

Model Policy/Procedure

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Management of challenging behaviour

(including the use of physical intervention) policy and guidance)

Introduction

This policy and guidance document should be read within the context of your wider policies and procedures. In particular, reference should be made to

- ❑ Duty of care,
- ❑ Service user plans,
- ❑ Service User Risk Assessment,
- ❑ National Care Standards with particular reference to Standard 2 – Needs Assessment, Standard 3 – Meeting Needs and Standard 9 –
- ❑ Risk Taking.

The standards referred to in this document relate to the National Minimum Standards For Care Homes For Younger Adults. For other service user groups, reference should be made to the appropriate standards.

The document is primarily aimed at managers of services and direct support staff.

Values and principles

The management of challenging behaviour is often complex, and due to the difficulties of providing support in these difficult and sensitive situations it is essential that the management of challenging behaviour is provided within the following principles:

- ❑ **Mencap Vision** – a world where everyone with a learning disability has an equal right to choice, opportunity and respect, with the support they need
- ❑ **Mencap Mission** – to improve the life chances of children and adults with learning disabilities, their families and carers. Together we:
 - make sure that needs are met
 - speak out for equal rights
 - raise awareness and understanding
- ❑ **Mencap Values**
 - to include

- to be responsive
- to be effective
- to challenge
- to support.

Definitions of challenging behaviour

The term “challenging behaviour” has a variety of definitions. The most commonly used is:

“Severe challenging behaviour refers to behaviour of such an intensity, frequency or duration that the physical safety of the person or others is likely to be placed in serious jeopardy, or behaviour which is likely to seriously limit or delay access to and use of ordinary community facilities.” Emerson et al (1987)

Behaviours such as physical and verbal aggression, self injury, or which result in damage to property are commonly, but not exclusively, associated with the term “challenging behaviour”. Whether someone is described as having challenging behaviour depends on the situation they find themselves in and the perception of others. A person described as having challenging behaviour by one person may not be similarly described by another person. This is not to deny the real difficulties often being experienced by the person.

It is important that staff recognise that challenging behaviour is often defined in service terms rather than personal terms, i.e. a person is deemed to have challenging behaviour mainly if the behaviour is a challenge to others. Behaviours that may severely impair a person’s ability to interact with others and limit community activity will not be described as challenging if they do not challenge others apart from themselves.

Legislative Issues

Care Standards Act 2000

The Care Homes Regulations 2001, Regulation 13 requires that:

- *“The registered person shall ensure that no service user is subject to physical restraint unless restraint of the kind employed is the only practicable means of securing the welfare of that or any other service user and there are exceptional circumstances.” 13(7)*
- *“On any occasion on which a service user is subject to physical restraint, the registered person shall record the circumstances, including the nature of the restraint.” 13(8)*

The Children’s Home Regulations 2001, Regulation 17(1) states that:

- *“No measure of control, restraint or discipline which is excessive, unreasonable or contrary to paragraph (5) shall be used at any time on children accommodated in a children’s home.”*

Health and Safety at Work Act

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The Health and Safety at Work Act 1974 places duties upon Mencap as an employer. Those that are applicable to this procedure are:

- ❑ ensuring, so far as is reasonably practicable, the health, safety and welfare at work of all employees
- ❑ conducting our undertakings so as to ensure, so far as is reasonably practicable, that people other than employees (e.g. service users, visitors, members of the public and trespassers) who could be affected are not exposed to health or safety risks.
- ❑ The Management of Health and Safety at Work Regulations 1999 (MHSWR) places a duty on employers to make a suitable and sufficient assessment of the risks to the health and safety of employees whilst they are at work.
- ❑ The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR) requires that injuries that fall into the list of reportable categories, and are a result of a violent act, be reported.
- ❑ Violence and aggression in the workplace falls under the remit of the Health and Safety at Work Act and requires you as employers create a safe working environment and safe processes. The intention is for all staff who are supporting someone with challenging behaviour to know:
 - ❑ how to work safely and properly with the person
 - ❑ the reporting processes
 - ❑ how they themselves will be supported.

