

CARE AND CONTROL

An information and guidance document for schools

Stockport Local Authority

March 2021

Contents

- 1. Statement of Intent
- 2. Context
- 3. Statutory Framework
- 4. Whole School Behaviour Policies
- 5. Duty of Care
- 6. Appropriate Physical Contact
- 7. Circumstances justifying physical intervention
- 8. Unreasonable levels of physical restraint
- 9. Recording incidents
- 10. Involvement of parents and carers
- 11. Risk assessment
- 12. Team Teach
- 13. Complaints

Appendix 1a Physical Intervention Reporting Form

Appendix 1b Physical Intervention Reporting Form with prompts

Appendix 2 My Plan / Risk Assessment

Appendix 3 Additional considerations to mitigate virus cross

contamination.

Care and Control

1. Statement of Intent

This guidance is applicable to the whole of Stockport's Services to People Directorate and its users regardless of race, gender, ability, culture, creed or status.

This document is intended to provide guidance to staff members in educational settings when considering the use of restrictive physical intervention (RPI).

2. Context

It is acknowledged that teams of staff in our schools, particularly some special schools, deal on a day to day basis with children who may exhibit behaviours that challenge. This document seeks to assist staff members in maintaining an environment that is conducive to meeting pupils' needs.

The right of every person to be protected from harm is recognised and for that reason, this document seeks to ensure that any use of RPI is reasonable, proportionate, necessary and in the best interests of the pupil.

The LA also recognises there are occasions when staff members touch children and young people in ways that are entirely appropriate. There is also a need to minimise the risk to staff of false accusations of improper conduct towards a pupil and to ensure that staff members feel confident about appropriate action in very difficult circumstances.

Services to People recognises the constraints upon staff in this context and has issued this guidance to help them to deal with these issues upon which individual policies can be based.

3. Statutory Framework

The Education Act 1997 (Section 4) adds Section 550A to the Education Act 1996 and establishes the power of members of staff to restrain pupils and in certain specific instances to use reasonable force. This provision does not, however, authorise any actions which constitute corporal punishment within the meaning of Section 548 of the Education Act 1996. The School Standard and Framework Act 1998 outlaws corporal punishment for all pupils in Maintained and Independent schools and for children receiving nursery education. Further guidance can be found in the **Behaviour & Discipline Guidance January 2016.**

Clarification about the powers of teachers and other staff and their lawful control of children using reasonable force is given in the non-statutory guidance document "Use of reasonable force, 2013". As good practice Schools should consult this latest guidance in conjunction with this document, making explicit links to their own policies.

Schools should acknowledge the difference between emergency intervention and that which can be anticipated for some children with complex difficulties, that should be planned for with risk assessments and an individual handling plan if necessary. Additional Guidance for specialist settings is included in "Guidance on the Use of Restrictive Physical Interventions for Staff Working with Children and Adults who Display Extreme

Behaviour in Association with Learning Disability and/or Autistic Spectrum Disorder" JULY 2002 (LA/0242/2002);

For the purposes of this guidance, schools are regarded as care settings where care settings are referred in statutory or guidance documents.

4. Policies

Every school is required to have a behaviour policy and to make this policy known to staff, parents/carers and pupils. The governing board should notify the Headteacher that it expects the school behaviour policy to include the power to use reasonable force.

There is no requirement to have a policy on the use of force but it is good practice to set out, in the behaviour policy, the circumstances in which force might be used. For example, it could say that teachers will physically separate pupils found fighting or that if a pupil refuses to leave a room when instructed to do so, they will be physically removed (see section 7 of this guidance).

Any policy on the use of reasonable force should acknowledge their legal duty to make reasonable adjustments for disabled children and children with special educational needs (SEND).

Schools do not require parental consent to use force on a student.

Schools should not have a 'no contact' policy. There is a real risk that such a policy might place a member of staff in breach of their duty of care towards a pupil, or prevent them taking action needed to prevent a pupil causing harm.

