

Version: 3 FOI Status: Public	Physical Interventions (Restraints) Policy and Procedure Derbyshire County Council- Adult Social Care	Originally Issued: June 2015 V3 Issued: November 2021 Review Due: November 2023 Author: Denise Mackey
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Physical Interventions (Restraints) Policy and Procedure Derbyshire County Council - Adult Social Care

If you would like to make any comments, amendments, additions etc please email ASCH.adultcare.policy@derbyshire.gov.uk

Contents

1. Executive Summary	2
2. Policy Statement	2
3. Introduction and General Guidelines for all Settings	3
3.1 Context.....	3
4. The Legal Background.....	4
4.1 The Mental Capacity and Deprivation of Liberty Safeguards	4
5. Physical Contact with Individuals	5
5.1 Guiding Principles for the use of Physical Touch	7
6. Physical Interventions	8
7. Reasonable Force and Staff Judgement.....	8
8. Risk Assessments.....	9
9. Training	10
10. Planning for Incidents.....	10
12. Situations Where Staff Should Not Intervene Without Help	11
13. Recording Events and Actions	12
14. Recording Incidents	13
14.1 Subsequent Action	14
15. Dealing with Complaints and Allegations	15
15.1 What is Unlawful Under the Equality Act?	15
15.2 Direct Discrimination	16
15.3 Discrimination Arising from Disability	16
15.4 Indirect Discrimination.....	16
15.5 Failure to Comply with the Duty to make Reasonable Adjustment.....	16
Author History	17

Version: 3 FOI Status: Public	Physical Interventions (Restraints) Policy and Procedure Derbyshire County Council- Adult Social Care	Originally Issued: June 2015 V3 Issued: November 2021 Review Due: November 2023 Author: Denise Mackey
----------------------------------	--------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------

1. Executive Summary

This document sets out Derbyshire County Council (DCC) Adult Social Care and Health (ASCH) position regarding the use of physical interventions and the context in which physical intervention may be used.

Adult Social Care maintains that physical intervention should only be used as a last resort, the final element of a process aimed at the prevention and management of behavioural difficulties. However, if physical interventions need to be used then this policy and associated guidance should be followed.

This policy covers all services and settings where it may be necessary to use physical interventions within ASCH. These settings include day opportunity, residential care and community-based services. It also has relevance for partner agencies and those organisations providing services on behalf of ASCH.

Throughout this document the term “staff” is used to include DCC employees, residential staff, health workers, staff employed by organisations providing services on behalf of DCC, adult placement providers and volunteers.

Similarly, ‘individual/person’ are used to refer to all adults who use services.

2. Policy Statement

DCC recognises its duty of care towards individuals and staff to ensure their safety and health. This applies to any situation where physical interventions must be used. DCC acknowledges that it is important to consider the use of physical intervention within the broader context of providing ASCH.

DCC’s position is that reasonable force to control or restrain individuals will only be appropriate as a last resort. Physical intervention is not a substitute for the full range of professional approaches to behaviour support, and management and techniques to minimise or avoid confrontation that DCC already has in place. This means:

- DCC employees involved in situations where restrictive physical intervention may be needed will have access to appropriate approved training
- DCC will support staff who carry out physical interventions in line with this policy, associated guidance and training
- DCC expects all organisations delivering services for, and on its behalf, to meet these standards and have a suitable policy and arrangements in place
- DCC is committed to ensuring it takes account of all applicable

Version: 3 FOI Status: Public	Physical Interventions (Restraints) Policy and Procedure Derbyshire County Council- Adult Social Care	Originally Issued: June 2015 V3 Issued: November 2021 Review Due: November 2023 Author: Denise Mackey
----------------------------------	--------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------

legislation in this field and to ensure this policy is reviewed in light of any changes

- DCC will adopt a coordinated approach to physical interventions which allows for consistency of delivery for both staff, and , from whichever council service they are accessing
- DCC will work in partnership with external agencies wherever it is possible to provide the best outcomes for individuals
- DCC recognises the legal right of employees to use reasonable force to prevent individuals committing a criminal offence, injuring themselves or others or damaging property, and to maintain good order or discipline
- DCC will uphold the rights of individuals and never countenance the use of physical intervention as a form of punishment, abuse, or with the intention to cause pain or injury
- DCC will seek, wherever possible, to ensure that the need for any physical intervention is anticipated and appropriate responses are planned and agreed with the person or their parent/carer or advocate

3. Introduction and General Guidelines for all Settings

3.1 Context

This policy provides a common framework of support to all establishments and services and sets out agreed principles and definitions for the use of physical interventions.