General

Currently the law views the use of physical intervention as a trespass against a person on the basis of assault and battery or false imprisonment.

- ❑ An “assault” takes place when a person is in reasonable fear of the use of force. No physical contact is necessary for an assault to have been deemed to have taken place.
- ❑ “Battery” takes place where the direct and intentional use of force is used on another without legal justification.
- ❑ False “imprisonment” occurs when a person is either compelled to move or prevented from moving without lawful justification.

Whilst assault and battery and false imprisonment can be seen as a trespass against the person, the use of physical intervention (including restraint) can be lawful where the circumstances allow for reasonable defence. Examples of reasonable defence would include:

- ❑ **Consent** – Providing a person freely gives consent without unfair or undue pressure, then physical intervention can be used. Consent is never given once and for all, or for

all situations. Consent does not have to be verbalised and can be implied from gestures. If an individual cannot give consent, arrangements can be made to seek consent from an advocate or next of kin. Circumstances will vary from person to person, but it should be remembered that each person can indicate some consent in some circumstances depending on the issue being addressed.

- ❑ **Necessity** – In certain circumstances, such as the prevention of significant harm to the individual, others or property, a duty of care may mean touching a person without their consent.
- ❑ **Duty of Care** – Staff have a duty of care towards service users that requires that reasonable measures are taken to prevent harm to service users. In some circumstances it may be appropriate to employ certain kinds of physical intervention to prevent a significant risk of harm. For example:
 - to prevent a child or adult running into a busy road
 - to prevent a child or adult self-injuring
 - to prevent a child or adult injuring another person
 - to prevent a child or adult causing serious damage to property
- ❑ **Self Defence** – Self defence can be used to prevent the unlawful use of force, to rescue another from attack, or to escape from unlawful detention. However, staff are seen to be in a privileged position and are expected to anticipate and plan for events, and to retreat at the earliest possibility.
- ❑ **Prevention of a crime** – Reasonable force can be used in the prevention of a crime, or the prevention of a breach of the peace. The physical intervention must be relative to the actual or perceived harm and must cease as soon as possible.

The ethical context for physical intervention

When determining local policies and service user plans, especially where physical intervention may be being considered, it is important that staff, carers, the person and other professionals, e.g. social worker or community nurse, are given the opportunity to discuss the ethics of a particular course of action in relation to another course of action. This will be viewed positively in a legal sense and should result in a greater certainty and commitment to a particular course of action and its consequences. It will provide enhanced safeguards both for the person and for staff.

Our organisations preparation and response to challenging behaviour

You should aim to meet your requirements (both under legislation and as an example of good employment practice) in preparing staff for, and responding to, challenging behaviour.

- ❑ **Overall policy** – This procedure should be reviewed every 12 months by a designated individual. A copy of the policy should be available to all staff, and the manager of the

service should ensure that a record is kept to show that staff have read, understood and agreed to abide within its guidelines.

- **Local policies** – In addition to this procedure, each service will develop its own local policy on challenging behaviour. The local policies on challenging behaviour should be reviewed every 12 months or sooner if dictated by changes in operational circumstances by the manager of the service. The local policy should give due regard to:
 - the care management assessment/care plan
 - service user plans and service user risk assessments
 - a functional approach to assessing behaviour
 - the purpose and function of the service
 - if a care home, its registration category
 - staffing structure
 - skills and training of staff
 - design and location of the service
 - situations that may give rise to the use of physical intervention
 - unacceptable forms of physical intervention (see Appendix 1)
 - professional contacts
 - local management arrangements
 - outside agencies and other local guidelines for working with people with challenging behaviour.
- A copy of the local policy should be available to all staff, and the manager of the service should ensure that a record is kept to show that staff have read, understood and agreed to abide within any guidelines.
- **Training** – The guidance and information contained both in A.14. and the local policy on challenging behaviour will be supported by a 3-stage training strategy.
 1. All staff should receive skills training appropriate to their needs in how to best support and develop the skills, knowledge and experiences of people with learning disabilities. Training should meet Learning Disability Advisory Framework requirements at Induction and Foundation levels.
 2. More intensive training should be provided to those staff working in services where the expected level of challenging behaviour is high. It should be tailored to meet the specific needs of the individual whose behaviour is identified as being challenging. The basis for the provision of this training should be the care management assessment/care plan, service user plans and service user risk assessments.

