade those involved
- Create distrust and undermine personal relationships

The main risks to staff may include:

- Possible injury associated with the use of Restrictive Physical Interventions
- Pain, distress or psychological trauma
- Allegations of abuse.
- Disciplinary action.
- The use of Restrictive Physical Interventions without multi-agency agreement

The main risks of not intervening include:

- Staff may be in breach of their duty of care
- Service users, staff or other people will be injured or abused
- Serious damage to property occurring leading to significant harm
- The possibility of litigation
- Reduced life opportunities and choice

In situations where a Service User might require a physical intervention, a comprehensive risk assessment and Individual Positive Handling Plan must be completed specifying the rationale for their use.

Risk Assessments and Individual Positive Handling Plans identifying the use of Restrictive Physical Intervention must be reviewed on a six monthly basis.

PROACTIVE USE OF RESTRICTIVE PHYSICAL INTERVENTIONS

In most circumstances, Restrictive Physical Interventions will be used reactively.

Occasionally, it may be necessary to agree the use of a Restrictive Physical Intervention as part of a planned medical, health or care intervention. If such an approach is required it is important to document a clear rationale for its use including details of the multi-agency process.

OA Reablement Service	OA Day Care	OA Residential Care	DMH Day Services	DMH Supported Living	DMH Residential Services	EIA'd
✓	✓	✓	✓	✓	✓	✓

M2

Appendix 5

Where Restrictive Physical Interventions are planned for the use of non-aggressive situations additional discussions must always occur within the multi-agency team.

EMERGENCY USE OF RESTRICTIVE PHYSICAL INTERVENTIONS

Emergency use of Restrictive Physical Interventions may be required when Service Users behave in ways that have not previously been observed or identified within a comprehensive risk assessment.

Injuries to staff and to service users are more likely to occur when Restrictive Physical Interventions are employed to manage unforeseen events. For this reason assessment information should be regularly reviewed and updated and made available to appropriate agencies.

An effective risk assessment procedure together with well planned proactive strategies will help to keep the emergency use of Restrictive Physical Interventions to an absolute minimum. However, staff should be aware that, in an emergency, the use of Restrictive Physical Interventions can be justified if it is reasonable to use it to prevent injury or in exceptional circumstances serious damage to property that may lead to significant harm.

Even in an emergency, the degree of force and restriction used must be reasonable. It should be commensurate with the desired outcome of achieving rapid and safe control of a dangerous situation.

After the unplanned use of a physical intervention a multi-agency review must occur. If necessary the physical intervention will be incorporated within a comprehensive Risk Assessment and Individual Positive Handling Plan.

RECORDING

If it is foreseeable that a Service User will require some form of physical intervention, there must be a written protocol which includes:

- A description of behavioural sequences and settings which may require a physical intervention response
- The results of a medical assessment to determine any contra-indications for use of Restrictive Physical Interventions
- A risk assessment which balances the risk of using a Restrictive Physical Intervention against the risk of not doing so
- A formal system for recording behaviours and the use of Restrictive Physical Interventions
- Previous interventions which have been tried and were at that time considered ineffective
- A description of the specific physical intervention techniques which are sanctioned and the dates when they will be reviewed

OA Reablement Service	OA Day Care	OA Residential Care	DMH Day Services	DMH Supported Living	DMH Residential Services	EIA'd
✓	✓	✓	✓	✓	✓	✓

M2

Appendix 5

- An approved list of staff who are judged competent to use these methods with the Service User
- The ways in which this approach will be reviewed, the frequency of review meetings and members of the review team
- An up-to-date copy of this protocol must be included in the Service User's Person Centred Care Plan.

The use of a Restrictive Physical Intervention, whether planned or unplanned (emergency) should always be recorded as quickly as practical (and in any event within 24 hours of the incident) by the person(s) involved in the incident using a Serious Incident Record. The written record should indicate:

- The names of staff and service users involved
- The reason for using a physical intervention (rather than another strategy)
- The type of physical intervention employed
- The date and duration of the physical intervention
- Whether the service user or anyone else experienced injury or distress and if they did, what action was taken
- The views of the service user(s) involved in the incident should also be recorded.

The contents of all records of the use physical intervention must be monitored by Managers on a three monthly basis and where necessary appropriate follow-up action taken.