Because different legislation, regulations and guidance may apply to different settings, each specific service sector may have to produce its own more detailed guidance for the actual use of physical interventions in its area of work.

This document sets out the principles and definitions within which this sector-specific guidance is produced to give a consistency of approach to how staff judgements are made and how specific incidents are addressed throughout DCC.

The purpose of this policy, and any guidance written to support it is:

- to set clear expectations about the use of physical touch/support
- to set clear definitions of what is meant by physical intervention including mechanical, how the environment is managed, chemical and exclusion
- to provide a framework for establishments to produce their own guidance as necessary

Version: 3 FOI Status: Public	Physical Interventions (Restraints) Policy and Procedure Derbyshire County Council- Adult Social Care	Originally Issued: June 2015 V3 Issued: November 2021 Review Due: November 2023 Author: Denise Mackey
----------------------------------	--------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------

- to protect the interests of all individuals and their family/carers/advocates
- to protect staff in the fulfilment of their responsibilities
- to protect DCC which ultimately has responsibility for the actions of the staff.

4. The Legal Background

Any practice in which the civil, legal or human rights of a person may be infringed must be fully justifiable. As a result, making a decision about the use of any physical intervention, particularly a restrictive one, naturally raises anxiety which could lead to a failure to act.

Equally, however, opting to do nothing is as much a decision as responding. Staff owe a duty of care to those in their charge. In some circumstances a failure to intervene in a situation could be viewed as negligence.

As well as the general legal duty of care owed to people by staff both under health & safety and civil legislation, there are specific pieces of legislation which apply in the education and health & social care sectors which authorise the use of physical interventions in specific circumstances and requires that these are recorded.

There are however common legal principles that apply across all areas. Physical interventions using reasonable force can legitimately be used to prevent individuals from doing, or continuing to do, any of the following:

- committing any criminal offence
- causing serious damage or injury to property, equipment or persons (damage will always be serious if it provides a person with a weapon or potential weapon, involves self-harm or harm to others, exposes conditions which could cause a safety risk, or involves arson or potential arson)

The statutory powers confirmed by the specific pieces of legislation are in addition to the common law power of any citizen in an emergency to use reasonable force in self-defence or to prevent another person from being injured or committing a criminal offence.

4.1 The Mental Capacity and Deprivation of Liberty Safeguards

The Mental Capacity Act 2005 provides a precise legal definition of restraint:

'The use or threat of force to help do an act which the person resists, or the restriction of the person's liberty of movement, whether or not they resist. Restraint

Version: 3 FOI Status: Public	Physical Interventions (Restraints) Policy and Procedure Derbyshire County Council- Adult Social Care	Originally Issued: June 2015 V3 Issued: November 2021 Review Due: November 2023 Author: Denise Mackey
----------------------------------	--------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------

may only be used where it is necessary to protect the person from harm and is proportionate to the risk of harm.'

This legislation applies to young people from the age 16.

The Mental Capacity Act (2005) allows the use restraint if:

- *staff 'reasonably believe' it is necessary to use this restraint to prevent harm to the person; and*
- it is a proportionate response to the likelihood or seriousness of that harm.

Restraint should always be used as a last resort. Restraint is not allowed under the Mental Capacity Act which would deprive someone of their liberty.

The Deprivation of Liberty Safeguards (DoLS) is an amendment to the Mental Capacity Act and was introduced in 2009. It is a system of assessments and authorisations that ensures legal protection for people who lack capacity and whose care needs to be given in circumstances which will deprive them of their liberty.