3. Training should also include the management of complex situations including the use of physical intervention in line with the British Institute of Learning Disabilities' code of practice for trainers in the use of physical intervention.
- ❑ **Counselling and support** – Where an incident of challenging behaviour has occurred in a service, counselling and support should then be provided as appropriate. Depending on the nature of the incident, this should include all or some of the following:
 - ❑ colleague and peer support
 - ❑ line management support and supervision
 - ❑ independent counselling
 - ❑ access to specialist support services as appropriate and available

It is the responsibility of the line manager to:

- ❑ ensure that the appropriate levels of counselling support are identified after an episode of challenging behaviour. Consider employing an organisation that offers counselling to staff.
- ❑ assess the risk of further episodes of challenging behaviour
- ❑ ensure guidance is in place and understood on how to manage the behaviour in the future.

Identifying needs prior to entry into the service

Prospective service users' needs must be fully assessed prior to entry into the service. This will normally be done by social services care managers where service users are referred under care management arrangements, i.e. those who require funding by local authorities. For residential services, a summary of the care management assessment/care plan produced for care management purposes will be made available to the registered person.

The care management assessment/care plan will need careful consideration with regard to any aspect of the management of challenging behaviour. The manager of the service will need to determine whether the needs of a prospective service user can be met in the service.

The following should be considered:

- ❑ Are the stated aims and objectives of the service applicable to the person?
- ❑ Will it be possible to meet the person's developmental, care and support requirements?
- ❑ Will the level of staff support be commensurate with the care needs of the prospective service user and the service user group?

- ❑ Will the accommodation and environment meet the needs of the prospective service user?
- ❑ What influence will the current service user group likely to have on the potential service user and vice versa? The service must demonstrate its capacity to meet the assessed needs. This includes:
 - ❑ staff having the experience and skills necessary to deliver the services and care offered
 - ❑ how the specific needs of individuals are met, e.g. challenging behaviour.

Meeting needs after entry into the service

If the needs of the service user change after admission, then the care manager must be contacted in order to reassess the needs and review whether the service still has the capacity to meet the revised assessed needs.

Risk assessment

Whenever it is identified from the needs assessment/care planning process that a service user might require physical intervention, a service user risk assessment must be carried out. This will identify the benefits and risks associated with different intervention strategies and ways of supporting the person concerned. Therefore:

- ❑ all identified hazards/risks and the corresponding risk reduction actions must be recorded using an service user risk assessment
- ❑ consideration must be given to any previous management of the hazard/risk(s) and how successful any previous control measures have been in managing and reducing any hazard/risk(s)
- ❑ it will also be necessary as part of the service user plan to identify the level of support and intervention the individual will require to manage their challenging behaviour. It is important that appropriate steps are taken to minimise the risk to staff, the individual service user and others.

Among the main risks to **service users** are that a physical intervention will:

- ❑ be used unnecessarily, when other less intrusive methods could have achieved the desired outcome
- ❑ cause injury
- ❑ cause pain or distress
- ❑ become routine, rather than exceptional methods of management
- ❑ increase the risk of abuse
- ❑ undermine the dignity of the staff or service users or otherwise humiliate or degrade those involved

- ❑ ❑ create distrust and undermine personal relationships.

The main risks **to staff** include the following:

- ❑ As a result of applying a physical intervention, they suffer injury.
- ❑ ❑ As a result of applying a physical intervention, they experience distress.
- ❑ The legal justification for the use of a physical intervention is challenged in the courts.

The main risks to others include:

- ❑ causing injury
- ❑ causing pain or distress
- ❑ ❑ increasing the risk of abuse
- ❑ undermining the dignity of the staff or service users, or otherwise humiliating or degrading those involved
- ❑ creating distrust and undermining personal relationships.

