HM Prison & Probation Service

Youth Custody Service

Policy name: Use of Force and Restrictive Practices in the Children and Young People Secure Estate (CYPSE)

Reference: N/A

Issue Date: TBC **Implementation Date**: TBC

Replaces CYPSE interest in the following documents:

PSO 1600 – Use of Force
PSI 06/2014 – Use of Force – Implementation of Minimising and Managing Physical Restraint
PSI 30/2015 – Amendments to Use of Force Policy

Introduces amendments to the following documents:

DN: Will need to assess whether relevant sections of relevant documents will need to be amended – e.g. Building Bridges Framework, MMPR Manual, ACCT processes, Critical Casework Pathway, SCH Service Specs. etc.

Action required by:

☒	HMPPS HQ	☒	Governors
☐	Public Sector Prisons	☒	Heads of Group
☒	Contracted Prisons	☐	Contract Managers in Probation Trusts
☐	National Probation Service	☐	Community Rehabilitation Companies (CRCs)
☐	HMPPS Rehabilitation Contract Services Team	☒	Youth Secure Estate
☐	Other providers of Probation and Community Services	☒	Prisoner Escort Custody Service (PECS)
☒	Healthcare		

Mandatory Actions: **All groups referenced above must adhere to the Requirements section of this Policy Framework, which contains all mandatory actions**.

By the relevant date of implementation of this Framework, Governors of under-18 Young Offender Institutions (YOI)[1]; Directors of Secure Training Centres (STC); and Registered Managers of Secure Children's Homes (SCH) [2] are responsible for the implementation of

[1] Throughout this document the term Governor also applies to Directors of contracted prison sites.

[2] Hereafter referred to as, "Governors, Directors and **Registered** Managers".

operating procedures which reflect the requirements set out in Section 4 of this Policy Framework, and for monitoring how they are applied in their setting.

In line with other Rules and Regulations which apply to settings in the Children and Young People Secure Estate (CYPSE), this policy applies to anyone sentenced or remanded to that accommodation by the courts in England and Wales, including those who remain in youth custody beyond the age of 18 for the purpose of either completing their sentence or because they are waiting for confirmation of their placement before they move to a new location.

For Information:

This policy framework for the CYPSE sets out the Government's policy on the use of approved restraint techniques and restrictive physical interventions across the CYPSE. It encompasses the legislation and guidance that under-18 Young Offender Institutions (YOI), Secure Training Centres (STC), Secure Children's Homes (SCH) and escort contractors must adhere to, as well as guidance about the broader context of providing high quality integrated and trauma-informed care for children who are in the care of staff from these settings and providers.

Governors of YOI, Directors of STC and Registered Managers of SCH must ensure that any new local policies that they develop because of this Policy Framework are compliant with relevant legislation, including the Public-Sector Equality Duty (Equality Act, 2010).

How will this Policy Framework be audited or monitored?

The Youth Custody Service will monitor compliance with the requirements set out in this Framework through its assurance, performance and contract management processes, as appropriate to each sector within the Children and Young Peoples Secure Estate and for escort providers.

Existing systems used to capture data and management information around the use of restraint and physical intervention will continue to be used after this Framework is published and implemented.

Resource Impact:

It has been assessed that the resource impact associated with the adoption of this Framework is likely to be negligible.

Contact: Functional Mailbox must be provided

INSERT FUNCTIONAL MAILBOX & CONTACT

Deputy/Group Director sign-off:
Helga Swidenbank, Executive Director, Youth Custody Service

Approved by OPS for publication: Click here to enter name and date. These details will be entered by OPS Secretariat

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1. PURPOSE

1.1 The YCS is committed to safeguard children through minimising the frequency and duration of incidents where it is necessary for staff to have physical contact with a child. The Framework for Integrated Care (SECURE STAIRS) enables secure settings[3] in the Children and Young Person Secure Estate (CYPSE) to work together in providing environments and programmes that encourage, reward and incentivise positive behaviour and reduce the likelihood that it is necessary that staff will need to physically intervene; although it must be recognised that there may be times when staff have no other option to prevent violence or protect themselves or others from injury or serious harm through the use of restraint or physical intervention.

1.2 To ensure that the response in such scenarios is safe and managed in accordance with the law, this Framework has been developed to establish a clear, coherent and child-focused policy statement about the use of restraint and physical interventions at secure settings[4] in the CYPSE and so that staff:

- Understand the legislation, regulations and guidance that apply to this area of practice.

- Have the skills and training so that they can de-escalate situations and will only apply appropriate restraint techniques safely and effectively, and in line with the law.

- Work in an environment where clear governance, oversight and monitoring is in place to ensure that the interests of staff and children are protected.

- Are supported by a culture of continuous learning, training and development.

1.3 This Framework applies to all scenarios where staff intervene with restrictive practices which involve active physical control, including both holding and physical restraint, as well as instances where individual members of staff take defensive action which is necessary to protect themselves from attack from children where the common law principles on self-defence will apply. The framework collectively refers to these as “restraint or physical intervention”.

1.4 The Framework does not apply where staff use interventions which are non-restrictive such as verbal commands, negotiation or encouraging words; for example, where they are used with the intention of coaxing a child away from a confrontational scene.

1.5 This Framework does not provide advice on, or recommend how, staff should respond to different scenarios but describes a common set of principles and expectations which under-18 Young Offender institutions (YOI), Secure Training Centres (STC) and Secure Children’s Homes (SCH) should apply when establishing local policy and practice for the use of restraint and physical intervention.

1.6 The requirements in this Framework also apply when children leave the secure setting for whatever reason, including journeys to Court or external healthcare appointments whether they are travelling with a member of staff from the setting or staff from a contracted provider.

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[3] References to “secure settings” are to secure accommodation at under-18 young Offender Institutions, Secure Training Centres and Secure Children’s Homes where children who are remanded or sentenced by the Courts may be placed.

[4] This Framework refers to “child” or “children” as children’s legislation and safeguarding arrangements apply to all aged under 18.

1.7 It should be noted that this Framework sets out policy in areas of practice where the differing Rules and Regulations mean that permitted practice differs between different sectors. This is highlighted where relevant.

Legal considerations

1.8 The starting point for lawful use of force, restraint and restrictive physical interventions are legislative and other legal provisions including Acts of Parliament, secondary legislation and supporting regulations and guidance as well as 'common law' and case law.

1.9 Depending on the sector, the Criminal Law Act 1967, the Secure Training Centre Rules 1998, Young Offenders Institution Rules 2000, The Children's Home Regulations 2015 (and equivalent provisions in Wales), the Criminal Justice and Immigration Act 2008 and the rights and freedoms contained within common law and the European Convention on Human Rights (ECHR) form a set of statutory and non-statutory provisions which should be understood when considering the use of restraint and physical intervention in secure settings.

1.10 Common law recognises that there may be circumstances in which one person may lawfully protect themselves from attack or intervene when they are acting to defend others. If no more force is used than is reasonable to then it may be considered lawful. In secure settings this can be translated to a position for staff that if they have an honestly held belief that they or another person are in imminent danger then they may use such force as is reasonable, necessary and proportionate to avert that danger. There is no rule in law to say that a person must wait to be struck first before they may defend themselves.

1.11 The common law provides that a person may use such force as is reasonable when they are undertaking the following:

- Self-defence.
- Defence of another.
- Defence of property.
- Prevention of crime.
- Performing a lawful arrest.

1.12 It is important to note that these are not positive permissions for individuals to use restraint or physical intervention in these scenarios; they are all defences to a criminal charge of assault, actual bodily harm or any other charges which may result from the use of restraint or physical intervention on another person.

1.13 Although broad principles are provided by common law, the authority for staff in secure settings to use restraint or physical intervention is given by the rules and regulations which apply to each sector in the CYPSE. Extracts of the relevant provisions are provided in full at Annex B, but for reference are summarised below:

- **YOI:** The Young Offender Institution Rules (2000)[5] - *Rule 44 (Maintenance of order and discipline) and Rule 50 (Use of force)*

- **STC:** The Secure Training Centre Rules (1998)[6] – *Rule 31 (Maintenance of order and discipline); Rule 37 (Use of force); and Rule 38 (physical restraint)*

[5] https://www.legislation.gov.uk/uksi/2000/3371/article/5/made

[6] https://www.legislation.gov.uk/uksi/1998/472/contents

- **SCH:** The Children's Homes (England) Regulations (2015)[7] – *Regulation 2 (Interpretation); Regulation 12 (The protection of children standard); Regulation 19 (Behaviour management and discipline); 20 (Restraint and deprivation of liberty); Regulation 35 (Behaviour Management policies and records)*

  Guidance on the regulations which apply to SCH is provided in the *Guide to the Children's Homes Regulations including the Quality Standards* (April 2015)[8]

- In **Wales for SCH**, The Children's Homes (Wales) Regulations 2002[9] as amended by The Children's Homes (Wales) (Amendment) Regulations (2017)[10] and The Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017[11] - *Regulation 29 (The appropriate use of control and restraint)*

1.14 It is the responsibility of every member of staff who is authorised to use restraint and physical intervention in the CYPSE to understand the principles of law and the relevant Rules or Regulations which apply to their setting and understand how this applies to their practice. This should be part of the initial and refresher training provided to each member of staff.

What is meant by "reasonable", "necessary" and "proportionate"?

1.15 The rules and regulations for different settings refer to certain circumstances where restraint or physical intervention is permitted and staff will need to be clear about which apply to the setting they are at and the purpose for their intervention.

- Risk to life: in self-defence, defence of another, or to prevent serious and imminent self-harm.

- Risk of escalating harm to the child or others due to circumstantial or environmental change[12].

- To prevent serious damage to the property[13].

- To prevent a crime from being committed[13].

- When it is essential to maintain order[13] or control and discipline.

- Preventing escape (or absconding) from the setting[13].

.16 As well as being clear about whether the intervention falls within scope of what is set out in the rules and regulations for the setting, any intervention by staff must also be considered against whether it was a reasonable, necessary and proportionate response in the circumstances.

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[7] https://www.legislation.gov.uk/uksi/2015/541/contents/made

[8] Guide to the Children's Home Regulations including the Quality Standards: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/463220/Guide_to_Children_s_Home_Standards_inc_quality_standards_Version__1.17_FINAL.pdf

[9] https://www.legislation.gov.uk/wsi/2002/327/contents/made

[10] https://www.legislation.gov.uk/wsi/2017/51/contents/made

[11] https://www.legislation.gov.uk/wsi/2017/1264/contents/made

[12] Applies to PECS providers – see Defensible Decision Log at Annex C.

[13] NB: does not apply to SCH in Wales.

Reasonableness

1.17 The Criminal Law Act 1967 requires that any use of force should be 'reasonable' in the circumstances, which means:

- It is necessary for a purpose permitted by law; and.

- It should be the minimum amount that is required to achieve the lawful objective for using the force.

1.18 In setting out further considerations that should be taken into account when deciding whether the force used was reasonable the Criminal Justice and Immigration Act 2008 says that, "evidence of a person having only done what the person honestly and instinctively thought was necessary for a legitimate purpose constitutes strong evidence that only reasonable action was taken by that person for that purpose." In other words:

- A person acting for a legitimate reason may not be able to fully assess exactly what is "reasonable" at the moment that they are responding to a "live" situation.

- If there is evidence that a person acting for a legitimate reason was doing so instinctively and honestly it should be considered strong evidence that their action was reasonable.

1.19 The fact that an instance where restraint or physical intervention was used was considered necessary does not necessarily mean that the resulting action was reasonable. The interpretation of what is 'reasonable' is a matter of fact that will need to be determined in each individual case as the circumstances around each event are unique and must be judged by the individual member of staff on their own merits. In the event that there is a review or investigation of the incident that judgement may form part of considerations.

1.20 It is also important to consider the gravity of any harm which may result if the behaviour was to continue or escalate. If it was assessed that serious injury or death might arise, greater force might be justifiable as a response. For example, in a situation where a child was holding a weapon and had indicated that they were willing to use it to attack someone else, an immediate intervention using restraint or physical intervention may be more justifiable than a scenario where there was intelligence that a child had a weapon concealed on their person, but they were not posing an immediate risk to others.

1.21 When assessing what is a reasonable response to a situation, it is important to consider the type of harm that the member of staff is trying to prevent: whether it is to themselves, other members of staff, or to children (or in certain circumstances, to property). This will help to determine whether the response was reasonable in the particular circumstances they are faced with. For example, it may be reasonable for members of staff to respond with restraint or physical intervention to prevent serious damage to property however, that response where a child who is drawing on a wall may not be considered reasonable[13] if there is no harm to themselves or others associated with it.

1.22 Other factors which should be considered when staff are determining what might be reasonable, or not, are the size, age, and gender of both the child and the member of staff who are involved, the location of the incident and whether anything that could be used as a weapon is present.

1.23 Knowing when to end the restraint or physical intervention is another important aspect of reasonableness. Communication with the child and dynamic risk assessment must continue throughout any incident to understand the child's state of mind, identify or remove anything which might have triggered (or is prolonging) their response and ensure that the intervention does not continue beyond the point that it could be justified as being reasonable.

1.24 Judgement of reasonableness should also consider the fact that staff receive training on how to resolve instances of challenging behaviour and conflict without necessarily needing to resort to restraint or physical intervention, and that this training will inform their judgement on when restraint or physical intervention is unavoidable. In addition, the availability of assistance from colleagues, and the ability to respond with alternatives to restraint or physical intervention are other factors which may inform any judgement on what was reasonable in the circumstances.

Necessary

1.25 Staff in secure settings are responsible for assessing and making defensible decisions about when it might be **necessary** to use restraint or physical intervention.

1.26 Members of staff should use their training, experience and relationships which they have developed with children in the setting to recognise behaviours or triggers which might lead to more challenging, high-risk or violent behaviour or conflict, as any efforts to de-escalate might avoid the need to use restraint or physical intervention.

1.27 There will be some scenarios where staff determine that immediate action using restraint or physical intervention is necessary to prevent serious harm to the child or someone else and that this response overrides an alternative response, however where a member of staff has allowed time for the child to process and respond to requests or instructions and clarify what (or why) they were being asked to do, details must be included when writing up their report of what happened.

1.28 In summary no more force than is necessary should be used to achieve the intended outcome, and staff should be clear about the reason for considering any action involving the use of restraint or physical intervention as being necessary. They should be mindful that using more force than was necessary could be deemed as unlawful.

Proportionality

1.29 **Proportionality** overlaps with necessity and reasonableness, but it means staff must be able to demonstrate understanding that there was a reasonable balance between the means that they have used and what they were aiming to achieve. Using restraint or physical intervention is unlikely to be considered as being proportionate where alternative techniques could have been used which would have involved a lesser degree of physical contact between members of staff and children or could have avoided physical contact at all.

1.30 In considering the use of restraint or physical intervention in any scenario the following questions may be helpful for staff to consider, demonstrate and justify that their action was appropriate:

- *What was the use of restraint or physical intervention necessary to prevent?*

- *Could the siuation have been managed more effectively if restraint or physical intervention was not used?*

- *Did the restraint or physical intervention techniques that were used reflect the circumstances of the incident?*

- *Did the restraint or physical intervention techniques which were used reflect the intended outcome?*

1.31 There is no simple or objective formula to determine whether a member of staff has acted proportionately and whether their action was reasonable or necessary. For example if an intervention is considered as being necessary it does not necessarily mean that the action that was taken was a reasonable or proportionate response. Each scenario will have to be judged on a case-by-case basis, taking all available information and factors into account.