The DoLS apply:

- to people who lack capacity
- to people aged 18 or over
- to people in hospital, nursing homes or residential units (anywhere that falls under the regulation of Care Quality Commission (CQC))

A person would be considered to be deprived of their liberty if:

- they are under continuous supervision and control
- they are not free to leave; and
- they lack capacity to consent to these arrangements

Recent case law has highlighted circumstances where people are being deprived of their liberty in settings/situations where DoLS do not apply (e.g. in supported living, and those people under the age of 18 years).

In these situations, applications would need to be made to the court of protection for authorisation to deprive the person of their liberty.

5. Physical Contact with Individuals

It is important to consider the use of physical interventions within the broader context of the use of physical touch.

Version: 3 FOI Status: Public	Physical Interventions (Restraints) Policy and Procedure Derbyshire County Council- Adult Social Care	Originally Issued: June 2015 V3 Issued: November 2021 Review Due: November 2023 Author: Denise Mackey
----------------------------------	--------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------

“Physical touch” is an essential part of human relationships. Within the services provided by Adult Social Care staff may well use touch to prompt, to give reassurance, to provide support in an activity, e.g. in the provision of a care service.

In recent years, however, the subject of physical touch, and in particular the use of restrictive physical interventions, has become a focus of concern and staff understandably may feel uncertain. This guidance is put in place to allow staff to provide appropriate services confidently and safely.

The main factor which distinguishes touch from physical intervention is the degree of force applied, the intention of the action and how the action is perceived by the person receiving it.

It is unrealistic to suggest staff should touch a person only in emergencies. For some people touch can provide welcome reassurance or comfort in challenging or distressing circumstances. Equally touching may also be appropriate when congratulating or giving praise.

Staff must, however, bear in mind that even perfectly innocent actions can sometimes be misconstrued and must, therefore, conduct themselves, accordingly, using their professional judgement.

Staff will also need to bear in mind that there may be some people for whom touching is particularly unwelcome. This may be due to their cultural background, individual sensitivities or because of having been abused. It is important staff are aware of these issues and that the setting/section has a system to ensure staff are informed of these matters. Services and settings will need to have practice standards that are age, ability and gender appropriate, and sensitive to religious and culture backgrounds.

Physical intervention is therefore not the only circumstance when there is physical contact between staff and individuals. Staff should respond to people in a way that gives expression to appropriate levels of care and to provide comfort to ease distress.

DCC endorses the appropriate and professional use of physical touch and support.

However, it does not support inappropriate physical contact between staff and individuals. Staff need to ensure any physical contact is not misinterpreted. To use touch/physical support successfully, staff will need to adhere to the following.

Physical touch must:

- be non-abusive, with no intention to cause pain or injury
- be in the best interests of the person
- have a clear care purpose

Version: 3 FOI Status: Public	Physical Interventions (Restraints) Policy and Procedure Derbyshire County Council- Adult Social Care	Originally Issued: June 2015 V3 Issued: November 2021 Review Due: November 2023 Author: Denise Mackey
----------------------------------	--------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------

- be sensitive to a person's history or preferences
- take account of a range of diversity issues such as gender and disability, culture, religion

5.1 Guiding Principles for the use of Physical Touch

It is essential that staff are aware of any individual who finds physical touch unwelcome.

Such sensitivity might arise, for example, from the person's cultural background, individual needs, personal history or age.

Managers should ensure that there is a system in place within their area of control that enables the sharing of appropriate information between colleagues.

Staff should follow these guiding principles.

- The level and type of physical contact should reflect the individual and social care needs of the person
- Physical contact should not respond or lead to expectations or anxieties of any form and should not become habitual
- Although staff should not respond automatically to any person asking for physical comfort that person should not be rejected without explanation
- Staff need to be aware of the reaction of the person to touch and modify their behaviour accordingly
- Staff should not allow their own emotions to compromise a professional response
- Specific consideration should be given to the needs of a person who may have suffered abuse and/or neglect
- Where necessary physical contact should be planned and recorded in a physical intervention plan as well as for any support plan. For Adult Social Care this will be a positive behaviour support plan
- There should be no general expectations of privacy for the physical expression of affection or comfort in any circumstance. Staff must endeavour not to be alone with a person in such situations and where they are, safeguards should be in place e.g. support nearby (within calling distance)

Version: 3 FOI Status: Public	Physical Interventions (Restraints) Policy and Procedure Derbyshire County Council- Adult Social Care	Originally Issued: June 2015 V3 Issued: November 2021 Review Due: November 2023 Author: Denise Mackey
----------------------------------	--------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------

6. Physical Interventions

Principles for applying physical intervention.