By taking steps to ensure that staff, pupils and parents are clear about when force might be used, the school will reduce the likelihood of complaints being made when force has been used properly.

BSS can offer support and guidance with the adaption of Behaviour Policies.

Any policy relating to the use of RPI should identify:

- Where physical intervention sits as part of the school's general behaviour management policy.
- The range of approaches which should be used prior to force being used in crisis situations.
- The circumstances/conditions when intervention may be necessary and the consequences if intervention did not occur when the situation was this serious.
- Alternatives available before restraint including strategies for preventing and "de-escalating" behaviours that precipitate the use of physical interventions.
- The type of intervention that may be used for: (In schools where staff members have been given specific training, policies will refer to specific techniques.)
 - (i) Restraint rigorous resistance
 - (ii) Controls moderate resistance
 - (iii) Guides minimal resistance

- Recording and reporting arrangements including ways parents/carers will be informed and involved.
- The approach to risk assessment and risk management employed.
- Support available after restraint.
- Ongoing training and monitoring of staff.
- Distinctions between seclusion, time out, withdrawal.
- Distinctions between planned and emergency physical interventions.
- Evaluating and reviewing procedures.
- Complaints and allegations how these will be handled by the school.

Whilst Headteachers have ultimate responsibility for pupils, all staff have a duty of care and must take reasonable and appropriate steps to ensure the safety and well-being of all pupils.

Any action taken must be in the best interests of the pupil. Failure to take such action could be regarded as negligence on the part of the individual staff member.

5. Duty of Care

The LA and its schools share a "duty of care" to its staff and pupils within schools. The general obligation "It shall be the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare of all employees" - the Health and Safety at Work etc. Act 1974, specifies the employer's duty to keep its employees informed and safe.

The Children Act 1989 Annex A Section 8 (para 3b) with its guiding principle of:

"the welfare" of the child being paramount, also supports the taking of;

"... any necessary action to prevent injury or serious damage to property..."

Section 3(5) states:

"A person who does not have parental responsibility for a particular child, but 'has care of' the child may (subject to the provision of this Act) do what is reasonable in all circumstances of the case for the purpose of safeguarding or promoting the child's welfare".

All school staff must seek to protect the child from harm to the same extent that a parent/carer would. The duty of care is owed to the **individual child**. There is a need for staff to take into account all of the circumstances surrounding a child which will be influencing presenting behaviour.

Statutory Power

All members of school staff including teachers and any other staff members the Headteacher has authorised have the statutory power to use force. Headteachers can also decide whether to authorise for a limited time volunteers at the school although this should be in exceptional circumstances only. Such individuals should be given clear instruction on when the power can be used and on the school's policy and practice.

The Headteacher or delegated senior member of staff is advised to do the following:

As part of a staff induction process, set out the school policy on the use of force; and

Ensure that all authorised staff know that they have the power to use force.

Headteachers are expected to take all reasonable steps to ensure staff members have access to training and guidance in relation to the school's policies and procedures.

Team Teach training is available to all settings.

6. Appropriate Physical Contact

It is not illegal to touch a pupil. There are occasions when physical contact - other than reasonable force - with a pupil is appropriate and necessary.

Examples of where touching a pupil might be appropriate or necessary are:

- Holding the hand of the child at the front/back of the line when going to assembly or when walking together around the school.
- When comforting a distressed pupil.
- When a pupil is being congratulated or praised.
- To demonstrate how to use a musical instrument.
- To demonstrate exercises or techniques during PE lessons or sports coaching.
- · To give first aid.

7. Circumstances Justifying Physical Intervention

This can range from guiding/supporting a pupil to safety by the arm through to more extreme circumstances such as breaking up a fight or where a student needs to be restrained to prevent violence or injury.

Schools generally use force to **control** pupils and/or to **restrain** them. Control means either passive physical contact, such as standing between pupils, or active physical contact such as leading a pupil by the arm out of a classroom.