Defining use of reasonable restraint, restraint and restrictive physical intervention in the CYPSE

1.32 When intervening in an incident staff in secure settings are permitted to use **restraint** to control or restrain a child if it is necessary to achieve a specific objective such as those scenarios highlighted at paragraph 1.15 above.

1.33 Decisions about whether to intervene with a reasonable level of restraint or intervention should always be down to the professional judgement of the staff members who are involved, and their decisions should always take account of the child's individual needs and risks and reflect a dynamic assessment about what is happening at that time.

1.34 The factors contributing to behaviour which may be challenging or violent will be varied and different for each child and may be the child's expression that they have unmet needs. A child's previous experience of trauma, neglect and their physical or mental disabilities may have considerable implications for their behaviour in the secure environment and should inform planning for scenarios where restraint or physical intervention may need to be used. An integrated care approach should enable detailed consideration of any communication difficulties and neurodevelopmental disorders, including autism and sensory sensitivities, as such conditions may frame behavioural triggers, early warning signs, pre-emptive management strategies, and strategies for supporting the child if they are approaching (or are in) crisis and afterwards as well as reducing the likelihood that restraint or physical intervention may be needed in the future[14].

1.35 When an incident is underway, staff should use dynamic risk assessment to ascertain:

- *Who is at risk of harm?*
- *If there is an immediate threat to the child or other people present, including other children and, if there is not, whether there is an approach which could de-escalate and resolve the situation?*
- *Whether using restraint or physical intervention will make the situation safer?*
- *The least restrictive physical intervention techniques that will control the situation.*
- *Whether the consequences of using restraint or physical intervention are more or less harmful than the consequences of the behaviour it is intended to stop?*
- *Whether sufficient staff are present to ensure that physical intervention can be undertaken effectively.*

[14] See: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/812435/reducing-the-need-for-restraint-and-restrictive-intervention.pdf

1.36 **Reasonable force** means using no more force than is needed to achieve an intended objective. What may be reasonable will be different from one incident to another and different variables may need to be considered, such as the location of the incident, the number of staff that are present, the children who are involved and factors which may influence their state of mind or responses to stimuli.

1.37 **Control** refers practices which may limit an individual's freedom, such as verbal control, psychological pressure or social exclusion. There is considerable distinction between control and physical restraint:

- **Physical control** may be passive - such as standing between two children or obstructing a doorway - or active - such as leading a child away by the arm.

  Communication, negotiation, body language and passive physical control may all be a sufficient response to de-escalate a situation, however staff should be aware of the distinction between **passive** physical control of this nature and **active** physical control such as **Touching** - the minimum contact required to lead, guide or block a child's movement - and **Holding** - where a child is held but they retain some mobility and can get out of the hold if they are determined enough.

- **Physical restraint** means holding a child with approved techniques which provide sufficient control to bring them under control and restricting their mobility.

1.38 Building Bridges[15] sets out the approach which secure settings in the CYPSE should apply to encourage the development of positive relationships between staff and children.

1.39 Building Bridges identifies a particular focus on incentivising and promoting positive behaviour and minimising behaviour which can cause harm, and (particularly relevant to this Framework) ensuring that the environment is safe and controlled for children and staff[16] by responding effectively to challenging and unacceptable behaviour.

Safeguarding

1.40 Under Section 11 of The Children Act 2004[17] and The Children's Homes Regulations 2015[18] all secure settings have a duty to safeguard and promote the welfare of children in all areas of their operation, including use of restraint and physical intervention.

1.41 In both England and Wales, the laws which exist to safeguard children apply equally to children in secure settings as they do to those in the community.

1.42 In England all secure settings where children are detained are subject to the safeguarding and child protection arrangements set out in *Working Together to Safeguard Children*[19] which sets out that urgent matters of a safeguarding nature must be referred to children's services and not simply to the Local Authority Designated Officer (LADO). Children in all settings may highlight

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[15] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/863607/building-bridges-positive-behaviour-pf.pdf

[16] All persons across all agencies (including well supported parents and carers) who are directly in contact with children.

[17] https://www.legislation.gov.uk/ukpga/2004/31/contents

[18] https://www.legislation.gov.uk/uksi/2015/541/introduction/made

[19] Department for Education (2018) *Working together to safeguard children* - https://www.gov.uk/government/publications/working-together-to-safeguard-children--2

concerns to local or external advocacy services or to their legal advisor, and complaints submitted by children in YOI and STC may also be referred to the Prison and Probation Ombudsman (PPO) for investigation[20].

1.43 Secure Settings in Wales must follow the Wales Safeguarding Procedures[21] which help practitioners apply Welsh Government legislation - the Social Services and Wellbeing (Wales) Act 2014[22] and the Regulation and Inspection of Social Services Act 2016[23], and statutory safeguarding guidance *Working Together to Safeguard People*[24].

1.44 The "looked-after" status of children in secure settings must also be clearly understood and considered as these children will have the same right to specific services and treatment as those who are looked-after and located in the community. Children who have been remanded to youth detention accommodation by the courts are automatically designated as "looked-after" children by Section 104 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012[25]. Sentenced children in youth detention accommodation may be designated "looked-after" by prior agreement or if ordered by a Court.

1.45 Staff in secure settings must understand the safeguarding procedures which must be followed where any child is, has been, or may be in the future, at risk of significant harm due to any kind of neglect or physical, sexual or emotional abuse[26].

1.46 Each setting must have an annually reviewed safeguarding policy in place which should support practice in key areas including use of restraint and physical intervention and support the policies and procedures of local safeguarding partners in any instance where harm to any child has been identified. Staff should take care to ensure that any physical intervention is proportionate as use of approved restraint techniques does not necessarily protect them from complaints by children that their intervention was disproportionate. Such complaints may in itself trigger an enquiry by the local authority into whether action is needed to safeguard and promote the welfare of the child under Section 47 of the Children Act 1989[27].

National Standards for Children in the Youth Justice System

1.47 Standard 4 of the National Standards for Children in the Youth Justice System[28] provides a framework for practice to support provision of quality services for children in secure settings.

1.48 Staff must be mindful that they are responsible for fulfilling the following expectations which are particularly relevant to the management and outcome of any incident where restraint or physical intervention is used:

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[20] https://www.ppo.gov.uk/

[21] *Wales Safeguarding Procedures for children and adults at risk of abuse and neglect* - https://www.safeguarding.wales/

[22] https://www.legislation.gov.uk/anaw/2014/4/contents

[23] https://www.legislation.gov.uk/anaw/2016/2/contents

[24] Welsh Government Safeguarding guidance – http://gov.wales/safeguarding-guidance

[25] https://www.legislation.gov.uk/ukpga/2012/10/contents/enacted

[26] HM Government (March 2015) *What to do if you're worried a child is being abused: Advice for practitioners* - https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/419604/What_to_do_if_you_re_worried_a_child_is_being_abused.pdf

[27] https://www.legislation.gov.uk/ukpga/1989/41/section/47

[28] Youth Justice Board (February 2019) *Standards for Children in the youth justice system 2019* - https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/957697/Standards_for_children_in_youth_justice_services_2019.doc.pdf

- The environment that children live in is developmentally appropriate, aware of and responsive to trauma, rehabilitative, safe and one where there is a culture that enables children to develop, grow, establish healthy attachment relationships, and learn.

- Children are motivated by staff to take opportunities to engage in appropriate, high-quality education and training that helps them to make good progress.

- Effective communication and information exchange are in place for the timely preparation and delivery of the secure and the community phase of sentences.

- Safeguarding information is conveyed to relevant parties and agencies without delay and followed up in a timely way.

- All service provision prioritises the child's best interests.

- Parents and carers are provided with appropriate information and support during the time that children are located in the secure setting.

- Positive action is taken to understand and address disproportional outcomes around separation.

Healthcare

1.49 To help improve the quality and consistency of healthcare provision available to children in secure settings refreshed healthcare standards[29] were published by the Royal College of Paediatrics and Child Health in 2019[30].

1.50 Of particular relevance to the use of restraint and physical intervention are the following standards:

- *2.3.1 The secure setting has a written safeguarding policy which is compliant with statutory duties, Government guidance and has been agreed by the local safeguarding partners. The policy covers the following but is not limited to: Child protection, suicide and self-harm prevention, bullying and violence reduction, children who struggle to cope in detention, all aspects of behaviour management, public protection, staff recruitment, suspension and training, allegations against staff, information sharing, use of separation, restraint, searching, and the duty of staff to see and act on warning signs.*

- *6.7 Children receive support from a healthcare professional after restraint procedures. If support is refused, the reason why it is refused is recorded and repeated attempts are made. Note: Healthcare staff do not restrain children but do have duties and responsibilities in regard to safety of a child during and following restraint. (See 14.5).*

- *6.7.1 All staff are informed and updated by the child's named healthcare professional of any relevant issues (physical or psychological) including those arising from a child's personal and medical history that may have an impact on a child's safety and wellbeing if they are restrained. This information should also be included within the child's care plan.*

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[29] Healthcare standards for children and young people in secure settings - https://www.rcpch.ac.uk/resources/healthcare-standards-children-young-people-secure-settings

[30] Refreshed Standards are expected to be published in March 2023.

- *6.7.2 The advice of a healthcare professional is sought before all planned restraint procedures occurring within normal working hours and out of hours when healthcare staff are on site.*

- *6.7.3 Children subject to restraint procedures see a healthcare professional as soon as possible after restraint and any injuries sustained are fully documented, or as per policy.*

- *14.3.1 Staff are aware of the key factors affecting child and adolescent health and wellbeing and of the common health problems of children in secure settings.*

  This includes, but is not limited to: Impact of trauma, neglect, attachment theory, mental health problems, management of long-term physical conditions, neurodisability, speech, language and communication difficulties, anti-bullying practices and policy, conflict management, de-escalation and restraint.

- *14.5 All healthcare practitioners are trained in the principles of the method of restraint where relevant to the setting (for example Minimising and Managing Physical Restraint awareness module (MMRP) or Restrictive Physical Intervention Training (RPI)), to support clinicians to understand potential risks and injuries. (See 6.7).*

  Healthcare staff only provide health advice which may inform any decision around restraint and are not involved in the decision of whether to undertake a restraint or not.

Mental health and the Mental Capacity Act 2005

1.51 The Mental Capacity Act 2005[31] is designed to protect and empower children and young people aged 16 and over who lack mental capacity to make their own decisions about their care and treatment, including children who have limited capacity due to illness, injury, or disability.

1.52 Section 6(4) of the Mental Capacity Act 2005 establishes that restraint is when some uses, or threatens to use, force to make someone do something they are resisting, or when their freedom of movement is restricted, whether they are resisting or not. In secure settings in the CYPSE staff may be required to restrain a child with impaired capacity to ensure that they receive medical treatment or are moved to a setting such as a secure mental health hospital.

There are strict provisions regulating use of restraint and physical intervention in such scenarios[32] and any scenario involving a child who may require a physical intervention before receiving access medical treatment or transfer to another setting will be extremely complex and require detailed planning. All staff involved with the care and wellbeing of the child, including those in any new setting that the child might be moving to, should have input to ensure a coordinated approach is in place.

1.53 All considerations, decisions and plans should be clearly recorded to ensure that staff can clearly articulate why any use of restraint or physical intervention was reasonable, necessary, and proportionate.

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[31] https://www.legislation.gov.uk/ukpga/2005/9/contents

[32] Care Quality Commission (December 2011) *The Mental Capacity Act 2005 deprivation of liberty safeguards* - https://www.cqc.org.uk/sites/default/files/documents/rp_poc1b2b_100564_20111223_v4_00_guidance_for_providers_mca_dols_for_external_publication.pdf

2. EVIDENCE

2.1 *Use of restraint and physical intervention in youth custody*

2.2 Leadership and culture setting

- A culture that combines flexibility, control and transformational leadership is helpful in creating the conditions for positive change.

2.3 *Positive reinforcement*

- Evidence has found that positive reinforcement is more effective at shaping people's behaviour than punishing them and positively reinforcing desirable behaviour is able to motivate children to repeat and sustain rewarded behaviour.

- Appropriate and explained consequences to negative behaviour support positive change through building the connection with children.

- Consequences seen as punishment rarely drive sustained change in behaviour and increases the risk of negative responses, such as aggression and damaged relationships with staff.

2.4 *Procedural Justice*

- Staff should be positive role models for children when providing guidance and support and evidence suggests that there is a 'clear link between children's relationships with staff and their perceptions of, and engagement with, behaviour support systems'

- Children's behaviour cannot be influenced in a positive manner until there is a connection with them and responding to "misbehaviour" is secondary to the need to build the relationship. Without it the foundations of trust do not exist to effect change.

- Research findings suggest that:

  - when people believe a process of making decisions or applying rules is fair and just, it increases their confidence and trust in staff and they are more likely to accept and abide the outcomes, by decision and rules, even if it is not in their favour.

  - when children perceive authority is being used in a more procedurally just way, evidence suggests that significantly less misconduct and violence, better psychological health, and lower rates of reoffending after release will result.

2.5 *Disproportionality*

- The disproportionate representation of children from Black, Asian and ethnic minority communities throughout the criminal justice system has been the focus of considerable attention. The report from David Lammy MP identified that the proportion of children in custody from ethnic minorities rose from 25 to 41% between 2006 and 2016, and the Youth Justice Statistics for 2019/20 show that this proportion has continued to rise with the result that in the year ending March 2020 over 50% of children in custody were from ethnic minorities for the first time.

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  Against the backdrop of these findings staff must consider and understand the lived experience of children from different cultures and communities and their previous exposure to prejudice or discrimination when they are responding to behavioural crises as this may affect the way that the child responds to figures in positions of authority, develop relationships and trust, use (and respond to) verbal and non-verbal communication and respond to attempts to intervene in or de-escalate conflict.

2.6 *Speech, language and communication needs*

- Children involved in the criminal justice system have been identified as having an extremely high prevalence (66-90%) of speech, language and communication needs[33] with 46-67% of these being in the poor or very poor range and only 5% having had this diagnosed before their entry into custody.

- Given this exceptionally high rate of needs and the impact that changes in routine may have if those involved don't understand what is happening, staff in secure settings should seek to mitigate the impact of separation or isolation and reduce the child's anxiety by providing information using language or formats that will be understood by the child.

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  It is important for staff to understand the child's view of the process and that all parties are able to voice their views. There also needs to be more work to ensure the process is accessible to the child, especially where they may have additional communication needs.

2.7 *Adolescent brain development and injury*

- An appreciation of adolescent brain development and relational (attachment) strategies is also necessary for people working with children so that they understand their behavioural tendencies and why periods of separation from their peers may be particularly distressing.

- As children move through puberty and early adulthood their brains undergo a period of substantial development. These changes mean that during this time, children become much more sensitive to social interaction and reward, and experience stress more keenly than in childhood or adulthood. At the same time there is a slower, more gradual change in their ability to control impulses and emotions, which doesn't stop until they are in their mid- (or sometimes late-) twenties. Changes in sensitivity to reward also drive people in adolescence to seek new sensations and take risks at a time when they haven't achieved the levels of self-control that they will have in their adulthood.