1. Physical interventions will be used as infrequently as possible and only as a last resort
2. Physical interventions will only be used in the best interests of the person
3. A suitable and sufficient risk assessment should be in place for all planned physical interventions
4. Except in emergency situations physical interventions will only be used after a full range of behaviour support techniques have been exhausted
5. Except in emergency situations physical interventions will be planned and agreed with the person and where necessary their parent/carer and/or advocate
6. Suitable and sufficient risk assessment should also be produced for all unplanned risk assessments where it is predictable that these could occur (e.g. breaking up a fight in any setting)
7. The only planned physical interventions used will be those authorised by the British Institute of Learning Disabilities (Bild) and which are taught as part of a Bild accredited training package
8. Physical interventions will never be used to punish, discipline, or inflict pain on a person
9. Physical interventions will always involve the minimum amount of force for the minimum amount of time
10. Physical interventions must never be used purely for staff convenience

7. Reasonable Force and Staff Judgement

The term reasonable force is used throughout this and other policy, guidance and statute relating to physical intervention.

There is no statutory definition of reasonable force. Whether the force used is reasonable will always depend on the circumstances of the individual case.

Version: 3 FOI Status: Public	Physical Interventions (Restraints) Policy and Procedure Derbyshire County Council- Adult Social Care	Originally Issued: June 2015 V3 Issued: November 2021 Review Due: November 2023 Author: Denise Mackey
----------------------------------	--------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------

Deciding on whether the use of force is justified will depend in part upon the context in which the specific incident occurs. The test is whether the force used is proportionate to the consequences it is intended to prevent. The degree of force staff will be expected to use is dependent on their training and ability to assess the severity of the situation.

For example, a person running away down a corridor where there are no other specific risks might normally be considered trivial. However, a person running in an uncontrolled manner in a corridor crowded with frail adults may be considered dangerous enough not to be trivial.

If staff decide the situation is not trivial due to the risk of injury and other strategies (e.g. raising one's voice to stop the person running) have not had the desired effect, then physical intervention would be justified.

Written guidelines cannot anticipate every situation and the use of physical intervention is a high-risk action and using sound judgement is crucial. This judgement may be to not physically intervene due to the personal risk involved but to summon help. Staff need to be aware have a duty of care to maintain an acceptable level of safety. This duty of care has been defined and tested in a variety of legal cases.

What needs to be made very clear is that if the situation is not trivial then it is not acceptable simply to do nothing.

Locking of rooms with the purpose of restricting a person's liberty is expressly forbidden and may constitute a criminal offence, other than in accommodation designated for that purpose and regulated accordingly (for example, a secure unit).

8. Risk Assessments

Risk assessments are a crucial part of managing restrictive physical interventions. Leadership teams are advised to assess the frequency and severity of incidents requiring force that are likely to occur in their establishment.

Risk assessments need to be carried out for any situation and/or person where there are planned interventions and need to consider both the risks to the individual and any staff member involved.

Any risk assessment including the use of a physical intervention must also include a restraint reduction plan.

More detailed guidance on risk assessments will be detailed in the sector specific guidance attached to this overarching policy.

Version: 3 FOI Status: Public	Physical Interventions (Restraints) Policy and Procedure Derbyshire County Council- Adult Social Care	Originally Issued: June 2015 V3 Issued: November 2021 Review Due: November 2023 Author: Denise Mackey
----------------------------------	--------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------

9. Training

It is essential colleagues who are likely to be involved in physical intervention receive appropriate training which includes training on the interventions themselves and also the full range of measures which should occur before intervention stage is reached.

DCC currently endorses training on the [PROACT-SCIPr-UK®](#) approach and sector specific guidance will provide more details on how this can be accessed.

10. Planning for Incidents

If a setting is aware that someone is likely to behave in a way that may require physical intervention, it is sensible to plan how to respond if the situation arises.