Circumstances include:

- a) At imminent risk of causing personal injury to self.
- b) At imminent risk of injuring someone else.
- c) Causing significant damage to property.
- d) Prejudicing the maintenance of good order and discipline at the school or among pupils receiving education at the school, whether during a teaching session or otherwise.
- e) Committing any offence (or for a pupil under the age of criminal responsibility, what would be an offence for an older pupil).

The provision applies when a teacher, or other authorised person, is on the school premises, and when he or she has lawful control or charge of the pupil concerned elsewhere, e.g. on an educational visit or other authorised out of school activity.

Use of force as a punishment is always unlawful.

The use of force can be regarded as reasonable if:

- It is used for the minimum length of time;
- It is used as a last resort;
- The degree of force must be the minimum necessary in order to keep the child safe and in proportion to the incident;
- In order to present a legal defence, when considering the use of restrictive physical intervention, any member of staff MUST be able to evidence that their actions were REASONABLE, PROPORTIONATE AND NECESSARY and IN THE BEST INTERESTS OF THE CHILD.

8. Unreasonable levels of physical restraint

Only a court can judge, and does so retrospectively, if a reasonable level of physical force was used to restrain a child/young person. The following actions are likely to be deemed unreasonable:

- Holding a pupil around the neck, or by the collar, or in any way that might restrict the pupil's ability to breathe;
- · Slapping, punching or kicking a pupil;
- Twisting or forcing limbs against a joint;
- Tripping a pupil;
- Holding or pulling a pupil by the hair or ear;
- Holding a pupil on the ground except in specialist settings in which appropriate training has been offered to authorised staff;

This list is not exhaustive, nor does it cover all possible circumstances which could arise. The application of restraint will vary according to the particular circumstances of each case. The omission of a particular kind of conduct from this list does not mean that it would be deemed reasonable. For instance, much will depend on a child/young person's age, size, race, culture, disability or demeanour.

9. Recording incidents

As per DFEE circular 10/98 and the DFES letter to the Chief Education Officer, 2001, governing boards must ensure that a procedure for recording incidents is in place and is followed by staff. A record should be made as soon as practicable after the incident when all parties involved are emotionally ready to do so.

Any person involved in an incident should contribute to the recording process.

Best practice demonstrates that this should be a factual description of the escalating behaviours and actions taken by staff members at each stage. There should be no emotive or judgemental language.

Schools should keep an up to date record of such incidents, with a reference in a bound incident book, which cross references to a more detailed, numbered recording sheet, as appropriate. (See pro forma in Appendix 1a). A copy of incident forms relating to restraints should

be sent to Business Support Services at Stopford House or electronically to bstraining@stockport.gov.uk

Staff may find it helpful to seek advice form a senior colleague or a representative of their professional association when compiling a report. RIDDOR '95 (Reporting of injuries, diseases and dangerous occurrences regulations) and Stockport 'Assaults on Staff' policy and procedure may also apply.

Further advice can be found in the appendices attached to this document (Appendix 1b).

Completed forms should be sent to the Business Support Services, the address for which is included on the reporting form. Schools should retain a copy for their records.

It is good practice for Headteachers to keep their Governing Board informed about physical interventions in their termly report. Headteachers should be reporting to their Governing Board of such interventions at least annually.

It is assumed that planned responses are put into place if a risk is recognised and this plan can be detailed on Appendix 2 (My Plan/Risk Assessment). This plan should be revisited after any incident to assess its usefulness and to amend if necessary, following the post incident learning detailed on the recording form (Appendix 1a). Any plan for physical intervention should be shared with parents of the child in question.

10. Involvement of Parent and Carers

Schools do not require parental consent to use force on a student and parents should not be given copies of the incident reports as a matter of routine. However, it is good practice for schools to speak to parents about serious incidents involving the use of force. It is up to schools to decide whether it is appropriate to report the use of force to parents.