- The result is that the structure and function of the immature adolescent brain has the effect of increasing the chance that adolescents will display risk-taking behaviour; preoccupation with

how they appear to their peers; hypersensitivity to social exclusion; be more inclined towards risk-taking and prone to impulsivity; less capable of emotional reasoning; and more likely to make errors in regulating their emotions and behaviour. All these are especially true when they are in the presence of adolescent peers.

- As well as brain development the impact of hormonal levels on changes in mood and behaviour during adolescence is well recognised, but other factors such as learning or communication difficulties, mental health vulnerability, neurodiversity or the effect of previous exposure to trauma, abuse, neglect, head injuries or foetal alcohol syndrome must also be taken into account, although staff must be aware that these disabilities may be hidden or not formally diagnosed. Where they are present, they may impact on the child's ability to understand, process and engage with instructions and be reflected in emotional and behavioural outbursts, low tolerance or frustration, difficulties with concentration, anti-social behaviour, rule breaking, anger, aggression and violence.

- Children who have experienced trauma, or suffered bereavement, loss or abuse may struggle with post-traumatic experiences which may be hidden and may not have attracted a diagnosis of Post-Traumatic Stress Disorder (PTSD). The way in which post-traumatic experiences are processed will differ for each individual and it should not be assumed adverse life experiences will necessarily traumatise all those who experience them. The impact can include vivid reliving of the traumatic event in the form of nightmares or flashbacks, which may be triggered by certain noises, images, words or smells, or the impact of being restrained or confined to a small space. Other expressions of these experiences may also include irritability, sudden outbursts of anger and aggression, sleeping problems, difficulty concentrating and physical symptoms.

- Studies have identified that all children, and particularly girls, in secure settings have had higher levels of exposure to multiple and chronic childhood adversities and trauma. Exposure to such adverse experiences is common amongst children within secure settings and, often go unrecognised, but they can have a far-reaching impact on their development and ability to regulate their emotions and anger, as well as their physical and mental health, sense of self and self-esteem, and ability to forge trusting and productive relationships.

- Beyond Youth Custody found significant differences in adolescent brain development based on whether children had experienced trauma and that children who experienced significant trauma were more likely to display reckless, self-destructive behaviour; inappropriate aggression; over or underestimating danger; and difficulties in imagining or planning the future.

2.8 ***Neurodiversity and neurodevelopment disorders***

- Staff will also need to be alert the over-representation of neurodiversity and other conditions amongst children in secure settings, and their impact on how children communicate and understand information, instructions or body language.

- Neurodevelopment disorders (NDDs) encompass a variety of conditions:

    - Intellectual Disability and 'Learning Difficulties' (like Dyslexia, Dyscalculia and Developmental Coordination Disorder).
    - Attention-Deficit/Hyperactivity Disorder (ADHD, including ADD).
    - Autism Spectrum Conditions (ASC).
    - Developmental Language Disorder (DLD, including speech and language difficulties).
    - Tic disorders (including Tourette's Syndrome and Chronic Tic Disorder).
    - Cognitive, emotional and behavioural impairments caused by Acquired Brain Injury (ABI).

- Sensory overload can happen to anyone but is more common amongst individuals with a neurodiverse condition, those with histories of emotional trauma and those who have chronic disorders such as chronic fatigue syndrome, fibromyalgia, multiple sclerosis, dementia or those who have experienced head injury.

- When sensory overload occurs, the individual's brain struggles to filter out irrelevant sensory stimuli and their functioning becomes impaired which can appear as emotional and / or behavioural disturbance.

- Individuals with sensory sensitivities often function best when they can manage or 'dose' their exposure to sensory stimulation. This may take the form of scheduling intervals of quiet time or solitude after periods of stimulation, such as education or being with peers, or individuals may remove themselves or learn to proactively self-isolate from environments that are becoming overstimulating.

- Exactly what works best is likely to vary between individuals but recovery from sensory overload may well be facilitated by co-regulation and social support involving conversations and activities and/or a period of supported withdrawal to a less stimulating environment, where activities such as mindfulness, art, music, reading or pursuing specific interests and hobbies may be soothing and help to restore a sense of emotional equilibrium.

- Having access to a 'sensory box' may be a valuable tool for some individuals, although clinical guidance must be sought to ensure that it is used appropriately.

3. OUTCOMES

This policy seeks to support the following outcomes at secure settings in the CYPSE:

- Instances where staff use restraint or physical intervention are minimised and will only be used as a last resort where it is a reasonable, necessary and proportionate response, and never as a punishment.

- Where it is necessary for staff to use restraint or physical intervention, it is a reasonable and proportionate response to prevent:

  - Harm to members of staff or other children when other (non-physical) measures or interventions have been exhausted or determined to be ineffective and an immediate response is needed to ensure the safety of those who are present.

  - Serious damage to property or to the fabric of the building and the child has failed to respond to verbal requests or instructions to stop that damage[13].

  - A child from absconding or escaping (where immediate intervention is required)[13].

  - An immediate risk of serious harm to the child themselves or another person in the secure setting[13].

- Appropriate action should be taken if there is any indication that bias formed part of the of the reasoning to use restraint or physical intervention.

- There is no common restraint syllabus in use across all sites in the CYPSE, but each setting must have a strategy in place to ensure that it must be clear that a response involving force, restraint and restrictive physical intervention should be:

  - **Lawful:** All use of restraint or physical intervention must be lawful: it must be reasonable, necessary and proportionate to the seriousness of the circumstances.

  - **Accountable:** All use of restraint or physical intervention must be accurately, properly and comprehensively reported, and monitoring of use must be undertaken at local, regional and national level. At all levels of the management chain - from Governors, Directors and Registered Managers, Team Leaders and Managers through to operational members of staff - individuals who misuse restraint or physical intervention must be held personally accountable for their actions.

  - **Considered:** That the specific circumstances and alternative options for intervention are taken into account before restraint and physical intervention is used, and that when they are, staff act in a controlled manner to determine the level and type of intervention that they use after considering alternative options.

  - **Equal:** That restraint and restrictive physical intervention is not used disproportionately; use is subject to review; and data is analysed to inform actions that should be taken if dispropotionate use is identified.

  - **Safe:** Individuals must be appropriately trained, and aware of guidance and best practice for responding to challenging or violent behaviour and ensure that any restraint or physical intervention does not result in physical, sexual or emotional abuse of children in their care.

4. GUIDANCE

Culture

4.1 The environment and culture which exists in a secure setting and the way in which behaviour, particularly that which is challenging or high-risk, is managed and responded to cannot be disconnected from one another. Environments where threats or acts of violence are common will have significant psychological and emotional effects upon the health and welfare of children and staff alike.

4.2 Children need confidence and trust in the staff and systems in place at the secure setting if are to respect them and treat them as legitimate. If the setting is to genuinely promote an ethos where physical intervention and other measures which may be perceived as punitive by children[34] are avoided, the starting point should be an effective and consistent child-centred approach to managing behaviour which provides children with:

- Safety from neglect, abuse and harm.
- Fair and respectful treatment.
- Feeling valued and finding support when they need it.
- Care for their physical and mental health.
- Time to develop different skills and space and confidence to apply them.
- Stimulating activities and recreation, including sports.
- Involvement in making decisions about things which affect them.

4.3 Efforts to develop, establish and foster a calm and safe environment reduces tension and the need to confront situations in ways which may result in the use of restraint or physical intervention by staff. Evidence points to secure settings where leadership supports ethical practice, staff understand the child-centred ethos and there is a culture of respect for the individual differences and the diversity of needs and vulnerabilities of each child, as those where staff and children have effective relationships and the likelihood that restraint and physical intervention will be needed when responding to incidents is reduced.

4.4 To be effective, activity to minimise intervention should sit within a whole organisational commitment to reduce their use. Strategies which have been noted to be effective[35] in minimising restraint and physical intervention include:

- Commitments from leadership to minimising and preventing the use of restraint and physical intervention.
- Active use of data to monitor and challenge practice.
- Workforce development targeted at promoting restraint minimisation.
- Restraint prevention tools and calming plans reflected in a recognition of each child's individual needs, triggers and risks and reasonable adjustments in place, including strategy and training to support staff to communicate effectively with those who have speech and language difficulties.
- Involving children in developing solutions to reduce restraint and physical intervention.

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[34] See Verret et al (2019) – studied use of restraint and seclusion in settings for children with educational and behavioural difficulties. Children perceived de-escalation to be more effective in helping them get calm than seclusion and restraint. 96% of these children said they did not like seclusion and restraint because these measures were imposed by adults and experienced as punitive.

[35] (Huckshorn, 2005; Duxbury et al., 2017; University of South Wales, 2020)

- Having rigorous systems in place for debriefing staff and children after incidents where restraint or physical intervention was used and acting on jointly agreed conclusions.

Leadership

4.5 Leaders must ensure that restraint or physical intervention within their setting is minimised and only used according to the law. Governors, Directors and Registered Managers must take responsibility for local compliance with the requirements in this Framework and that members of staff at their site are held accountable for their actions when they use restraint or physical intervention.

4.6 Each member of staff is responsible for their own actions when they are involved before, during and after any incident where restraint or physical intervention is used. To ensure that all members of staff are clear about their responsibilities the designated lead for restraint and physical intervention at each secure setting should produce short, clear, written guidance to inform staff of the local operating procedure for this area of practice at the setting. This should set clear expectations about areas such as the hierarchy of decision-making, the use of footage from closed-circuit television (CCTV) and Body Worn Video Camera (BWVC), agreed expectations about the role of healthcare staff and recording details of the incident.

4.7 To ensure clear oversight of practice, Governors, Directors and Registered Managers of secure settings should delegate oversight of the use of restraint and physical intervention to an appropriate member of the senior management team.

4.8 Each setting must ensure that designated members of staff are delegated responsibility for the following activities:

- The delivery of training on use of restraint and physical intervention.
- Undertaking independent reviews and assurance of incidents where restraint and physical intervention is used, including, reviewing reports and statements from members of staff and children, and footage of incidents taken from CCTV and BWVC, where they are available.
- Updating internal and external stakeholders, including but not limited to advocates, healthcare staff, and social workers, and about instances where restraint or physical intervention have been used.
- Providing ongoing support and feedback to operational staff on practice following reviews of incidents where restraint and physical intervention is used.
- Attend meetings where the views of children can be heard and considered about how restraint and physical intervention was used.
- Attend meetings where the management of behaviour and use of restraint and physical intervention is monitored, including review of data about use of restraint and physical restraint techniques across the setting.

Training

4.9 Everyone residing and working in secure settings has a right to expect that staff who have the authority to use restraint and physical intervention have been trained, are competent, and can safely exercise that authority; and that where they are not able to demonstrate this, they will be prevented from doing so. They also have a right to expect that the standards applied to both use and governance of restraint and physical intervention are consistent between settings.

4.10 In STC, the Secretary of State is responsible for approving methods of restraint and physical intervention proposed for use[36] and while the same terms do not formally apply to YOI it is current Government policy that the same responsibility should also apply in respect of these settings.

4.11 For SCH, Quality Standards set out expectations for Registered Managers and those who commission training in restraint for staff. There are no prescriptive requirements about the specific syllabus or techniques which should or should not be used, although there is a contractual requirement between the YCS and each individual SCH that the Registered Manager has assessed that the adopted training package is appropriate for children and is approved for use by the Local Authority. In addition, statutory guidance for children's homes, including SCH, requires that before their staff might be expected to use any specific method of physical intervention or restraint, they will need to demonstrate that they fully understand the risks associated with the technique concerned.

4.12 In each setting it is expected that training for staff should be child-focused and founded upon the principles for effective behaviour management and must enhance skills in pro-actively pre-empting and preventing crises before they occur to minimise the recourse to physical intervention. Training in restraint techniques should have been medically assessed and be appropriate for use with children who may still be developing, physically and emotionally.

4.13 It is expected that training in the use of restraint or physical intervention should include:

- The legal framework and local policy and procedures.
- Causes of different behavioural responses.
- Techniques for preventing, and strategies for reducing, the use of restraint and physical intervention (including effective communication strategies[37] for managing child-staff relationships).
- An understanding of how trauma and relational issues and experiences can affect the child's response to challenging or stressful situations.
- The impact of staff behaviour on how children respond.
- Monitoring child welfare during interventions and spotting signs of distress - including where children have specific medical, mental health, neurotypical and neurodiverse, special educational or psychological presentations.
- The safe use of permitted restraint techniques.
- Responding to medical complications arising from the use of restraint and physical intervention.
- Continuous consideration for reducing the level of holds applied or in cases where the risk to the person under restraint has become high/life threatening releasing all holds.
- Care and support for both children and staff traumatised by use of restraint or physical intervention events.
- Accountability for the proper, effective and timely recording of incidents; analysis and monitoring of the use of restraint and physical intervention and the characteristics of the children and staff who were involved; and the responsible custodianship of data.
- Staff and child debriefing procedures and reflective practice following incidents where restraint and physical intervention were used.
- Breakaway and safety techniques.

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[36] Rule 38, STC Rules

[37] The Royal College of Speech & Language Therapists has free online training specifically for CJS staff called The Box which is available via the following link: https://www.rcslt.org/learning/the-box-training/#:~:text=The%20Box%20training,-The%20Box%20is&text=It%20is%20designed%20to%20give,speech%2C%20language%20and%20communication%20needs.

4.14 All staff who engage in restraint or physical intervention must be aware of the risks of medical emergencies, medical considerations and warning signs associated with the use of restraint and physical intervention and know what action to take if a child is showing signs or communicating that they are, or may be, experiencing medical difficulties.

4.15 Staff who are not trained in the appropriate response to challenging or high-risk behaviour or in safe use of physical restraint techniques risk endangering the health and wellbeing of children and other members of staff as well as undermining the culture and ethos of the secure setting.

Personal safety and "breakaway" techniques

4.16 Personal safety techniques are designed to be used by any member of staff seeking to protect themselves or others, including other children, members of staff or visitors to the setting. They are to be used in circumstances when formal restraint techniques are assessed and found to be not possible, and all other methods of trying to control or evade a violent situation have failed, are considered unsafe, or are considered unlikely to be successful.

4.17 Any use of these techniques must be compliant with the lawful principles of being used where they are considered reasonable, necessary and proportionate and the same medical considerations should be applied as when restraint or physical restraint techniques are being used.

Passive non-compliance

4.18 Under YOI Rule 44[38] and STC Rule 31[39] staff at YOI and STC have a duty to maintain discipline and order and to enlist the cooperation of children at the setting, "through their own example and leadership".

4.19 Although the wording for each setting is subtly different, STC Rule 38[40] and Regulation 20 of the Children's Homes Regulations (2015) specifically forbid use of physical restraint of children for all reasons apart from those stated, which is broadly limited to preventing children from escape, harming themselves or others, or seriously damaging property[13].

4.20 This Framework is clear that any restraint or physical intervention is likely to be interpreted as unlawful if it is not reasonable, necessary and proportionate with the intended outcome. Using restraint or physical intervention to obtain the compliance of a child or children with a request, instruction or orders which they have ignored, in response to a protest, or to maintain order or discipline could reasonably expect to be interpreted as being outside the scope of what is lawful and may amount to punishment of the child for disobedience.

4.21 In all settings there may, however, be exceptional circumstances when the behaviour of a non-compliant child or children, may put the wellbeing, welfare or safety of themselves or others at risk and in such circumstances an intervention by staff involving restraint or physical intervention may be the only available approach to prevent harm to the child or others.