These situations may include prior knowledge before the person first attended the establishment or because of several incidents involving a particular person whilst attending the establishment.

As far as practically possible establishments should make staff who encounter such individuals aware of the relevant characteristics of those individuals, particularly:

- situations that may provoke difficult behaviour, preventive strategies and what de-escalation techniques are most likely to work
- what is most likely to trigger a violent reaction, including relevant information relating to any previous incident requiring use of force
- if physical intervention is likely to be needed, any specific strategies and techniques that have been agreed by staff, family/carers/advocates and the individual concerned
- that planning needs to take account of managing the individual through appropriate agreed reactive strategies to diffuse conflict and the appropriate methods of physical intervention which should be used if these fail

Family/carers or advocates should be involved to ensure they are clear about what specific action the establishment might need to take. They may well have valuable information about what may trigger certain behaviours, what preventative strategies can be employed and what de-escalation techniques are most likely to work. Clearly some of this information may be sensitive, and permission (ideally in writing) should be obtained to pass the information to colleagues who need it.

However, where consent is unreasonably withheld then the information may still be given to staff who need it, where minimising the chances of force being required would be in the vital interests of the person concerned.

Version: 3 FOI Status: Public	Physical Interventions (Restraints) Policy and Procedure Derbyshire County Council- Adult Social Care	Originally Issued: June 2015 V3 Issued: November 2021 Review Due: November 2023 Author: Denise Mackey
----------------------------------	--------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------

This could include:

- a brief to colleagues to ensure they know exactly what action they should be taking, which may identify a need for training or guidance
- ensuring additional support can be summoned if appropriate
- providing knowledge of the individuals previous experience of physical restraint and their predicted reactions
- raising awareness of the presence of any weapons or objects which could be used as weapons or information relating to whether there is a history of weapons being used or carried
- providing medical advice about the safest way to physically restrain a person with specific health needs
- meeting any training requirements
- identifying whether a specific physical intervention plan needs to be included in any behaviour support plan

Staff working in situations where there is a reasonable likelihood they may have to employ physical intervention, should consider whether their or the persons clothing, footwear, jewellery and hairstyle add to the danger of injury to themselves or others and take appropriate action.

It is also wise to plan for less predictable incidents by making staff aware of what they are reasonably expected to do to manage such an incident through positive avoidance or physical intervention, (an example might be how to deal with a fight between individuals).

12. Situations Where Staff Should Not Intervene Without Help

Sometimes an authorised member of staff should not intervene in an incident without help unless it is in an emergency. Establishments should have communication systems which enable a member of staff to summon rapid assistance when necessary.

Help may be needed in dealing with a situation involving a stronger or larger person, more than one person, or if the authorised member of staff believes they may be at risk of injury. In these circumstances they should take steps to remove other people who might be at risk and summon assistance from other authorised staff, or where necessary phone the police.

Version: 3 FOI Status: Public	Physical Interventions (Restraints) Policy and Procedure Derbyshire County Council- Adult Social Care	Originally Issued: June 2015 V3 Issued: November 2021 Review Due: November 2023 Author: Denise Mackey
----------------------------------	--------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------

13. Recording Events and Actions

It is important all establishments and services have a clear and consistent procedure for reporting and recording all significant incidents of physical intervention which all staff are aware of.

Establishments may find the following questions helpful in deciding whether an incident is significant and requires a written record.

1. Did the incident cause injury or distress to the individual or member of staff? (If there was an injury an accident report form will also need to be completed)
2. Even though there was no apparent injury or distress, was the incident sufficiently serious to require a written record? Any use of restrictive holds would, for example, fall into this category
3. Is a written record needed to be able to justify the use of force? This is particularly relevant where the judgement was very finely balanced
4. Is a record needed to help identify and analyse patterns of an individual's behaviour or staff training needs?
5. Were other agencies involved, such as the police?

If the answer to any of these questions is "yes" services and settings must ensure there is a written record of the incident, and staff should be made aware of this. Such records can provide evidence of defensible decision making in the event of a subsequent complaint or investigation.