In deciding what a serious incident is, teachers should use their professional judgement and consider the:

- Pupil's behaviour and level of risk presented at the time of the incident.
- Degree of force used.
- Effect on the pupil or member of staff.
- The child's age.

11. Risk Assessment

The DCSF issued guidance on assessing and managing risks for children who present challenging behaviours in the document; "Guidance on the Use of Restrictive Physical Interventions for Pupils with Severe Behavioural Difficulties." LA/0264/2003.

This guidance stresses the need for schools to consider using risk assessment tools to manage risks for the minority of pupils whose behaviour may challenge and result in adverse outcomes for themselves or others.

For the minority of pupils where extra support is needed a My Plan should be completed (see Appendix 2) as referred to previously. This document serves as a risk assessment for a pupil.

Risk assessment and management is the process that helps staff and others to consider risk issues, to act reasonably, and to learn from what happens in everyday practice. In the main, risk assessment and management involves:

- Using what is known, in the light of experience, to make rational judgements about risk issues.
- Weighing up options and taking reasonable risks.
- Taking action to implement a range of approaches to support and safeguard children and others.

Behaviours that challenge are often foreseeable, even though it may be difficult to predict exactly when they will occur or the degree of challenge they will pose. As a general rule schools should:

- Explore and plan for unmet needs that contribute to behaviours that challenge.
- Recognise the early warning signs that indicate that the pupil's behaviour is beginning to emerge and develop skills to manage difficult situations competently and sensitively.

Key steps in risk assessment and management are:

- Assessing the context for risk trying to predict the situations in which the pupil may display the dangerous behaviour.
- Assessing the probability how likely is it to occur and how likely it is that injury would result to pupil or others.
- Assessing the seriousness trying to gauge the kind of injury that may result.

12. Team Teach

Team Teach is the recognised method of positive handling in Stockport. Without Team Teach training Stockport Schools are still required to act in accordance with this guidance document, completing the necessary paperwork when applicable (appendices 1a and 2). Team Teach training can be discussed with the Behaviour Support Service or Oakgrove School and can be booked online at https://forms.office.com/Pages/ResponsePage.aspx?id=nvZeoElhuk-kdd8ziBd2Rdd6SU6MYFVLl9Vuy6-1udJUMFBOM0pSVDNSRVROUIJWVzdUWIJKOFJWTS4u

13. Complaints

If a complaint is received regarding the use of physical intervention, a school should seek advice immediately from the LADO at the safeguarding unit.

All complaints about the use of force should be thoroughly, speedily and appropriately investigated.

Where a member of staff has acted within the law – that is, they have used reasonable force in order to prevent injury, damage to property or disorder – this will provide a defence to any criminal prosecution or other civil or public law action.

When a complaint is made the onus is on the person making the complaint to prove that his/her allegations are true – it is not for the member of staff to show that he/she has acted reasonably. Suspension must not be an automatic response when a member of staff has been accused of using excessive force. Schools should refer to the 'Dealing with Allegations of Abuse against Teachers and Other Staff' guidance where an allegation of using excessive force is made against a teacher. This guidance makes clear that a person must not be suspended automatically, or without careful thought.

Schools must consider carefully whether the circumstances of the case warrant a person being suspended until the allegation is resolved or whether alternative arrangements are more appropriate. If a decision is taken to suspend a teacher, the school should ensure that the teacher has access to a named contact who can provide support.

Governing boards should always consider whether a teacher has acted within the law when reaching a decision on whether or not to take disciplinary action against the teacher. As employers, schools and local authorities have a duty of care towards their employees, it is important that schools provide appropriate pastoral care to any member of staff who is subject to a formal allegation following a use of force.