4.22 An intervention in this way should only take place once all other options for engagement or negotiation with the child or children have been exhausted and it has been determined that the child's behaviour, whilst being passive, has created a situation where the child themselves or

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[38] https://www.legislation.gov.uk/uksi/2000/3371/article/44/made

[39] https://www.legislation.gov.uk/uksi/1998/472/article/31

[40] https://www.legislation.gov.uk/uksi/1998/472/article/38

other children may suffer harm. There is no specific point for determining when that point has been reached and the judgement of staff who are involved will be necessary to assess the circumstances.

4.23 Any decision to intervene should only happen when staff have fully considered the circumstances and the risks from both intervening and not intervening and that it is endorsed by a designated manager who has assured themselves that other methods not involving the use of restraint have been repeatedly tried and failed, or have been judged unlikely to succeed; that action is needed to prevent harm to the child or others; and restraint or physical intervention is the only available approach and last resort which will maintain the safety of the child or others.

4.24 If it is assessed that no harm to the child or others will arise from the child's passive non-compliant behaviour a response from staff involving restraint or physical intervention is unlikely to be necessary or reasonable. A more proportionate response is likely to be keep all options available by monitoring the situation and continue efforts to engage and encourage the child or children who are involved to follow the request or instruction that they are ignoring.

4.25 In circumstances where restraint or physical intervention may be under consideration, staff should be aware that if tensions are high amongst those who are involved, an intervention which starts as a minimal or low-level physical restraint may escalate quickly into something more significant. It will be necessary to ensure that the degree and means of restraint must remain proportionate to the risk of harm which it is trying to avoid, and that contingencies are available should they be needed.

Non-compliance during an escort

4.26 Children may need to travel away from a secure setting for a variety of reasons, including appearance at Court, transfer to another secure setting or to enable a release on temporary licence or mobility to take place.

4.27 For some children this may be stressful or create feelings of apprehension, distress and fear as they may be leaving an environment where they feel safe; may not feel comfortable with people they do not know; may be going somewhere which may be very stressful; or they may find the experience of being in a confined space in a vehicle challenging or difficult.

4.28 To ensure that detailed planning and assessment of risk can be undertaken before the escort starts, the staff who will assigned to be with the child – whether they are from the setting itself or from the Prisoner Escort Custody Service (PECS) provider - should be provided with details of the child's individual risk, needs and vulnerabilities, reasonable adjustments to avoid triggering changes in behaviour and any recommendations for ensuring the most effective response from staff, including taking account of the child's speech, language or communication difficulties. Care of the child, management of any risk they present and response to their behaviour will be the responsibility of staff from the PECS provider or the member of staff from the secure setting assigned to undertake the escort when the child is away from the secure setting.

4.29 Before the child leaves the setting, staff assigned to the escort should ensure that the child is prepared for the journey they will be taking, including what to expect when they arrive at their destination.

4.30 When children are away from the setting there may be instances where they refuse to follow instructions or requests, such as refusing to board a vehicle. If this is the case the staff who are responsible for their care should use their skills in communication and negotiation to build

rapport or trust and to encourage the child to follow the instruction or request. How staff respond and communicate with the child must take account of planning for management of the child's needs and risk shared by the setting in advance of the escort. In particular they should pay attention to ensure that they communicate using simple instructions and allow time for them to be processed[41]. Staff should also take account of the environment they are in as being unfamiliar, busy or distracting places might affect the way in which the child can concentrate on, or understand and respond to, instructions.

4.31 In such circumstances the use of restraint or physical intervention should not be used for non-compliance of instructions, protesting behaviour, non-compliance or to maintain or create order unless the child's behaviour is endangering the safety of themselves or other people, at which time the common law principles around intervening should apply. As with incidents of this nature in a secure setting the interests of the child should be central to considerations about how staff respond and any decision must evaluate and balance the type of harm – physical, psychological and emotional – as well as its potential impact. It must also be demonstrated that all other ways of responding have been considered and have either been ineffective or an immediate response was necessary.

4.32 Staff who are escorting the child will be primarily responsible for determining whether the use of restraint or physical intervention is a reasonable, necessary and proportionate response. The decision-making process should be clearly documented, as should any restraint or physical intervention which is used. The Guidance and Defensible Decision-Making Log at Annex D has been introduced to ensure that staff from the PECS provider consider the appropriate safeguarding measures to ensure that restraint is not used to bring about compliance when a child is refusing to do so but does not present an immediate risk to themselves or others.

4.33 Staff should be aware that the information recorded in this document may be used as evidence in any subsequent review or investigations into the incident, alongside any footage from CCTV or BWVC.

4.34 Where an incident occurs whilst the child is in the care of staff from the PECS provider and restraint or physical intervention is used by a member of their staff, the Duty Manager at that provider should be notified who in turn must inform the relevant HMPPS Senior Contract Manager and Duty Manager at the YCS Placements Team. The YCS Placements Duty Manager should then inform the YCS Deputy Director who is on duty at that time.

Assessing and responding to risk

4.35 Each child in a secure setting has their own history and personality which will affect the way in which they respond to the environment around them and the behaviour of other children and members of staff. An understanding of their individual characteristics, experiences and behaviours[42] should inform the way in which the response to their behaviour can be consistent and most effective.

4.36 The consistent implementation of an approach which is positive, effective, child-centred, trauma-informed, responsive to neurodiversity and takes account of speech, language and communication difficulties is essential when staff are responding to disruption, distress, or violence. All staff, including those from escort providers, are expected to respond to challenging behaviour and conflict with compassion and care and in a manner that recognises the source of

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[41] See Mary Budd (1986) Wait Time: Slowing Down May Be A Way of Speeding Up!

[42] In different settings this may be referred to as the child's *formulation* or *"My Story"*.

the behaviour and a plan for responding to the child's behaviour with restraint or physical intervention may be developed for the response at times when the child is displaying harmful behaviour to themselves or others and de-escalation techniques are not appropriate due to the level of risk that they are presenting.

4.37 Each setting should ensure that planning for the child's safety and care is informed by their formulation and CHAT (Comprehensive Health Assessment Tool) care plan and is co-produced with the child to reflect their "story", so it reflects their personal maturity, physical and emotional characteristics, communication and learning needs, past experience of trauma and the impact of neurodiverse conditions. This assessment must be kept under review and updated at key intervals to ensure that all staff are aware of child's needs and risks that that it reflects the child's development. Children should be offered a chance to provide their views on the plan for how staff will respond in such instances.

4.38 Consideration should also be given to how each child will experience restraint or physical intervention as reasonable adjustments may need to be made to account for all known disabilities including, but not limited to, past experience of trauma or abuse, sensory sensitivities and pre-existing vulnerabilities or injuries to ensure that they are not retraumatised or inadvertently experience pain as a result of the physical restraint techniques which are used.

Actions during an instance of physical intervention

4.39 Unless action needs to be taken immediately to prevent injury or harm to the child or others staff should not initiate the use of restraint or physical intervention until other methods which do not involve the use of restraint or physical intervention have been tried and exhausted; or it the dynamic assessment of the situation suggests that it would be unsafe to do so - for example, if the child's individual risk assessment directs that restraint or physical intervention may be unsafe for them; the member of staff is on their own; or there are insufficient numbers of staff present to safely undertake the intervention.

4.40 The child's emotional, mental and physical condition should be monitored throughout the incident and particularly once restraint or a physical intervention has been initiated, as the risk to the wellbeing of the child and staff who are involved will increase as the intensity of the intervention increases and/or the becomes more prolonged. As well as what the child is saying, signs of distress might include:

- Changes in breathing - *Has it become more rapid or shallow? Does breathing seem more laboured, or is there a sign of panting or gasping? Has the child complained about difficulties with breathing or catching their breath?*

- Changes in the child's skin tone - *Do they look discoloured, grey or purple?*

- *Is there evidence of the child losing consciousness or having a seizure?*

4.41 During incidences of restraint or physical intervention a member of staff should be identified as the incident manager who should take overall responsibility for monitoring the impact of different approaches on child's response as well the management of resources and logistics, such as additional staff or movement to another location, throughout the incident until its conclusion.

Exceptional Safety Measures

4.42 It is never acceptable to deliberately cause pain when a non-painful alternative can safely achieve the same objective.

4.43 However, there may be incidents where the risk to the child themselves, other children, members of staff or visitors to the secure setting child is such that there may be risk to their life or that they might suffer significant or life changing injury and there may be no other viable way for staff to respond to the incident and protect those who are involved.

4.44 Each scenario will be evolving and staff will need to dynamically assess a range of factors, including the environment and people who are involved, to determine whether this intervention is a reasonable, necessary and proportionate response and these clear and objective grounds must be articulated when a record of the incident is created.

4.45 All instances where any technique which deliberately causes pain is used must be reported to the Youth Custody Service. Full and thorough review must be undertaken locally, including referral for an independent review if that is available, and any recommendations and learning must inform future practice. In YOI and STC, instances where these techniques are used will also be reviewed by members of the Independent Restraint Review Panel (IRRP)[43].

Wrist restraints and handcuffs

4.46 The use of wrist restraints or handcuffs is subject to the same law, rules and senior management oversight as the use of restraint and physical intervention and should only be used as an aid to restraint or as a risk reduction measure where it is the last resort and reasonable, necessary and proportionate to the outcome.

4.47 Only members of staff who have been trained by an accredited instructor have the authority to carry and/or use wrist restraints or handcuffs.

4.48 Wrist restraints must never be used:

- When only a single member of staff is present;
- On any part of the body, other than the wrist;
- To secure a child to any object; or
- When a child is away from the secure setting under escorts by staff from the secure setting or a PECS provider – handcuffs or the waist restraint belt should be used in such circumstances – *see paragraph 4.54 below*.

Wrist restraints as an aid to restraint

4.49 Any use of wrist restraints or handcuffs in response to the behaviour of a child must be treated as an instance of use of restraint or physical intervention and the same consideration about whether it a reasonable, necessary and proportionate response will apply.

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[43] See IRRP Terms of Reference: https://www.iicsa.org.uk/key-documents/29491/view/2021-04-hmpps-youth-custody-service-independent-restraint-review-panel%3A-terms-reference.pdf

4.50 Where a child is continuing to be non-compliant during a prolonged incident where restraint or physical intervention is underway, wrist restraints may be preferable to using other methods to aid control, movement, or relocation such as if it is necessary to relocate them from one part of the setting to another.

4.51 To ensure they can be applied safely and minimise the risk of injury to staff or the child, staff must have an element of control prior to applying the wrist restraints.

4.52 Staff wearing BWVC must record the events leading up to the use of wrist restraints and must not switch off the recording until the incident is fully resolved.

4.53 The following factors need to be considered when making an objective decision when staff are determining whether it would be appropriate to use wrist restraints:

- The distance and route to be travelled if the child is to be relocated.

- Any significant obstacles, stairs, unsafe open areas, or if the route will be in view of other children who may incite and escalate the situation.

- Whether the child is reasonably compliant, but it is not judged safe enough to permit them to walk completely independently to where they are to be relocated to.

- Whether the use of wrist restraints will de-escalate the situations and remove opportunities for the child to continue to exert violence towards staff.

- Whether the use of wrist restraints will reduce the risk of injury to the child compared to staff continuing to use restraint holds.

- Are the any medical considerations or disabilities that wrist restraints may exacerbate or cause unintentional pain?

4.54 Factors such the child's compliance, respective size and apparent strength and fitness must also be considered to support the justification for the use of wrist restraints, taking into account all other circumstances at the time. Their physical condition is another consideration in deciding whether wrist restraints should be applied or whether they should continue to be used.

4.55 Following use of restraint or physical intervention, wrist restraints may be applied in any of the positions listed below:

- Standing.

- Prone position. The prone position should only be used in exceptional circumstances and the child must be constantly observed whilst the wrist restraints are being applied. If there are any medical concerns, then the position must be adapted. Once the wrist restraints have been applied the child must be moved onto their side or to a kneeling or standing position.

- Kneeling.

- Supine position. If the child positions themselves in a supine position, the wrist restraints can be used to assist them into a prone and from there onto their side or to a kneeling or standing position.

Wrist restraints and handcuffs: use as a risk reduction measure

4.56 In certain limited circumstances outside incidents where restraint or physical intervention is underway, staff may use wrist restraints or handcuffs as a proactive measure to mitigate a potential risk which the child has been assessed as presenting. Examples where this could be considered a reasonable approach are provided below, however staff should consider the impact of using wrist restraints or handcuffs as, for example, their application when the child is compliant may escalate the situation.

- A PECS escort provider or staff escorting the child may consider using ratchet handcuffs or a waist restraint belt if there is an assessment which establishes that the child is highly likely to try to escape when they are being moved under escort to another location away from the secure setting.

- If there is a significant likelihood that child is a risk to others or cause serious damage to property when they are being relocated within the secure setting; or

- Where it is highly likely that the child might cause significant disruption or risk their wellbeing, for instance if they are assessed as presenting a significant risk of climbing to height, which might endanger themselves or others.

4.57 Where wrist restraints or handcuffs are used in this way it should be recorded as a risk management measure rather than incident where restraint or a physical intervention was used. It should be recorded, and the report should detail the risk that was identified along with why it was determined that the use of wrist restraints or handcuffs would mitigate that risk. Other factors which should be considered include the child's age and gender along with consideration of their strength and fitness. The impact of existing or historical injuries to the child's wrist or arm must also form part of considerations to use wrist restraints or handcuffs as their application may cause further pain or injury.

4.58 When applied as a risk reduction measure, wrist restraints or handcuffs should only be applied to a child who is in a standing position. Whilst wearing wrist restraints or handcuffs the child should never be left alone and should be kept upright and supported by 2 members of staff throughout.

4.59 Where BWVC is issued to staff members they must record the events leading up to the use of wrist restraints or handcuffs and must not switch off the recording until the incident is fully resolved.

Wrist restraints and handcuffs: Healthcare and Medical implications

4.60 When considering the use wrist restraints or handcuffs staff must consider the child's previous experience of trauma and pre-existing injuries or disabilities. There may be children who lack flexibility, have pre-existing injuries or whom have a lack of mobility in the shoulders or other medical considerations for staff to consider. Wrist restraints or handcuffs should not be used if there is a risk that their use may retraumatise the child, exacerbate an existing condition or potentially cause unintentional pain.

4.61 There may be occasions when injury may occur to the child if the wrist restraints or handcuffs are applied incorrectly, or they are over tightened and all staff must be aware that it is possible to apply pressure to the wrist area that may unintentionally induce pain to the child, even when minimal restraint is being applied.

4.62 Staff must monitor the child throughout for the presence of the following injuries:

- **Soft Tissue Injuries:** Include erythema (reddening of the skin); abrasions; bruising – usually to the outside and inside of the wrist; small, lined cuts (radius and ulna borders); and/or swelling to the hand.

- **Handcuff Neuropathy:** Direct pressure can cause injury such as bruising to the nerves in the wrists. People who are intoxicated or under the influence of a controlled substance or have a high pain threshold are most at risk of this type of injury.

- **Fractures:** Rare but if the wrist area is severely bruised, tender and there is loss of movement, this may indicate a fracture, and staff must seek guidance from healthcare immediately.

4.63 If a medical emergency occurs while wrist restraints or handcuffs are applied to a child, they must be removed immediately.