Arrangements should be made to ensure all significant incidents of physical intervention are recorded by the member(s) of staff involved as soon as possible after the event. Incidents should be reported to the manager as soon as is practicable. Recording and reporting will include:

- a standard format for recording any incident, not just the physical intervention on the person is good practice
- for Adult Social Care there is a document to be completed on the case management system (Mosaic)
- any entries must be made by the member(s) of staff involved or witnessing an incident - they should sign and date the record of the incident

The report must include:

- details of when and where the incident took place (a sketch plan will be helpful)
- circumstances and significant factors which led to the incident

Version: 3 FOI Status: Public	Physical Interventions (Restraints) Policy and Procedure Derbyshire County Council- Adult Social Care	Originally Issued: June 2015 V3 Issued: November 2021 Review Due: November 2023 Author: Denise Mackey
----------------------------------	--------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------

- details of any behaviour management strategies used and how successful these were
- the duration and nature of any physical intervention used
- the names of all people and staff involved, and of all witnesses
- a description of any injury sustained by the individual, staff and others, as well as subsequent medical attention
- a description of any action taken after the incident

If a series of repeated but separate incidents occur in a day, the reports should be kept together to build up a clear picture of the person's behaviour, evidenced through clear recording.

It is acknowledged some people will have particular social care support needs and may need frequent holding or physical intervention.

The case management system documents should be readily available for inspection by designated DCC officers or external inspectorates.

14. Recording Incidents

When recording Incidents, the following should be carried out by a senior member of staff as soon as practicable after the incident.

- An [assault report form](#) must be completed and sent electronically to the Commissioning Communities and Policy Health and Safety team
- Notify Care Quality Commission
- The service should inform family or carers about any incident of physical intervention involving the person as soon as practicable after the incident
- Witnesses should be asked for a statement where the incident is of a serious nature and further action may follow

When taking witness statements, the following points should be considered.

- Avoid the risk of collusion; take statements individually as soon as possible after the event
- avoid leading questions
- have a quiet place in which to record the statement
- consider the language skills of a child or vulnerable adult witness
- the appropriateness of asking a witness to write their own statement

Version: 3 FOI Status: Public	Physical Interventions (Restraints) Policy and Procedure Derbyshire County Council- Adult Social Care	Originally Issued: June 2015 V3 Issued: November 2021 Review Due: November 2023 Author: Denise Mackey
----------------------------------	--------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------

If at any stage in this process the senior member of staff considers that the incident itself should be referred for action in accordance with the Safeguarding Procedures, all investigations must stop.

Statements, either from those involved or from witnesses, should then be taken only in accordance with the Safeguarding Procedures.

14.1 Subsequent Action

The following are issues the service may need to consider following a physical intervention.

- Staff should ensure that the person has regained self-control and no longer poses a threat to self or others
- Any injuries to people should be assessed and dealt with within the services existing procedures including seeking medical attention where necessary
- The person should be allowed time to regain composure before being offered a process of counselling, with some people this course of action will not be appropriate
- Any injuries and trauma to staff should be assessed and dealt with within existing procedures, including time away from the situation to recover and seek medical attention where necessary
- All injuries to be recorded following the accident and assault reporting investigation practice guidance, as well as any record of the physical intervention on the physical intervention recording form
- All incidents involving the physical intervention of an individual must be discussed as soon as possible - a senior member of staff should be involved as soon as practicable; this may be in the form of a debrief and staff support meeting
- An account of these discussions should be recorded together with all follow-up actions
- At an appropriate time, all people and staff involved should have an opportunity to discuss the matter with a senior member of staff
- In principle, any written reports should be shared with the person, whose view of the incident should be sought as soon as possible after the incident
- Family/carers/advocates should always be informed of what has happened to the individual - they should be offered an opportunity to discuss this with the manager or a senior member of staff
- Consideration should be given to the possible effects that physical intervention has on staff - apart from suffering physical injury staff

Version: 3 FOI Status: Public	Physical Interventions (Restraints) Policy and Procedure Derbyshire County Council- Adult Social Care	Originally Issued: June 2015 V3 Issued: November 2021 Review Due: November 2023 Author: Denise Mackey
----------------------------------	--------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------

may experience some degree of shock

- Staff should feel free to discuss the incident and their actions with a professional friend in a calm and private environment
- Members of staff should be advised to contact their professional association or trade union before making any formal statement about the incident

15. Dealing with Complaints and Allegations

Depending on the nature of the complaint or allegation, they may be dealt with in a number of different ways.