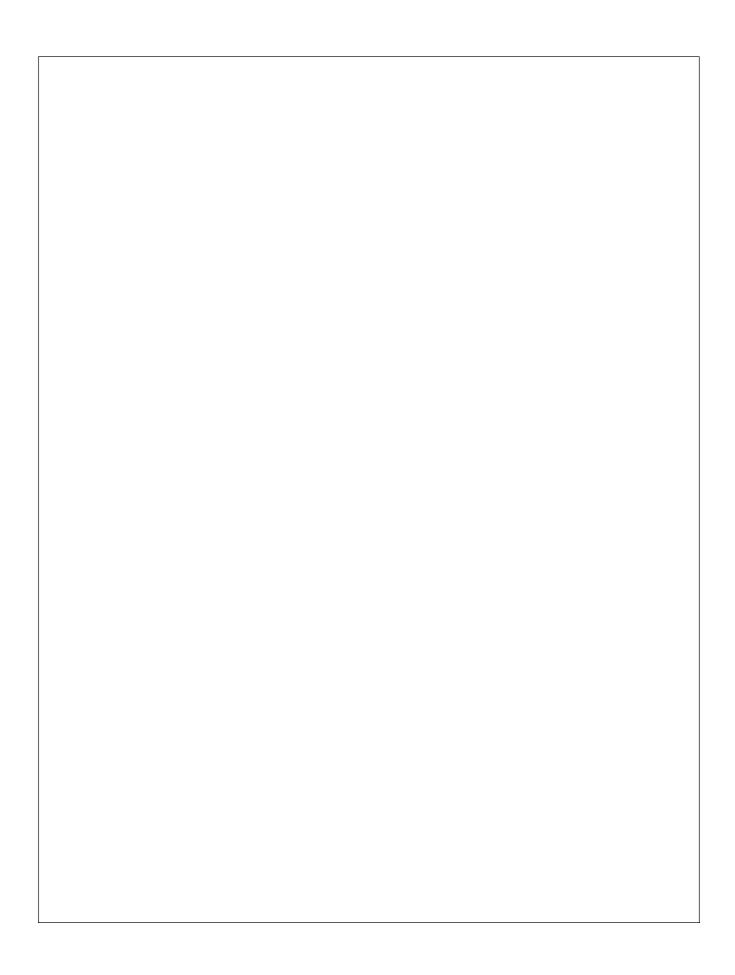
Appendix 1a

PHYSICAL INTERVENTION REPORTING FORM ALL SETTINGS

SCHOOL	REPORT NUMBER	
NAME OF YOUNG PERSON	D.O.B./YEAR GROUP	
DATETIME OF INCIDENT	LOCATION	

CONTEXT Events leading up to the incident. Describe de-escalation strategies used
Anxiety Stage 1
Behaviours of Young Person
Staff Response
Defensive/Escalation Stage 2
Behaviours of Young Person
Staff Response
Crisis Stage 3
Behaviours of Young Person
Dynamic Risk Assessment, Environmental Hazards and Perceived Risk
Reason for Physical Intervention – be specific.

NAMES OF OTHER STAFF MEMBERS PRESENT: Identify whether Team Teach trained and date of					
training.					
DOOLT 11 /5 11 11 11 11 11 11 0 0 T	·D 4 TE 0 \				
POSITIVE HANDLING ST	RATEGY USED:	tick the appro	priate box and	identify wheth	er guide or restraint
	Standing	Seated	Ground	Guide	Restraint
C guide	Otariang	Ocalca	Oround	Galac	rtootraint
C guide +			 		
Friendly Hold					
Single Elbow					
Single Elbow					
Figure of Four			 		
Double Elbow Half Shield			<u> </u>		
			<u> </u>		
T - Wrap					
Other			<u> </u>		
— — — — — — — — — — — — — — — — — — —					
Duration of Physical Interv					
Date/Time Line Manager	notified				
Signed (Line Manager)					
Parent/Carer Notified (date	e and method)		-		
Name of Injured People					
Injury	_				_
• •					
Accident ref number					
RIDDOR form (Yes/No) & Ref No.					
DESCRIPTION OF EVEN	TS DURING PHY	SICAL INTER	VENTION incl	uding Recover	y and Depression
Stages 4 and 5.				•	
_					