Planned use of restraint or restrictive physical intervention

4.65 Planned use of restraint must be approved and overseen by a designated member of staff. A clear plan for the intervention should be in place to ensure that the child's needs and particular risks are monitored and mitigated including, advice from healthcare and consideration about the use of protective equipment. Other members of staff who will be involved should appropriately trained with up-to-date qualification and be briefed to ensure they understand their role in the response. Staff from the healthcare team or first aid trained staff must be present to ensure that the health and wellbeing of the child or children is monitored.

4.66 Staff should endeavour to resolve the situation without recourse to the use of restraint or physical intervention, however if it is determined that this is a reasonable, necessary and proportionate response staff must ensure that the reasons why this action was taken and what factors were considered are clearly established.

Use of restraint or physical intervention involving a child who is pregnant

4.67 In any incident involving someone who is pregnant every effort should be made to deescalate and ensure that restraint or physical intervention is only used where it is absolutely reasonable, necessary and proportionate, and if it is being used to prevent harm to the child themselves, the harm to their unborn child should also be considered.

4.68 In all planned or unplanned instances where the use of restraint or physical intervention involving someone who is pregnant, members of staff must ensure that detailed planning or dynamic assessment is undertaken and the very specific risks to the mother and their unborn child are considered. Healthcare staff must be present from the start of the response unless the incident is spontaneous or unplanned.

Role of Healthcare during all instances where restraint or physical intervention is used

4.69 The safety, health and wellbeing of staff or children involved in any incident where restraint or physical intervention is used is a key priority. Training for staff in secure settings about their response to incidents where restraint or physical intervention is used must include:

- Recognition of distress or deterioration of a child's physical condition and the warning signs and symptoms associated with medical distress[44], including:

    - *airway obstruction*
    - *respiratory issues or breathing difficulties*
    - *circulatory or cardiovascular problems*
    - *articular or bony injury, including fracture or dislocation*
    - *nerve injury*
    - *damage to ligaments or tendons*
    - *soft tissue swelling*
    - *muscle damage*
    - *bruising*

- Understanding of the physiology of breathing.
- Airway management and how to undertake resuscitation.
- Understanding of physiological or psychological conditions which might increase the risk of an adverse outcome.

4.70 All secure settings must have arrangements in place to ensure that medical assistance is available at all times. At secure settings where healthcare staff are on site 24 hours a day a member of the healthcare team must attend whenever there an incident where restraint or physical intervention is being used. Healthcare staff have the authority to tell staff to stop a physical intervention for medical reasons if they assess that the risk has become so high that there is a threat to the life or serious injury to the child who is involved. When they arrive at the incident, they must monitor the safety and wellbeing of the child and members of staff, to provide clinical advice to the supervisor if they identify any distress or deterioration of a child's physical condition or the warning signs and symptoms associated with medical distress.

4.71 In the event of a medical emergency because medical warning signs or symptoms have been identified while the use of restraint or physical intervention is underway, staff should check and adjust their holds, monitor the child's condition and consult the healthcare practitioner or first aider who is present. If the warning signs or symptoms persist it may be necessary to undertake restraint recovery positions or releasing holds.

4.72 If there is any evidence of injury, or if the child complains of discomfort or pain, after the end of an incident where restraint or physical intervention was used, a medical examination must be arranged immediately and must take place as soon as possible after the end of the incident. All injuries should be recorded, described and monitored as the full extent of certain injuries may take time to present in full.

4.73 Enhanced checks should be initiated if there is any indication that the child received a head injury during the incident as signs of concussion may take time to present.

4.74 Initial assessment and treatment in response to any signs of injury which needs immediate treatment should be followed by a second assessment when the child has calmed and may be in a better frame of mind to consent to full assessment including consideration or their wellbeing and of the need for support after the physical intervention.

4.75 Whenever there has been an incident involving a child where restraint or physical intervention has been used an appropriately qualified healthcare professional (or designated first aider for

[44] Widely referred to as "Serious Injuries and Warning Signs" or SIWS.

sites which do not have 24-hour healthcare) must be informed and they must attempt to undertake an assessment of the child as soon as possible after the conclusion of the incident. If they are unable to complete that assessment because the child is, for example, unwilling to engage, appropriate monitoring of the child should be put in place so that assessment can be undertaken at the earliest possible opportunity.

4.76 Where the child's physical or mental health requires immediate attention whilst they are away from the secure setting and being escorted by staff from the PECS contractor or the setting itself, medical advice should be sought from the nearest location, including hospitals or surgeries in the community, or by dialling 999 if emergency care is required.

Post-incident: recording and debriefing

4.77 Governors, Directors and Registered Managers should ensure that detailed and accurate records of the use of restraint and physical intervention are maintained so that use can be monitored to ensure it is used fairly and proportionately and so that lessons are learned and (if necessary) this can inform changes to practice or additional training for staff.

4.78 A report is required after every incident where restraint or physical intervention is used, and it is essential that details of the incident are accurately recorded should a review be required at a later date.

4.79 Within 24 hours of any instance where restraint or physical intervention was used a report of the incident must be opened by the member of staff who led the response. In exceptional circumstances such as injury to the staff member an alternative member of staff who was present at the incident may be nominated to coordinate the report.

4.80 Within a further 48 hours (or within 72 hours after the end of the incident) the report must be completed and submitted for review. Staff should complete any outstanding reports prior to commencing any period away from the secure setting such as annual leave, detached duty or training.

4.81 The report must provide detail of the facts of the incident and set out how they determined that restraint or physical intervention was reasonable, necessary and proportionate. When writing their report members of staff should consider whether the following information should be included:

- *The name of the child or children who were involved.*
- *The time and date and location of the incident.*
- *When they became aware of the incident.*
- *(If the incident was a planned response) details of information which was given to staff at the pre-incident briefing.*
- *Their initial understanding of what was happening.*
- *How the child was behaving, and whether that behaviour was unusual or out of character.*
- *What the child was saying and doing, and details of any gestures or non-verbal communication.*
- *What they knew about the child, including any information about their specific needs, triggers for changes in their behaviour and the agreed response set out in the child's management and risk planning.*
- *Details of communication with the child, and any adjustments to reflect the child's speech and language needs.*
- *How any risks associated with different responses were considered and mitigated.*

- *Details of other members of staff, children and others such as visitors to the setting who were present.*
- *Their role (and the roles taken by others) in the response.*
- *The efforts to de-escalate and resolve the incident without recourse to the use of restraint or physical intervention, and how the child responded.*
- *Details of any restraint or physical intervention or restraint techniques that were used.*
- *(If wrist restraints or handcuffs when used) when and why wrist restraints or handcuffs were placed on the child and when and why they were removed.*
- *The effectiveness of the intervention and whether there were any consequences, including: whether the child reported any pain or other symptoms which might require medical attention; whether members of staff suffered any injury or other symptoms; and whether any injuries or other symptoms were assessed or treated by healthcare staff.*
- *Whether BWVC was (or was not) activated.*

4.82 The report must be a freely recalled statement of the incident and staff should be aware that it will form a key part of evidence if the incident is subject to review or investigation. To ensure that the statement is a true and fair description of what happened the member of staff may need to be facilitated access to view CCTV or BWVC footage, however they should be aware that failing to retain video footage or accurately record details of the incident in their report which are subsequently challenged and found to be untrue may result in allegations of misconduct or unprofessionalism and may result in performance management or disciplinary proceedings.

4.83 Within five days of the end of the incident the report should be reviewed by a designated member of staff at the setting to confirm that it is an accurate record of what happened. Before confirming that it is an accurate record of the incident the reviewer should speak to members of staff and the child who were involved and may need to view CCTV or BWVC footage from before, during and after the point at which restraint or physical intervention was used.

4.84 Immediately after all incidents where restraint or physical intervention has been used, safeguarding checks should be undertaken at regular intervals to monitor the physical and emotional wellbeing of the child or children and care for any immediate needs or concerns once the child is in a safe location such as their room. In undertaking these checks staff should take account of the child's individual approach to calming down and give them the space that they may need whilst still ensuring that they are monitoring their wellbeing.

4.85 Managers should ensure that members of their teams who have been involved in an incident where restraint or physical intervention has been used are given a period of time to allow the effects of adrenaline to reduce before they resume their normal duties for the shift; that their immediate health or wellbeing needs are addressed; and access to support from the local care team or other staff support network is provided. HMPPS has published guidance[45] on post incident care for staff which sets out what constitutes a workplace traumatic event and provides information on the formal Occupational Health and Employee Assistance services which are available to staff as well as peer support programmes which are in place.

4.86 Children who were involved in the incident should be positively encouraged to submit their own statement about what happened before, during and after the point at which restraint or physical intervention was used. This child's statement should be completed within five days so that the member of staff designated to review the incident can consider the views of the child or children alongside the statement submitted by the member of staff.

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[45] Post-Incident Care Policy Framework - HMPPS Intranet (gsi.gov.uk)

4.87 The purpose of hearing the child's voice at this stage is to learn about what happened and to inform whether staff in the secure setting have the right plans in place for responding to changes in their behaviour and for managing their risk during incidents where restraint or physical intervention may need to be used, or whether they need to adapt their approach. For example, it might help staff learn about triggers which led to an escalation in the child's response, or staff might be able to explain factors which had led them to conclude that there had been no other option but to use restraint or a physical intervention.

4.88 Children should also be offered support from someone who is neutral and was not involved in the incident, but if that is not possible the role must be assigned to someone who has the trust of the child and is able to provide support if they have speech, language and communication needs. This support may be in place in the short-term to help the child's immediate recovery or may form part of a longer-term intervention, and staff must be aware that it is an important part of building a procedurally fair culture by providing an opportunity for both staff and children to express their thoughts and views. It may be a pre-cursor to a formal restorative process but should also facilitate learning about how staff and children respond to different situations.

4.89 A full incident review process should be triggered in all cases where a Serious Injury Warning Sign (SIWS) is recorded, where staff use the techniques reserved for Exceptional Safety Measures, where management of the incident was complex, such as where two or more children were involved, or where a child raises a complaint in their feedback.

4.90 The review should be led by someone who is neutral, trained to undertake this role, and was not involved in the incident. Depending on the circumstances the person leading the process may determine that debriefing discussions should take place in an appropriate location and on a 1:1 basis or as a group session. The child should be encouraged to seek support from an advocate or other responsible adult.

4.91 The outcome of the review process and any recommendations should be shared with the child's immediate care team at the setting and any other staff with whom they have regular contact such as those who are assigned to their residential unit or have a relationship with the child through working with them in education or other interventions. It should be reflected in the child's formulation and updates should be made to the plans for the child's care in the future.

4.92 Findings from the review should also be shared with individuals and organisations internal and external to the secure setting who have a statutory interest in the child's care and wellbeing. This may include, but is not limited to, staff at the local provider of child advocacy services, the child's YOT Team, local safeguarding partners, the child's parent, Guardian or designated carer and (if they have Looked After status) the relevant local authority, and where they are requested and relevant to their statutory roles, inspectorate and investigatory bodies such as HM Inspectorate of Prisons, Ofsted and the Prison and Probation Ombudsman.

4.93 In line with the rehabilitative purpose of secure settings, the commitment to procedural justice, restorative practice, fairness and equality, and consistent with our duty of care to safeguarding vulnerable children, the voice of children must not be heard simply after an incident has occurred, but on a continuous and ongoing basis through meetings with their key workers or personal officers. Consideration should be given as to whether efforts should be made to restore the relationship between the child and staff that restrained them as this may be an important step to ensure one event does not escalate into a pattern of further incidents.

4.94 Secure settings must establish arrangements where children are able to express themselves and have their views heard on a variety of subjects, including how to identify and help solve

aspects of institutional interaction and things related to the environment that may contribute to higher rates of use of restraint.

4.95 It is vital for secure settings to prioritise learning and to institutionalise best practice across their staff group. Governors, Directors, Managers of secure settings must establish arrangements for oversight and scrutiny of use of restraint and physical intervention and to support staff development by identifying good, ineffective or improper practice. It is essential that staff and practitioners drawn from range of backgrounds and experience both internal and external to the setting are involved in oversight and scrutiny including those who can provide insight into the emotional, mental and physical health and wellbeing of children and those with an explicit remit to consider the interests of children and how they build relationships.

Complaints

4.96 It is expected that staff will conduct their duties lawfully and professionally, making legitimate and informed decisions to inform their actions.

4.97 Review of actions by management and of decision-making before incidences where use of restraint or physical intervention was used is part of good governance arrangements and generates learning and practice development. This should be the primary focus of any scrutiny or review, with a view to allow staff to reflect on the situation and identify what they may do differently in the future.

4.98 All managers and staff must understand and be confident in making sound decisions about the need to use restraint or physical intervention. It is incumbent on all staff to understand their personal responsibilities and use restraint or physical intervention only where it is lawful.

4.99 Effective systems must be in place to ensure any potential improper use of restraint or physical intervention is identified, including visible, accessible and actively encouraged system(s) for those in secure settings and staff to safely raise concerns or complaints.

4.100 On occasion, whether through routine review or a complaint, there is evidence that harm was caused to a child during the incident or that the behaviour of staff or their use of restraint was inappropriate the threshold for referral to the Local Authority Children's Services and/or the LADO for further scrutiny to the circumstances of the incident may have been met. Procedures set out in *Working Together to Safeguard Children 2018*[19].

4.101 If an investigation of the incident is commissioned, the civil test of reasonableness may be used to establish on the balance of probabilities whether practice was within expected boundaries. This is a different test to the test of beyond reasonable doubt that would be applied to criminal trials.

4.102 There are three elements to the test:

- The member of staff had an honestly and objectively reasonably held belief that using restraint or physical intervention was necessary in the circumstances.
- That the restraint or physical restraint techniques used were reasonable in the circumstances.
- Whether the restraint or restraint techniques that were used were proportionate to the intended outcome.

4.103 When investigating improper use of restraint, a member of staff's actions will be judged against these measures, and investigators must report whether the perception of the situation was

objectively reasonable. They should question whether the member of staff, with the training and guidance available to them could be considered to have acted reasonably. It should be noted that this is not the same as asking what a member of staff would have done knowing any facts that were discovered after the event.