- By the police if it is alleged that a crime may have been committed
- Under the safeguarding adults procedures if it is alleged abuse may have been perpetrated
- Under the Complaints Policy and Procedure for ASCH

It is likely that most incidents will be investigated under the latter procedure.

Family/carers/advocates and individuals have a right to complain about actions taken by staff. This might include the use of force.

In such circumstances the manager will respond to the complaint following the Complaints Policy and Procedure for ASCH.

Family/carers/advocates may choose to appeal against the manager's response. At this point the matter would be considered under the next stage of the complaint's procedure.

The full involvement of those family members following the incident should minimise the chances of a complaint about use of force, but it will not prevent all complaints or allegations. Allegations can be made from a variety of sources, not just from the family or individuals involved.

A dispute might lead to an allegation against a member of staff which could be, made to the establishment, other agencies, or even the police. These should be dealt with in accordance with the disciplinary procedures for handling allegations against staff. The policy and the degree to which it had been followed will be at the core of any investigation.

15.1 What is Unlawful Under the Equality Act?

The Equality Act protects people from certain kinds of unlawful behaviour. These are called discrimination, harassment, and victimisation. They are outlined below.

Version: 3 FOI Status: Public	Physical Interventions (Restraints) Policy and Procedure Derbyshire County Council- Adult Social Care	Originally Issued: June 2015 V3 Issued: November 2021 Review Due: November 2023 Author: Denise Mackey
----------------------------------	--------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------

It's also unlawful to order someone to behave in these ways or to help them to do so.

15.2 Direct Discrimination

This occurs when, because of disability, a person is treated less favourably (worse) than someone who isn't disabled. A disability itself is the reason for the treatment.

Direct discrimination includes worse treatment because of a person's association with someone who has a disability – for example, as a carer of a person who is disabled (discrimination by association).

It also includes worse treatment because a person is mistakenly thought to have a disability (discrimination by perception).

15.3 Discrimination Arising from Disability

This happens when a person is treated unfavourably (put at a disadvantage) because of something connected with their disability rather than because of the disability itself. It is not discrimination if the employer or service provider can justify how they treated that person, or if they didn't know about a person's disability. Justifying treatment means showing that it is a fair, reasonable and balanced way to meet a legitimate aim (a good reason). This is called 'objective justification'.

15.4 Indirect Discrimination

This happens when a rule or practice applies to everyone but puts people who are disabled at a particular disadvantage. It is not discrimination if it can be justified, as described above.

15.5 Failure to Comply with the Duty to make Reasonable Adjustment

The Equality Act requires employers and service providers to make reasonable adjustments if a person is put at a substantial disadvantage, in comparison with people who aren't disabled.

As use of restrictive physical intervention involves the use of force, to some degree there is always the risk of injury either to the person and/or the staff involved. Staff should be sure that the risk of not intervening outweighs the risk of intervening before deciding on the appropriate course of action. Thus, risk assessments must be a key consideration in any establishment's policy or individual programme planning.

This risk assessment must consider any specific issues relating to disability in order to be complete.

Version: 3 FOI Status: Public	Physical Interventions (Restraints) Policy and Procedure Derbyshire County Council- Adult Social Care	Originally Issued: June 2015 V3 Issued: November 2021 Review Due: November 2023 Author: Denise Mackey
----------------------------------	--------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------

Author History

Approval and Authorisation History

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Authorised by: Q&C	Quality & Compliance Group	June 2015

Change History

Version 1	June 2015	Denise Mackey	New guidance
Version 2	August 2016	Denise Mackey	Review and rewrite. Name changed from Positive Behaviour Support – Reducing Restrictive Practices
Version 3	November 2021	Denise Mackey	Review. Changes to terminology and Page 10 Recording - addition of Notify the Care Quality Commission information