POST-INCIDENT LEARNING communication and response Stage 6 What happened?
How did this make you feel?
What could you do differently next time?
Does the young person have a 'positive handling' or 'my plan' in place to prevent future incidents? Yes/No
Signed: Position:
Date and time of report:
Signatures of other staff members involved during incident:
For incidents recorded as restraints, this completed form must be returned to: Business Support Services, Stockport Council, Upper Ground Floor, Stopford House, Stockport, SK1 3XE

Copy to File / Bound and numbered book

Appendix 1b

PHYSICAL INTERVENTION REPORTING FORM (With prompts) ALL SETTINGS

SCHOOL	REPORT NUMBER
NAME OF YOUNG PERSON	D.O.B./YEAR GROUP
DATE/TIME OF INCIDENT	LOCATION

CONTEXT Events leading up to the incident. Describe de-escalation strategies used

Anxiety Stage 1

Behaviours of Young Person

Describe observed actions, including facial expression, gestures, language

Behaviours should be identified on MY PLAN

Staff Response

Description of actions taken to support child including language used, where and how you positioned yourself

Response should be linked to MY PLAN

Defensive / Escalation Stage 2

Behaviours of Young Person

As Stage 1, but be clear about how behaviours represent an escalation into Stage 2.

Behaviours should be identified on MY PLAN

Staff Response

As Stage 1 but identify how your response differed in order to support more challenging behaviours in a continued effort to deescalate.

Response should be linked to MY PLAN

FOR STAGE 1 AND 2:

DO use objective language – factual description of behaviours: made a noise like a cat's meow, "meep", face reddened and avoided eye contact etc

DO NOT use judgemental emotive language or impose feelings, for example was angry, made silly noises, became a bit wobbly, was giddy.

Crisis Stage 3

Behaviours of Young Person

Dynamic Risk Assessment, Environmental Hazards and Perceived Risk

Reason for Physical Intervention – be specific.

What did your dynamic risk assessment suggest? Were alternatives to a physical intervention considered? What might have happened if you had chosen another option?

Best interest principle: Why did you consider it to be in the child's best interests to use a restrictive physical intervention?

EXAMPLE: I considered it to be in X's best interests to be prevented from (causing harm to himself, herself, others/causing significant damage to property/causing continued, significant disruption to learning) and in the context of the situation deemed it reasonable, proportionate and necessary to physically restrain him/her using a (describe technique), the least intrusive technique I could use to keep him/her safe.

NAMES OF OTHER STAFF MEMBERS PRESENT: Identify whether Team Teach trained and date of					
training.					
POSITIVE HANDLING S	TDATECY LISED.	tick the appro	nriata hay and	identify what	har quida ar ractraint
FOSITIVE HANDLING S	INAILGI USLD.	lick life applo	priate box and	identily when	nei guide di lestialiti
	Standing	Seated	Ground	Guide	Restraint
C guide	3				
C guide +					
Friendly Hold					
Single Elbow					
Figure of Four					
Double Elbow					
Half Shield					
T - Wrap					
Other					
	L	I.		L	
Duration of Physical Inter	rvention				
Date/Time Line Manager					
	Tiotilled				
Signed (Line Manager)					
Parent/Carer Notified (da	ite and method)				
Name of Injured People					
Injury					
Accident ref number					
RIDDOR form (Yes/No) & Ref No.					
(1 66,116)					
DESCRIPTION OF EVEN	ATC DUDING DUV	CICAL INTER	VENTION in a	ludina Dogova	and Depression
Stages 4 and 5.	113 DUKING PH	SICAL INTER		luding Recove	ery and Depression
Describe here what happ	ened during the n	nysical interve	ntion It will be	relevant to inc	clude.
The level of resistance of					
accepted, your actions to				and you, any i	icip cherea ana
How did the hold end? W				to be released	d?
Following release: where					
depression (Stages 4 & 5		,		•	,
	•				