5. REQUIREMENTS

1. **To establish a clear commitment to reduce the use of restraint and physical intervention, each secure setting must have a strategy which should be built around six core elements of good practice: organisational leadership in cultural change; data informed practice; training and workforce development; expertise and information from all perspectives; specific reduction interventions (including sensory and environmental triggers and reasonable adjustments for specific needs); and rigorous and reflective debriefing[46].**

2. **Each secure setting should have arrangements in place for the Governor, Director or Registered Manager to monitor use of restraint and physical intervention against the objectives in the local restraint minimisation strategy and share data with the Youth Custody Service. These arrangements provide a key opportunity for national and local analysis to be undertaken to oversight of safeguarding arrangements including identifying and taking action to address trends, hearing the findings from incident reviews and ensuring that appropriate action is taken, and change is implemented where instances of disproportionate use of restraint or physical intervention is found.**

3. **The Governor, Director or Manager of each secure setting must appoint a senior manager to the role of overseeing use of restraint and physical intervention.**

4. **Each secure setting and PECS provider must establish local policy which sets out the standards of behaviour which are expected of staff and children and how different behaviours, including challenging and/or high-risk behaviour, will be responded to.**

5. **Each secure setting and PECS provider must have a package of training for physical intervention and restraint in place which has been specifically designed for use with children who may still be developing physically and emotionally, is medically assessed to ensure that it is safe for children and includes training on understanding diversity considerations and how to apply them during interactions with children.**

6. **Training for staff at secure settings and PECS providers in the use of physical intervention and restraint should include instruction in the identification of emotional and physical distress and how to respond, including emergency first aid and CPR.**

7. **Governors, Directors and Registered Managers of secure settings are responsible for ensuring that each member of directly employed staff has completed the full training package in the use of physical intervention and restraint before they are fully accredited to take up operational child-facing duties.**

8. **Each member of staff at secure settings and PECS providers should complete refresher training in their local package of training for physical intervention and restraint every 6 months, or more frequently as required by the training provider.**

9. **Staff at secure settings and PECS providers who return from an extended period of sick leave, maternity leave or a career break who have not completed at least one refresher training course in the previous 6 months must undertake the full training package as soon as possible on their return, and at the very least within 3 months of resuming duties.**

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[46] https://restraintreductionnetwork.org/latest-news/keynote-preview-six-core-strategies/

10. **Members of staff at secure settings and PECS providers who have not received up-to-date or refresher training on physical restraint techniques may assist in spontaneous incidents where there is an immediate threat of serious harm if no other staff members are available, but they should be removed from the incident when trained members of staff are present.**

11. **Untrained and/or uncertified staff must not be involved in any planned interventions where restraint or physical intervention is expected.**

12. **Governors, Directors and Registered Managers of secure settings must ensure that staff who will be regularly working on site and will have regular contact with, and supervision of children (including, but not limited to, teachers, administration staff, social workers, YOT staff and Advocates) have received instruction in personal safety techniques and are informed about the local approach to behavioural support, restraint and physical intervention before they take up duties at the setting.**

13. **Planning for the way in which staff should respond to the child's behaviour or manage the way in which instances of physical intervention or restraint are managed must be undertaken at the point of their arrival at the secure setting, created in partnership with the child and subject to regular review during the time that the child is in the setting, including after instances of physical intervention or restraint.**

14. **For each child in the secure setting there must be consideration of the most effective response from staff at times when their behaviour might be heightened. This should enable staff to identify warning signs that the child is becoming more vulnerable and in need of additional to help manage their behaviour; triggers which may cause a rapid escalation to challenging or high-risk behaviours; and ways in which children have learned to calm the situation themselves or interventions which have worked in the past. This information must be shared with PECS providers when the child is assigned to their care.**

15. **For each child in the secure setting there must be consideration of factors which might impact on the way in which any instance of physical intervention or restraint should be managed, and this must be shared with PECS providers when the child is assigned to their care. This should include consideration of all known disabilities and the child's health (including, but not limited to, asthma or heart conditions); their gender; their age or build; psychological or emotional issues; past experience of trauma or abuse; neurodiverse conditions or sensitivity to particular stimuli; and speech and language issues.**

16. **Assessment of the way in which staff should respond to the child's behaviour or manage the way in which instances of physical intervention or restraint are managed must be based on input from the full range staff and professionals that will have contact with them including, but not limited to, the child's key worker, psychologist, social worker, and teachers.**

17. **The child's views should be sought and heard when any assessment of how staff will respond to changes in their behaviour is being undertaken.**

18. **Unless staff are responding to a situation where an immediate response is necessary to prevent serious harm, restraint or physical intervention or restraint should not be initiated until all reasonable and safe alternatives have been tried and exhausted.**

19. **Staff issued with BWVC must ensure that it is activated to record their response to challenging or unacceptable behaviour and de-escalate situations as well as when directly involved in or attending any incident where restraint or physical intervention is used.**

20. **Footage from BWVC and CCTV systems must be stored and retained in line with relevant protocols to ensure that it is available for the purposes of review and (if necessary) investigation.**

21. **During any physical intervention or restraint, a member of staff should be designated to take the lead and assume responsibility for managing the intervention, monitoring the welfare of the child and members of staff and decide whether it should continue, or end.**

22. **Staff should continuously monitor the child's condition to ensure that they identify medical warning signs or symptoms of distress or injury while restraint or physical intervention is underway and, if necessary, check and adjust their holds, monitor the child's condition and consult the healthcare practitioner or first aider present. If the warning signs or symptoms persist or the risk to the child being restrained has become high or life threatening it may be necessary to release all holds or undertake restraint recovery positions.**

23. **Wrist restraints and handcuffs should only be used where the incident manager has assessed that they are a reasonable, necessary and proportionate response following a robust risk assessment by the incident manager.**

24. **After wrist restraints or handcuffs have been applied, the child must never be left unsupervised until checks on their physical and emotional wellbeing have been completed.**

25. **Training for staff in the use of restraint and physical intervention must include instruction about the identification of warning signs and symptoms of medical distress or injury, and the action that should be taken in response.**

26. **Each secure setting must have an agreed procedure to record medical warning signs and symptoms of medical distress or injuries which arise during incidents where restraint or physical restraint is used, investigate the circumstances and for the Governor, Director or Registered Manager to report findings to the Youth Custody Service.**

27. **If a serious warning sign or injury is recorded during an instance where restraint or a physical intervention is being used, or a child is injured as during a physical intervention, safeguarding procedures should be initiated.**

28. **Staff are not permitted to use restraint techniques which deliberately cause pain, however there may be instances where they are responding to an incident where the life of a child or someone is at threat or there is risk that they will suffer a significant or life changing injury and the common law principle of using an intervention which is reasonable, necessary and proportionate with the intended outcome will apply. All such instances will be subject to detailed and thorough review and staff members who were involved will be expected to be fully accountable for the action taken.**

29. NHS England and NHS Wales must ensure that healthcare staff in secure settings are familiar with the Standards for the provision of healthcare in secure settings and that they have a clear understanding of their role and responsibilities in identifying medical risks associated with the use or restraint and physical restraint for the children and staff members who are involved.

30. Following an incident at where restraint or physical intervention was used at a secure setting or whilst the child was in the care of the PECS provider, a healthcare professional or First Aider must undertake an assessment of the impact of the intervention on their health or wellbeing and (if necessary) direct that it is monitored. If the child refuses medical support, the reason why it was refused must be recorded and further offers must be made to the child at suitable intervals.

31. A record of all incidents where restraint or physical intervention is used must be completed within 72 hours of the end of the incident and a designated member of staff must undertake a review within five days. As a minimum the following information should be recorded: the time that the incident started and ended; the location; the name of the child, or children who were involved; events which led up to the start of the restraint or physical intervention, including details of efforts taken by staff to de-escalate the situation and avoid use of restraint; details of members of staff who were present, including identification of who took the leadership role; details of the healthcare staff who were present; description of the restraint techniques which were used; details of narrative between staff and the child or children who were involved.

32. The secure setting must arrange for details of any incident involving a child where restraint or physical intervention were used, and any subsequent action, to be reported to the child's parents, carers, family members or wider support network and made available to their YOT worker and the local Advocate within 24 hours of the end of the incident.

33. At secure settings operated by a contracted provider, instances where restraint or physical intervention are used must be reported to the YCS Monitor, Controller and Contract Manager within 24 hours of the end of the incident.

34. If the child wishes to make a statement to record their experience of the restraint or physical intervention, their views must be recorded within five days of the end of the incident.

35. Full reviews of incidents where restraint or physical intervention were used must be undertaken by someone who was not involved in the incident and is trusted by both the child and members of staff. This must involve a review of what happened before the restraint or physical intervention was used ("the antecedents"), footage from CCTV and BWVC systems and the views of the child and members of staff who were involved in the incident. When they are invited to provide their views, the child should be encouraged to request that they are accompanied or represented by an advocate or other responsible adult at any time that they provide information about the incident.

36. Children who are involved in an incident where restraint or physical intervention was used must be offered access the local Advocate or another independent adult who is trusted by the child and is trained to offer support. The timing of the offer should acknowledge that the period immediately after an incident may not be the right moment to start analysing and reflecting on what happened, but it should not happen later than five days after the incident.

37. Following an instance of restraint or physical intervention, there must be procedures in place for reflective practice to be made available to members of staff where they can access a structured 1:1 discussion with an appropriately trained person to analyse the incident and reflect on their response to guide future practice.

38. Where there is a history of a child being involved in repeated events where restraint or physical intervention is used, consideration should be given about whether additional support or expert advice may be needed to support staff in responding differently to the specific needs or vulnerabilities of children with the aim of reducing and minimising events of this nature.

39. Each secure setting must have arrangements in place for children to express their views about the use of restraint and physical intervention at the site.

40. The Governor, Director and Registered Manager of each secure setting and Mangers of the PECS providers are responsible for oversight and scrutiny of use of restraint and physical intervention within their settings and in providing support to staff by identifying good, or ineffective or improper practice.

41. All allegations of improper use of restraint or physical intervention, whether they emanate from scrutiny of use of restraint reports, complaints from those in secure settings/others or anomalies in data must be reviewed, and individuals may be held personally accountable for how the incidents were managed.

ANNEX A

GLOSSARY AND KEY TERMS

Adverse Childhood Experiences	Children can be exposed to a wide range of stressful events including harms that affect them directly - such as neglect, and physical, verbal and sexual abuse - and harms that affect the environment in which they live - including exposure to domestic violence, parental separation or divorce, or living in a home with someone affected by mental illness, substance abuse, or who has been incarcerated.
Advocacy	The purpose of the advocacy service is to provide independent children's rights and advocacy services to children and young people, so they are empowered in resolving their issues relating to welfare, care and treatment within or outside the secure setting. The service is confidential, independent and underpinned by broad legal frameworks and professional advocacy standards. The role of advocates is to engage and build relationships with the child, represent their wishes and feelings, and develop children's ability to self-advocate.
Care	The provision of what is necessary for the health, welfare, maintenance, and protection of someone or something, whoever that may be provided by, including healthcare, social care and parental care.
Challenging behaviour	"Behaviour can be described as challenging when it is of such an intensity, frequency or duration as to threaten the quality of life and/or the physical safety of the individual or others and is likely to lead to responses that are restrictive, aversive or result in exclusion."[47]
Co-production	A partnership approach between a practitioner and child that allows each to learn from the other, draws on the strength and knowledge of both and allows all to experience a more balanced power dynamic within the relationship. This can enhance the child's ownership of services, create a vested interest and respond to their needs.
Co-Regulation support	- - During and after times of high emotion and stress adolescents need to be listened to (and heard), given space and support to calm down and coached in how to make responsible decisions and choices independently in the future. - In a secure setting co-regulation support from staff would involve: - setting clear rules, boundaries and consequences to incentivise good choices;

[47] From Royal College of Psychiatrists, British Psychological Society and Royal College of Speech and Language Therapists (2007) *Challenging behaviour: a unified approach Clinical and service guidelines for supporting people with learning disabilities who are at risk of receiving abusive or restrictive practices,* College Report CR144 - https://www.rcpsych.ac.uk/docs/default-source/improving-care/better-mh-policy/college-reports/college-report-cr144.pdf?sfvrsn=73e437e8_2 as quoted in Welsh Government (2021) *Reducing Restrictive Practices Framework*

- providing warm, responsive relationships;
- providing support and empathy in times of high emotion;
- allowing time and space to calm down at times of conflict;
- modelling, monitoring and coaching skills for responding to different scenarios;
- monitoring and limiting opportunities for risk-taking behaviour; and
- encouraging use of planning skills to complete tasks.

Complex needs: characteristics of high risk, high harm and high vulnerability

Children who present with high risk and high harm behaviours are highly vulnerable to harm from others and may present with several of the following characteristics:

- experience of abuse, neglect and/or other adverse childhood experiences;
- out of mainstream education, or at risk of exclusion;
- be a looked after child, with complexities - e.g. late entry to the "looked after" system such as during secondary education - and will often have had multiple placements;
- learning disabilities, autism (or both);
- Special Educational Needs and Disabilities (SEND) and/or specific learning disabilities;
- speech, language and communication needs;
- neurodevelopmental needs - e.g. traumatic brain injury, ASD, as well as those which may not have been recognised or assessed;
- (often unidentified) physical health problems;
- substance misuse;
- offending behaviour or victims of criminal behaviour;
- experience of criminal exploitation or at risk of being exploited - e.g., gang affiliated, subject to radicalisation to extremism or at risk of radicalisation;
- sexually exploited;
- sexually harmful behaviour; and
- regularly going missing.

CYPSE

Children and Young People Secure Estate (CYPSE) comprises Secure Children's Homes (SCH), Secure Training Centres (STC) and under-18 Young Offender Institutions (YOI).

Formulation

A formulation (or 'my story') is a collaboratively developed and shared understanding of a child's needs which draws together all the relevant information about a child and their experiences into a shared and coherent 'story' (or hypothesis), to explain what may be happening and (drawing on psychological theory) attempts to make sense and explain their current presentation. Interventions are driven by the shared understanding developed by the formulation.

Formulations should:

- summarise the child's core difficulties;
- suggest how their difficulties may relate to one another, by drawing on psychological theories and principles;
- aim to explain, using psychological theory, the development and maintenance of the child's difficulties at this time and in these situations;
- indicate a plan of intervention which is based in the psychological processes and principles already identified; and
- are open to revision and re-formulation.

Intervention

All contacts with children should be seen as an opportunity to effect change through building strong, safe and secure relationships - 'Every Interaction Matters' - and any contact, assessment, or professional involvement with a child or their support system (e.g. through a parent / carer relationship), should be viewed as an intervention.

Interventions may be:

- delivered in a group or in a one-to-one basis;
- formal and structured - e.g. psychological therapy, medication, education or psycho-educational intervention - or less formal and unstructured - e.g. play, engaging in social spaces (building relationships) and engaging in meaningful occupation/activities;
- undertaken with the individual child, or targeted at their wider support system - e.g. with parents / carers, intervention with professionals / staff / support system; and
- simply 'being' with – as opposed to 'doing' an intervention - can also be an intervention in itself - e.g. caring relationships between children and parents or carers.

"Looked After"

In England, the Children's Act 1989 establishes that a child is looked after by a local authority if she or he is in their care or is provided with accommodation for more than 24 hours by the authority. In Wales, Child(ren) Looked After refers to children who are in the care of the local authority, or provided with accommodation, for a continuous period if more than 24 hours under Section 74 of the Social Services and Well-being (Wales) Act 2014.

Procedural Justice

Evidence shows that when people perceive the process of decision making by people in authority to be fair, they view those in authority as more legitimate and trustworthy and are more likely to cooperate with the law and rules, and the authority's decisions.

Where people in custody perceive processes to be applied fairly, it is associated with lower levels of misconduct, less violence, better psychological health and lower rates of reoffending after release.

There are four principles of procedural justice, the critical ingredients that make people feel processes are fair which can be embedded into local incentive policies:

- **Voice:** Giving people a chance to present their side of the story and sincerely consider and account for this in decision making.
- **Neutrality:** Being transparent and open about how the rules are applied, explaining decisions and showing decision making to be principled and unbiased.
  Respect: Treating people with respect, taking their issues seriously, being polite, and respecting their rights.
- **Trustworthy:** Being sincere and caring, honest about motives, listening and taking issues seriously, and trying to do what is best for everyone.

Secure setting

A secure centre providing accommodation and care for children under the age of 18 for reasons of welfare or justice including, Young Offender Institutions, Secure Training Centres and Secure Children's Homes.