POST INCIDENT MANAGEMENT

Following an incident in which Restrictive Physical Interventions are employed, both staff and service users must be given separate opportunities to talk about what happened in a calm and safe environment. Discussions must only take place when those involved are ready to do so.

Debriefs should be designed to discover exactly what happened and the effects on those involved in the incident. They should not be used to apportion blame or to punish those involved. If there is any indication that a Service User or a member of staff has experienced injury or psychological trauma following the use of a physical intervention they should receive the appropriate treatment or support as soon as is possible.

To help protect the interests of Service Users who are exposed to Restrictive Physical Interventions it is good practice to involve, where possible, family carers and independent advocates in planning, monitoring and reviewing how and when they are used.

OA Reablement Service	OA Day Care	OA Residential Care	DMH Day Services	DMH Supported Living	DMH Residential Services	EIA'd
✓	✓	✓	✓	✓	✓	✓

M2

Appendix 5

STAFF TRAINING

All Staff (including Managers, Supervisors, Senior Support and Support Workers) who deliver or supervise support to Service Users who exhibit violent or aggressive behaviour should attend the two day Team Teach Basic Training Programme. This is a BILD accredited course which is facilitated by appropriately trained and qualified Cumbria County Council employees.

The provision of Restrictive Physical Intervention training must always be complemented by a range of training that enables the service user's basic needs to be effectively met.

Managers and Supervisors should ensure that Team Teach training is part of a wider programme of positive behaviour management training.

ACTIONS

- All Service Users will have a named key worker and/or care-coordinator.

- Each Service User will be actively encouraged to participate in the development of a range of person-centred behaviour management strategies. Advocates and Carer's should also be consulted in the process of developing these strategies unless the Service User clearly states that they do not want this.

- There will be multi-agency involvement in decision making about the use of Restrictive Physical Interventions.

- Every service user will have a multi-agency comprehensive risk assessment and Individual Handling Plan that underpins their care and support. This plan will be reviewed on at least a six monthly basis by an agreed multi-agency group.

- Managers and Supervisors will ensure the formal systems for providing post-incident support to staff and Service Users are implemented. This will include processes for debriefing and also formal and informal opportunities for reflection and learning.

OA Reablement Service	OA Day Care	OA Residential Care	DMH Day Services	DMH Supported Living	DMH Residential Services	EIA'd
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M2

Appendix 5
GLOSSARY

"Best Interests"
The courts have made clear that people's "best interests" are not limited to what would benefit them medically. Other factors such as their general well being, their relationships with those close to them and their spiritual and religious welfare should all be taken into account. Department of Health. *Seeking consent working with people with learning difficulties:* November 2001.

Capacity to Consent
Is defined as the ability to understand the choice available, the ability to retain this information, the ability to weigh up the arguments in favour of giving, or the consequences of withholding consent, to arrive at a decision and to convey this decision in some form to others.

Consent
Consent is defined as 'voluntary agreement compliance or permission': Concise *Oxford English Dictionary.*

"Consent" is the voluntary and continuing permission of the service user to receive a particular treatment based on adequate knowledge of the purpose, nature, likely effects and risks of that treatment and any alternatives to it. Permission given under unfair or undue pressure is not consent. (Chapter 15.13 of Mental Health Act Code of Practice: 1999).

Duty of Care
"A person must take responsible care to avoid acts or omissions that she can reasonably foresee, would be likely to injure a person directly affected by those acts. This concept forms a cornerstone of the civil wrong of negligence where a breach of duty with resultant harm constitutes liability".
Lord Atkin – Donaghue vs Stevenson 1932.

Mental Capacity
The Mental Capacity Act (2005) clarifies the process whenever decisions are required on behalf of a person who lacks capacity to make a particular decision for themselves. Reasons for Incapacity may include Learning Disabilities, Mental Health problems, Dementia, Brain injury, confusion due to illness, substance misuse to name a few.

A person may lack capacity for a major decision but this does not mean they lack all capacity.

OA Reablement Service	OA Day Care	OA Residential Care	DMH Day Services	DMH Supported Living	DMH Residential Services	EIA'd
✓	✓	✓	✓	✓	✓	✓

M2

Appendix 5

A person is deemed to be able to consent unless it is proven otherwise. Each decision must be done on an individual basis.

Restraint – The Act does allow you to legally restrain providing you have assessed that it is in the person's best interests & the least restrictive. Any restraint needs to be reasonable & in proportion to the potential harm.