POST-INCIDENT LEARNING communication and response Stage 6 What happened?
How did this make you feel?
What could you do differently next time?
What could you do differently flext time:
Does the young person have a 'positive handling' or 'my plan' in place to prevent future incidents? Yes/No
Signed: Position:
Date and time of report:
Signatures of other staff members involved during incident:

For incidents recorded as restraints, this completed form must be returned to: Business Support Services, Stockport Council, Upper Ground Floor, Stopford House, Stockport, SK1 3XE

Copy to File / Bound and numbered book

Appendix 2

Name:

My Plan / Risk Assesment

Date of Plan:

Review Date of plan:

What does my behaviour look like?				
Stage 1 Anxiety Behaviours	Stage 2 Defensive Behaviours	Stage 3 Crisis Behaviours		
My behaviour:	My behaviour:	My behaviour:		
What can I do to help?	What can I do to help?	What can I do to help?		
What can you do to help?	What can you do to help?	What can you do to help?		
Stage 4 Recovery	Stage 5 Depression	Stage 6 Follow up		
My behaviour:	My behaviour:	My behaviour:		
What can I do to help?	What can I do to help?	What can I do to help?		
What can you do to help?	What can you do to help?	What can you do to help?		
What are my triggers?				
Motivators/Interests/Stren	gths			
1. 2. 3. 4. 5.				
b				

De-escalation skills

Giving space Reassurance Help scripts Negotiation Limited Choid Humour Remind Cons Planned ignor Take up time Time-out Supportive to Transfer adu Success rem Simple listen Acknowledge Apologising Agreeing Removing au Others	ces sequences oring buch lt inded ing ement	Try	Avoid	Notes
Intermediate Friendly esco Single elbow Figure of fou Double elbow Single elbow T Wrap T Wrap to se Seats to T W T Wrap to gre Cradle	ert r v in seats ats rap	Try	Avoid O O O O O O O O O O O O O O O O O O	Notes
Advanced Front Ground Back Ground Shield Are there any	•	□ □ □ debriefing? E.	□ □ □ g. Communica	ation aids, staff etc.
L L L				

Parents/Carers:
Teacher
Social services (if applicable)
Educational Psychologist
Case Worker
Young Person
Name:
Name:
Name:
Name:

Appendix 3

Additional considerations to mitigate virus cross contamination

All Government guidance should be followed regarding attendance as a result of illness due to Covid 19. In addition, schools may wish to refer to the following considerations in their attempt to further reduce the need for physical intervention when transmission is a risk:

Reducing social challenge

- If a child's difficulties lie in this area their day may be organised differently to reduce anxiety e.g. less/more planned play times; more structured play sessions; careful consideration given to group size.
- Consider what additional support/scaffolding they will need. e.g. more adult support; buddy system; extra equipment; social stories; self-reflection time in a safe space.
- Think about what physical spaces can be used safely for calm down/being alone time.

Reducing academic challenge

- Think about how the curriculum will look different for all children and how to communicate this so that anxiety around this is reduced if the child's difficulties lie in this area.
- -Think about how they learn best and plan work taking their learning style into account e.g. use a laptop/iPad instead of writing; use scaffolding for writing; use explore by doing rather than expecting them to listen.

Updating My plans/Physical handling plans

- Children who already have a My Plan to keep them safe will have their plan revised and updated in line with the above measures and it will be shared with all staff members. Particular attention should be focused on anxiety-led behaviours and any changes in these behaviours for individual pupils.

Over use of scripts and consistency of language.

- Use the help script (I can see something has happened; I'm here to help; You talk and I'll listen) when anxiety is observed.
- Use the Listen, Link, Learn script at **every** opportunity so that children learn to answer the questions and label the feelings when their cognitive functions are still active and to reduce the chance of a child escalating.

Listen – "What happened?"

Link – "How did that make you feel?"

Learn – "What can you do differently the next time that you feel that way?"

In the event that children need to be physically handled for their own safety despite all possible measures put in place staff are encouraged to bring a change of clothes for changing if necessary.