SECURE STAIRS

The Framework for Integrated Care (SECURE STAIRS) aims to support trauma-informed care and formulation-driven, evidence-based, whole-systems approaches to creating change for children within the children and young people secure estate.

The implementation of this Framework includes staff across the whole secure setting in their intervention. This is achieved through the provision of an environment where the day-to-day care of children is underpinned by a focus on their relationship with staff and an understanding of trauma/ attachment principles.

All interventions should be driven by a 'formulation' approach, which takes the child's life experience into account, rather than concentrating on labels, categories or diagnoses, or settings, and one which draws from evidence-based interventions.

Staff

All persons across all agencies (including well-supported parents and carers) who are directly in contact with children whilst they are located in the secure setting.

Trauma

Commonly recognised sources of trauma include physical and sexual violence, childhood abuse and neglect, bereavement and loss, natural disasters and community violence, such as bullying, war, gang culture, rape. Less well-understood forms of trauma include racism, urbanicity, poverty, inequality, oppression and historical trauma such as the legacy of entire groups experiencing violence such as slavery, the Holocaust or genocide. It can be experienced after a single event or compounded over time by a series of events.

Responses to trauma should include understanding of the past and current contexts and conditions of people's lives.

Trauma must be understood in the context of the individual's experience of the event as reactions to the same event can differ from person to person, and the same event may or may not be experienced as traumatic by different people. The experience and meaning of trauma are connected to individual and cultural beliefs, social supports, gender, age and a multitude of other factors.

Services can re-traumatise trauma survivors, particularly where they are based on 'power-over' relationships or there is a lack of trust. Re-traumatisation in support systems can prevent good outcomes from being achieved.

The adverse effects of trauma can occur immediately or have a delayed onset and may be short-term or lifelong. An individual may not necessarily connect trauma experiences with their effects.

Trauma can affect a person's physical, mental and emotional health, neurological development and development of interpersonal skills. Trauma survivors may struggle to trust others as well as coping with day-to-day life. Cognitive processes can be disrupted, including memory, attention and thinking. Other affects include terror, hypervigilance, constant arousal, psychosis, numbing and dissociation which can cause exhaustion and wear people down.

ANNEX B

RULES AND REGULATIONS IN DIFFERENT SETTINGS

Young Offender Institution Rules (2000)

Rule 44 (Maintenance of order and discipline)

44.—(1) Order and discipline shall be maintained, but with no more restriction than is required in the interests of security and well-ordered community life.

(2) Notwithstanding paragraph (1), regimes may be established at young offender institutions under which stricter order and discipline are maintained and which emphasise strict standards of dress, appearance and conduct; provided that no inmate shall be required to participate in such a regime unless he has been first assessed as being suitable for it and no inmate shall be required to continue with such a regime if at any time it appears that he is no longer suitable for it.

(3) For the purposes of paragraph (2), whether an inmate is suitable for a stricter regime is to be assessed by reference to whether he is sufficiently fit in mind and body to undertake it and whether, in the opinion of the Secretary of State, experience of the regime will further his rehabilitation.

(4) In the control of inmates, officers shall seek to influence them through their own example and leadership, and to enlist their willing co-operation.

Rule 50 (Use of force)

50.—(1) An officer in dealing with an inmate shall not use force unnecessarily and, when the application of force to an inmate is necessary, no more force than is necessary shall be used.

(2) No officer shall act deliberately in a manner calculated to provoke an inmate.

Secure Training Centre Rules (1998)

Rule 31 (Maintenance of order and discipline)

31.—(1) Order and discipline shall be maintained in a centre, but with no more restriction than is required in the interests of security and well-ordered community life.

(2) In the control of trainees, officers shall seek to influence them through their own example and leadership, and to enlist their willing co-operation.

Rule 37 (Use of force)

37.—(1) An officer in dealing with a trainee shall not use force unnecessarily and, when the application of force to a trainee is necessary, no more force than is necessary shall be used.

(2) No officer shall act deliberately in a manner calculated to provoke a trainee.

Rule 38 (Physical restraint)

38.—(1) No trainee shall be physically restrained save where necessary for the purpose of preventing him from—

(a) escaping from custody;

(b) injuring himself or others;

(c) damaging property; or

(d) inciting another trainee to do anything specified in paragraph (b) or (c) above,
and then only where no alternative method of preventing the event specified in any of paragraphs (a) to (d) above is available.

(2) No trainee shall be physically restrained under this rule except in accordance with methods approved by the Secretary of State and by an officer who has undergone a course of training which is so approved.

(3) Particulars of every occasion on which a trainee is physically restrained under this rule shall be recorded within 12 hours of its occurrence.

The Children's Homes (England) Regulations (2015)

The protection of children standard

12.—(1) The protection of children standard is that children are protected from harm and enabled to keep themselves safe.

(2) In particular, the standard in paragraph (1) requires the registered person to ensure—

(a) that staff—

(i) assess whether each child is at risk of harm, taking into account information in the child's relevant plans, and, if necessary, make arrangements to reduce the risk of any harm to the child;
(ii) help each child to understand how to keep safe;
(iii) have the skills to identify and act upon signs that a child is at risk of harm;
(iv) manage relationships between children to prevent them from harming each other;
(v) understand the roles and responsibilities in relation to protecting children that are assigned to them by the registered person;
(vi) take effective action whenever there is a serious concern about a child's welfare; and
(vii) are familiar with, and act in accordance with, the home's child protection policies;

(b) that the home's day-to-day care is arranged and delivered so as to keep each child safe and to protect each child effectively from harm;

(c) that the premises used for the purposes of the home are located so that children are effectively safeguarded;

(d) that the premises used for the purposes of the home are designed, furnished and maintained so as to protect each child from avoidable hazards to the child's health; and

(e) that the effectiveness of the home's child protection policies is monitored regularly.

Behaviour management and discipline

19.—(1) No measure of control or discipline which is excessive, unreasonable or contrary to paragraph (2) may be used in relation to any child.

(2) The following measures may not be used to discipline any child—

(a) any form of corporal punishment;

(b) any punishment involving the consumption or deprivation of food or drink;

(c) any restriction, other than one imposed by a court or in accordance with regulation 22 (contact and access to communications), on—

(i) a child's contact with parents, relatives or friends;
(ii) visits to the child by the child's parents, relatives or friends;
(iii) a child's communications with any persons listed in regulation 22(1) (contact and access to communications); or
(iv) a child's access to any internet-based or telephone helpline providing counselling for children;

(d) the use or withholding of medication, or medical or dental treatment;

(e) the intentional deprivation of sleep;

(f) imposing a financial penalty, other than a requirement for the payment of a reasonable sum (which may be by instalments) by way of reparation;

(g) any intimate physical examination;

(h) withholding any aids or equipment needed by a disabled child;

(i) any measure involving a child imposing any measure against another child; or

(j) any measure involving punishing a group of children for the behaviour of an individual child.

(3) Nothing in this regulation prohibits—

(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 the child; or

(b) taking any action that is necessary to prevent injury to any person or serious damage to property.

Restraint and deprivation of liberty

20.—(1) Restraint in relation to a child is only permitted for the purpose of preventing—

(a) injury to any person (including the child);

(b) serious damage to the property of any person (including the child); or

(c) a child who is accommodated in a secure children's home from absconding from the home.

(2) Restraint in relation to a child must be necessary and proportionate.

(3) These Regulations do not prevent a child from being deprived of liberty where that deprivation is authorised in accordance with a court order.

Behaviour management policies and records

35.—(1) The registered person must prepare and implement a policy ("the behaviour management policy") which sets out—

(a) how appropriate behaviour is to be promoted in the children's home; and

(b) the measures of control, discipline and restraint which may be used in relation to children in the home.

(2) The registered person must keep the behaviour management policy under review and, where appropriate, revise it.

(3) The registered person must ensure that—

(a) within 24 hours of the use of a measure of control, discipline or restraint in relation to a child in the home, a record is made which includes—

(i) the name of the child;
(ii) details of the child's behaviour leading to the use of the measure;
(iii) the date, time and location of the use of the measure;
(iv) a description of the measure and its duration;
(v) details of any methods used or steps taken to avoid the need to use the measure;
(vi) the name of the person who used the measure ("the user"), and of any other person present when the measure was used;
(vii) the effectiveness and any consequences of the use of the measure; and
(viii) a description of any injury to the child or any other person, and any medical treatment administered, as a result of the measure;

(b) within 48 hours of the use of the measure, the registered person, or a person who is authorised by the registered person to do so ("the authorised person")—

(i) has spoken to the user about the measure; and
(ii) has signed the record to confirm it is accurate; and

(c) within 5 days of the use of the measure, the registered person or the authorised person adds to the record confirmation that they have spoken to the child about the measure.

(4) Paragraph (3) does not apply in relation to restraint that is planned or provided for as a matter of routine in the child's EHC plan or statement of special educational needs.

Guide to the Children's Homes Regulations including the quality standard (2015)

Control, discipline, and restraint and behaviour management

9.33 Regulation 35 requires each home to prepare and implement a behaviour management policy. This policy should describe the home's approach to promoting positive behaviour and the measures of control, discipline, and restraint which may be used in the home. These measures should be set in the context of building positive relationships with children.

9.34 The behaviour management strategy should be understood and applied at all times by staff, and must be kept under review and revised where appropriate.

9.35 The policy should address general principles for behaviour management in children's homes which include: treating each child with understanding, dignity, kindness and respect; building, protecting and preserving positive relationships between each child and the adults caring for them; understanding each child's behaviour to allow their needs, aspirations, experiences and strengths to be recognised and their quality of life to be enhanced; involving children and relevant others wherever practical in behaviour management; supporting each child to balance safety from injury (harm) with making appropriate choices; making sure the child's rights are upheld.

9.36 The registered person should ensure that all incidents of control, discipline and restraint are subject to systems of regular scrutiny to ensure that their use is fair and the above principles as set out in 9.35 are respected.

9.37 The behaviour management policy should set out how staff are trained and supported to meet the child's needs. Regulations 13(2)(d) and (e) require children's homes to employ a sufficient number of suitably qualified, skilled and experienced persons in the home.

9.38 Regulation 19(2) details sanctions that are prohibited in behaviour management. Any sanctions used to address poor behaviour should be restorative in nature, to help children recognise the impact of their behaviour on themselves, other children, the staff caring for them and the wider community. In some cases it will be important for children 47 to make reparation in some form to anyone hurt by their behaviour and the staff in the home should be skilled to support the child to understand this and carry it out.

9.39 Equally, staff should understand the system for rewarding and celebrating positive behaviour and recognising where children have managed situations well.

9.40 The registered person should agree with their local police force, procedures and guidance on police involvement with the home to reduce unnecessary police involvement in managing behaviour and criminalisation of behaviours. Children should not be charged with offences resulting from behaviour within a children's home that would not similarly lead to police involvement if it occurred in a family home.

Restraint

9.41 Restraint is defined in regulation 2(1). Restraint includes physical restraint techniques that involve using force.

9.42 Restraint also includes restricting a child's liberty of movement. This includes, for example, changes to the physical environment of the home (such as using high door handles) and removal of physical aids (such as turning off a child's electric wheelchair). Restrictions such as these, and all other restrictions of liberty of movement, should be recorded as restraint[48]. Some children, perhaps due to

[48] see paragraph 9.61 for information about exemptions to recording restraint

impairment or disability, may not offer any resistance, but such measures should still constitute a restraint.

Restraint: special cases

9.43 In some cases, such as in residential special schools that are also registered children's homes or children's homes caring for children with complex care needs, restraint may be necessary as a consequence of a child's impairment or disability. A child's EHC plan or statement of special educational needs may contain detail about planned and agreed approaches to restraint or restraint techniques to be applied in the day-to-day routine of the child. This could include, for example the use of a device, such as outlined in paragraph 9.46.

9.44 Homes that care for children where, as a result of their impairment or disability, restraint is a necessary component of their care should include information relating to this in the behaviour management policy and Statement of Purpose.

9.45 In some extreme cases where children have very complex care needs, a child may need to be restrained by mechanical or chemical means. Any use of such restraint should follow a rigorous assessment process and, as with any restraint, be necessary and proportionate. Wherever such restraint is planned, it should be identified within a broad ranging, robust behaviour support plan which aims to bring about the circumstances where continued use of such restraint will no longer be required.

9.46 For example, mechanical restraint may be needed to limit self-injurious behaviour of extremely high frequency and intensity, such as for the small numbers of children who have severe cognitive impairments, where measures such as arm splints or cushioned helmets may be required to safeguard children from the hazardous consequences of their behaviour. Such devices should be put in place by persons with relevant qualifications, skills and experience (regulation 32(3)(b)).

9.47 Likewise, chemical restraint (being medication not prescribed for the treatment of a formally identified physical or mental illness, but instead being prescribed for use "as needed" or "PRN - pro re nata") should only ever be delivered in accordance with acknowledged, evidence-based best practice. Homes should employ staff who have the relevant qualifications, skills and experience (regulation 32(3)(b)) to administer this type of restraint in line with NICE guidelines on the use of medication in social care and CQC and Ofsted joint guidance on registration of healthcare at children's homes.

Use of Restraint

9.48 Regulation 20 sets out the only purposes for which restraint can be used: • preventing injury to any person (including the child who is being restrained); • preventing serious damage to the property of any person (including the child who is being restrained); or • preventing a child who is accommodated in a secure children's home from absconding from the home.

9.49 Injury could include physical injury or harm or psychological injury or harm.

9.50 When restraint involves the use of force, the force used must not be more than is necessary and should be applied in a way that is proportionate i.e. the minimum amount of force necessary to avert injury or serious damage to property for the shortest possible time.

9.51 Restraint that deliberately inflicts pain cannot be proportionate and should never be used on children in children's homes.

9.52 There may be circumstances where a child can be prevented from leaving a home – for example a child who is putting themselves at risk of injury by leaving the home to carry out gang related activities, use drugs or to meet someone who is sexually exploiting them or intends to do so. Any such measure of restraint must be proportionate and in place for no longer than is necessary to manage the immediate risk.

9.53 In a restraint situation, staff should use their professional judgement, supported by their knowledge of each child's risk assessment, an understanding of the needs of the child (as set out in their relevant plans) and an understanding of the risks the child faces. Professional judgements may need to be taken quickly, and staff training and supervision of practice should support this.

9.54 Approaches to restraint should recognise that children are continuing to develop, both physically and emotionally. Any use of restraint should be suitable for the needs of the individual child. The context in which restraint is used should also recognise that, as a result of past experiences, children will have a unique understanding of their circumstances which will affect their response to restraint by adults responsible for their care.

Practice issues

9.55 Any use of restraint carries risks. These include causing physical injury, psychological trauma or emotional disturbance. When considering whether restraint is warranted, staff in children's homes need to take into account:

- the age and understanding of the child;
- the size of the child;
- the relevance of any disability, health problem or medication to the behaviour in question and the action that might be taken as a result;
- the relative risks of not intervening;
- the child's previously sought views on strategies that they considered might deescalate or calm a situation, if appropriate;
- the method of restraint which would be appropriate in the specific circumstances; and
- the impact of the restraint on the carer's future relationship with the child.

9.56 Staff need to demonstrate that they fully understand the risks associated with any restraint technique used in the home. Techniques used for restraint that may interfere with breathing and holds by the neck that may result in injury to the spine are not permissible in any circumstances.

9.57 The registered person is responsible for ensuring that all their staff have been adequately trained in the principles of restraint and any restraint techniques appropriate to the needs of the children the home is set up to care for as defined in the home's Statement of Purpose.

9.58 Those commissioning training in restraint for children's homes staff should be satisfied that the training fits with their approach to restraint or existing restraint system, and is appropriate to the needs of the children the home is set up to care for. They should see evidence that any restraint techniques the training advocates for have been medically assessed to demonstrate their safety for use in a context of caring for children who are still developing, physically and emotionally. The registered person should routinely review the effectiveness of any restraint system commissioned. In particular, they should check the medical assessment of the system remains up to date.

Records

9.59 Records of restraint must be kept and should enable the registered person and staff to review the use of control, discipline and restraint to identify effective practice and respond promptly where any

issues or trends of concern emerge. The review should provide the opportunity for amending practice to ensure it meets the needs of each child.

9.60 Any child who has been restrained should be given the opportunity express their feelings about their experience of the restraint as soon as is practicable, ideally within 24 hours of the restraint incident, taking the age of the child and the circumstances of the restraint into account. In some cases children may need longer to work through their feelings, so a record that the child has talked about their feelings should be made no longer than 5 days after the incident of restraint (regulation 35(3)(c)). Children should be encouraged to add their views and comments to the record of restraint. Children should be offered the opportunity to access an advocacy support to help them with this (regulation 7(2)(b)(iii)).

9.61 Where a child has an EHC plan or statement of special educational needs in which a specific type of restraint is provided for use as part of the child's day to day routine, the home is exempted from the recording requirement in regulation 35(4). Where these plans provide for a specific type of restraint that is not for day-to-day use, on the occasions when such restraint is used it must still be recorded in accordance with regulation 35(3). Any other restraint used must always be recorded as a restraint. In any case where restraint is used, it must comply with the requirements of regulation 20. As the EHC plan is designed to be a long term plan, any specified restraints should be kept under review to ensure relevancy.

Secure Children's Homes in Wales

The Children's Homes (Wales) Regulations (2002)

Behaviour management, discipline and restraint

17.—(1) Without prejudice to paragraph (5), no measure of control, restraint or discipline which is excessive, or unreasonable shall be used at any time on children accommodated in a children's home.

(2) The registered person shall prepare and follow a written policy (in this regulation referred to as "the behaviour management policy") which shall set out—

(a) the measures of control, restraint and discipline which may be used in the children's home; and

(b) the means whereby appropriate behaviour is to be promoted in the home.

(3) The registered person shall—

(a) keep under review and where appropriate revise the behaviour management policy; and

(b) notify the appropriate office of the National Assembly of any such revision within 28 days.

(4) The registered person shall ensure that within 24 hours of the use of any measure of control, restraint or discipline in a children's home a written record is made in a volume kept for the purpose which shall include—

(a) the name of the child concerned;

(b) details of the child's behaviour leading to the use of the measure;

(c) a description of the measure used;

(d) the date, time and location of the use of the measure (including in the case of any form of restraint, the duration of the restraint);

(e) the name of the person using the measure, and of any other person present;

(f) the effectiveness and any consequences of the use of the measure; and

(g) the signature of a person authorised by the registered provider to make the record.

(5) Subject to paragraph (6) of this regulation, the following measures shall not be used against children accommodated in a children's home—

(a) any form of corporal punishment;

(b) any punishment relating to the consumption or deprivation of food or drink;

(c) any restriction, other than one imposed in accordance with regulation 15, on—

(i) a child's contact with his or her parents, relatives or friends;
(ii) visits to the child by his or her parents, relatives or friends;
(iii) a child's communications with any of the persons listed in regulation 15(2); or
(iv) his or her access to any telephone helpline providing counselling or advice for children;

(d) any requirement that a child wear distinctive or inappropriate clothes;

(e) the use or withholding of medication or medical or dental treatment as a disciplinary measure;

(f) the intentional deprivation of sleep;

(g) the imposition of any financial penalty, other than a requirement for the payment of a reasonable sum (which may be by instalments) by way of reparation;

(h) any intimate physical examination of a child;

(i) the withholding of any aids or equipment needed by a disabled child;

(j) any measure which involves—

(i) a child in the imposition of any measure against any other child; or
(ii) the punishment of a group of children for the behaviour of an individual child.

(6) Nothing in this regulation shall prohibit—

(a) the taking of any action by, or in accordance with the instructions of, a registered medical or dental practitioner which is necessary to protect the health of a child;

(b) the imposition of a requirement that a child wear distinctive clothing for sporting purposes, or for purposes connected with his education or with any organisation whose members customarily wear uniform in connection with its activities.

(7) It is declared (for the avoidance of doubt) that any rule of law relating to duress or necessity may be relied upon, as well as paragraph (6), if it is alleged that this regulation has not been complied with.

The Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations (2017)

The appropriate use of control and restraint

29.—(1) Care and support must not be provided in a way which includes acts intended to control or restrain an individual unless those acts—

(a) are necessary to prevent a risk of harm posed to the individual or another individual, and

(b) are a proportionate response to such a risk.

(2) Control or restraint must not be used unless it is carried out by staff who are trained in the method of control or restraint used.

(3) The service provider must have a policy on the use of control or restraint and ensure that any control or restraint used is carried out in accordance with this policy.

(4) A record of any incident in which control or restraint is used must be made within 24 hours.

(5) For the purposes of this regulation, a person controls or restrains an individual if that person—

(a) uses, or threatens to use, force to secure the doing of an act which the individual resists, or

(b) restricts the individual's liberty of movement, whether or not the individual resists, including by the use of physical, mechanical or chemical means.

ANNEX C

UOF TRIAGE FORM FOR YOI & STC

This form should be completed for all incidents where MMPR or Personal Safety Techniques have been used

Incident Details

UOF ID		**Date of incident**	
Start Time		**Childs Name**	
Finish Time		**Childs ID**	
UOF Time		**Location**	

A. Footage available for incident:	
CCTV	Yes/No/ Not at time of review
BWVC	Yes/No/Not at time of review
Handheld Video Camera (planned intervention)	Yes/No/Not at time of review
No footage	Yes/No
If applicable, explain why there is no footage or issues with the footage below and any immediate actions:	
Paperwork available. **(N.B. if no footage is available a FULL complement of paperwork MUST be viewed including de-brief from the child involved)**	
Part 1's	Yes/No/ Not at time of review
Part 2's	Yes/No/ Not at time of review
F213	Yes/No/ Not at time of review
Childs De-Brief	Yes/No/ Not at time of review

Does the Incident meet any of the criteria below?	
SIWS	Yes/No
Pain Inducing Technique used	Yes/No
Prolonged Restraints (5 minutes or longer)	Yes/No
Staff Injury (attended outside hospital)	Yes/No
Planned Intervention	Yes/No
Consistent Misapplication of approved Techniques	Yes/No

Complaint made by Child about UOF (debrief/other)	Yes/No
Safeguarding Referral	Yes/No
National Resources attended (NTRG/NDTSG) and UOF required by local/national staff to resolve incident	Yes/No
If any of the above criteria is met, then the incident **MUST** have a full QA completed by the local Coordinators	Date Completed:

Incident triaged and no concerns recorded	Yes/No
Triage form completed and filed with UOF documentation and any footage for incident	Yes/No

Any Other Comments:

MMPR coordinator:	Signature:

ANNEX D

Defensible Decision-Making Log: Guidance

Background
A Judicial review was brought by Article 39 against the Secretary of State for Justice regarding the use of force on children.

Use of force in the PECS environment is low however, assurance has been provided that force would not be used to bring about compliance in children. PECS have highlighted the unique nature of the escorting environment and that it is impossible to predict every circumstance that force could occur. However, where force is used there are significant checks and balances in place to ensure that there is no unnecessary use of force on young people. The implementation of a defensible decision log will provide the appropriate safeguarding measures to ensure that force is not used to bring about compliance when a child is refusing to do so but does not present an immediate risk to themselves or others.

Guidance
PECS suppliers should not as a matter of course use force on a child to respond to passive refusal to comply or refusal which does not immediately endanger others. Examples may include: a young person being extremely disruptive, but not violent, in a court cell and refusing to leave the room or listen to repeated attempts to persuade them; or stopping for the use of a toilet and then refusing to return to the escorting vehicle. Use of force must not and should not be used in these circumstances unless the risk of doing nothing is greater than using force and all other reasonable options have been considered.

As with all incidents, negotiation and engagement with the child **must** be the primary means of resolution, and that this process may take time as rapport must be built with a child for the best chance of success. Staff should engage at the earliest opportunity, have oversight and management of the incident **must** be put in place, overseen by an appropriate manager. Restraint on its own should not be used as a response to protesting behaviour, non-compliance or to maintain or create order. Before considering the use of any form of physical restraint on a child displaying passive resistance during an escort, Suppliers should ensure that every other option has been explored, tried and tested numerous times such as;

1. De-escalation and distraction
2. Change of staff- if they have responded positively to a particular member of staff or simply for a new approach
3. Positive encouragement.
4. Exploring and understanding the drivers for the behaviour, which may include asking the child and helping them to understand their motives. Note that these are not always obvious.

The above options should be repeatedly demonstrated which may result in incidents being protracted.

Use of force may only be considered only where there is a demonstrable risk of escalating harm to the young person, or others due to circumstantial or environmental change. PECS suppliers are required by the Authority to complete a defensible decisions log (see attached Annex A) in order to justify any action taken where force has been used on a child during such circumstances. The Authority expect these instances to be extremely rare. Initial incident management and dialogue should occur between the contractor's local management and the escort contractors Children and Young People's service's safeguarding team. Where there is a change in risk or the environment and the escort contractor are considering using force this should be escalated to PECS. The defensible decision log should be activated when the LCC/OCC are notified. The defensible decisions log should clearly identify the progression of the incident outlining the decisions made, action taken and the reasons or rationale for that decision

PECS should be notified at the start of the incident, appraised of the situation and will notify the YCS Placements Out of Hours Duty Team who will escalate to the Duty Deputy Director of all protracted incidents

Key Actions to be taken:

- The LC or OCC are notified of the incident
- The LC or OCC to escalate to their Senior Duty Manager and or the safeguarding manager
- PECS are notified of the incident
- Contractors commence the defensible decision log (Annex A)
- PECS are notified of any change to the risks and the environment throughout the incident
- If there is a consideration for the use of force PECS should be consulted
  - PECS SCDM will notify Senior PECS managers and review the defensible decision log.
  - PECS will notify and consult the duty YCS Placements Out of Hours Duty Team on the incident. The on-call manager will escalate to the Duty Deputy Director.
- YCS placements will ensure the receiving establishment arranges a debrief with the child as soon as possible.
- Within 72 hours PECS will arrange a review/debrief meeting including the YCS, PECS, receiving establishment and the escort contractor only if force was authorised. The review is specific to the management of the incident and decision to use force. PECS conduct separate use of force reviews as part of their contract management process.
- All parties hold responsibility for maintaining their key decision records. Ultimately, all decisions must be captured on the defensible decisions log.
- The PECS SCDM will arrange and chair the review meeting between key stakeholders using Annex B

Defensible Decision log
(Use continuation sheet as required)

The use of force on children and young people should not be used to bring about compliance when there is no other immediate risk of harm or security. All actions should be reasonable, necessary and proportionate to the care and welfare of the child or young person. Before considering the use of any form of physical restraint on a child during an escort all alternative strategies should have repeatedly been tried and been unsuccessful which may result in the potential for prolonged incidents. Every alternative option should have been explored, tested and evidenced in the defensible decision log.

PECS in all instances should be notified.

To be completed by the Logistics Centre/OCC throughout the management of the incident and a copy forwarded to PECS upon completion.

Date:

Location:

Summary of situation:

Name of CYP:		**Age:**	
Time:	**Event/Decision/Action Taken**	**Reason /Rationale**	**Authorised by**

Staff Involved:

Name	PCO/DBO

Signed: **Name:** **Date:**

PECS Incident review

The purpose of the review is to ensure that where there had been authorisation for force to be used it is a reasonable, necessary and proportionate response and the care and welfare of the child. Provide a multi-agency agency quality assurance on the decision making and management of the incident. Not with standing sharing good practice and any learning.

The chair of the review will be responsible for ensuring the actions are complete.

- The review is specific to the management of the incident and decision to use force. PECS conduct separate use of force reviews as part of their contract management process.

Custodial Contracts Directorate					
PECS Incident Review Date: XXXXX Time: XXXXX					
Chair:					
Attendees:					
Incident Summary:					
Name:		Gender:		Age:	
Overview:					

Review of documentation: (including D-PER, Incident report, DDL, child debrief notes)
Review of the outcome/decision: (including impact on the CYP)

Learning Outcomes: Considerations for any future incidents
Good Practice:

Actions:	

ANNEX E

DECISION-MAKING: CONSIDERATIONS FOR INCIDENT MANAGERS

	DECISIONS: RECORD DATE, TIME AND DECISION MAKER
1. Identifying the situation and gathering information *How is the child's behaviour presenting itself?* *Why is the child acting in this way? Might it be associated with communication problems, sensory overload in the environment, a response to past experience of trauma?* *What do the child's plans for managing behaviour or risk advise about their specific triggers; adjustments help avoid triggering; and what helps calm them in an escalating situation?* *Have the child's communication needs been responded to?* *Is the child's neurodiverse needs have an impact on their behaviour?* *Has something like this happened before? How was it resolved?* *How might the child's behaviour escalate?* *Is this a crisis situation for the child?* *Are there other children involved? Are they at risk?*	
2. Assessing threats & risks *Is there an immediate risk to the child or others? e.g. escape or reaction from other children* *Is there an immediate need for action to protect the child or others from harm?*	

Do I need more information and (if I do) where can I get it from? *Are there any risks to the child or others if I continue to negotiate?*	
3. Policies & Procedure *Which policies, operating procedures and guidance have I considered?* *Am I acting in the child's best interests?* *Has healthcare monitored the wellbeing of the child?* *Has a healthcare professional or trained first aider assessed the child as soon as possible after restraint and have any injuries sustained been fully documented?* *Do I believe that use of restraint or physical intervention would be reasonable, necessary and proportionate?* *How would I approach a similar incident in my own home?*	
4. Options & Considerations *What would happen if I do nothing?* *Is there a quiet place where the child could move to?* *Is Intervene immediately?* *What can I do to make negotiation/persuasion more likely to be effective?* *Have the necessary adjustments been made to compensate for the child's communication needs or to address triggers which may be contributing to the incident?* *Is there anyone else who might be able to help calm the child?*	

Have you reassured the child that they are there to help? *Have you asked the child what might make things better?* *What does management and risk planning suggest has help the child before?* *Are there any gender, cultural or disability related factors that might be driving the child's behaviour?* *Has the child made any threats which they could carry out?* *Are there any limits to the information you have access to?* *Is the child, or others, at immediate risk of harm?*	
5. Decision & Rationale *If you intervene with restraint or physical restraint how will you ensure that it is a **reasonable** response to the risk from the child's behaviour?* *Is it **necessary** for you to intervene with restraint or physical restraint to prevent immediate risk of harm to the child, or others?* *Will an intervention where you use restraint or physical restraint be **proportionate** to the risk from the child's behaviour?* *How will I justify my actions if the incident is subject to review or investigation?*	