Prevention of challenging behaviour –general life situation

The first priority for staff is to prevent a challenging situation from either occurring or worsening. There are essentially 3 ways of addressing prevention of challenging behaviour:

1. addressing a person's general life situation
2. acting to diffuse a challenging situation at its earliest stage
3. managing one's own behaviour appropriately.

People with learning disabilities whose behaviour challenges often have the control of their environment taken away by others. Staff need to be sensitive to this and to consider, both individually and as a team, how best to provide an environment that offers the greatest control possible for an individual whose behaviour challenges. Staff also need to provide the best possible opportunities for an individual to communicate their needs and feelings in all aspects of their life. It is also important that a balance is maintained when considering a person's general lifestyle. Too much stimulation can be as damaging to the individual as a lack of stimulation. This is the same in all areas, e.g. social contact and task requirements. However, by giving as much thought to a person's lifestyle as possible, many instances of challenging behaviour will be eradicated or diminished.

Prevention of challenging behaviour – diffusing the challenging situation

One of the most effective ways of preventing a challenging situation is through ensuring that effective needs assessment, service user planning and risk assessment are in place to prevent and minimise such situations. Should a challenging situation occur, there are a

number of techniques and approaches that can be used to diffuse the situation and reduce the possible consequences of any challenging behaviour. Some of these are identified below; the list is not exhaustive. Any technique should not be without first having it agreed as part of a planned management strategy.

- ❑ **Talk to the person** – Speak with the person and try to find out what they are thinking or feeling. Find out if the person is hurt, upset, annoyed or in pain. Try to discover from the person what has happened to trigger the behaviour.
- ❑ **Comfort the person** – Often the person will be upset. Seek to comfort the person both verbally and, if appropriate, by gentle physical contact. It is important that touching is appropriate and not interpreted as an invasion of space. Some people hate being touched and will react adversely.
- ❑ **Ignore the behaviour, but not the person** – Treat the person as if the behaviour is not occurring. There is a risk that this approach will lead to an escalation of the challenging behaviour or additional challenging behaviours.
- ❑ **Interrupting and deflecting** – Try to get the person to focus on another person, task or situation. Use humour or introduce something new to the situation. Doing something different can often be enough to deflect behaviour and to change the focus of a person's attention. This technique cannot be used too often without the underlying functions of the behaviour being addressed, or it will lose its impact.
- ❑ **Rewarding positive behaviour** – Try to reward appropriately, with praise or attention, any positive behaviour the person may be showing.
- ❑ **Allow the person time** – Access to a quiet place and giving the person some time to recover themselves can be helpful.
- ❑ **Use the physical environment** – Make sure that the type and layout of furniture and space enhances positive behaviours – neither too cluttered nor too sparse. If a person is being aggressive and it is safe to do so, place a table or chair to act as a natural barrier.
- ❑ **Monitor others' behaviour** – Challenging situations often happen with others around. There is a need to clearly manage them as well in challenging situations, and to ensure that they do not make the situation worse.
- ❑ **Monitor and review** – Try to constantly monitor and review the situation. Subtle changes in behaviour or the environment can be used to deflect attention.

Prevention of challenging behaviour – managing your own behaviour

How you appear and behave are key variables in preventing the onset and escalation of challenging behaviour. Try to be aware of yourself and in control. In short, when faced with a challenging situation try to:

- ❑ acknowledge personal prejudices, emotions and feelings

- ❑ appear calm and confident
- ❑ be aware of not appearing arrogant, challenging or aggressive
- ❑ consider the causes of previous episodes of challenging behaviour
- ❑ move slowly and purposely
- ❑ identify a safe exit
- ❑ keep proper space and distance
- ❑ speak clearly and calmly
- ❑ remain relaxed and breathing normally
- ❑ maintain eye contact but do not stare or show anger.

Physical intervention

In exceptional circumstances an episode of challenging behaviour may occur that requires physical intervention in order to prevent likely injury to the person or to others. All physical interventions should be properly planned, recorded and agreed in advance. Staff and managers should be aware that team or multidisciplinary decision-making does not absolve a person of individual responsibility for their actions in this situation. However, where proper consideration, risk assessment and planning have taken place then any individual intervention should be justified and supported.

Definition of physical intervention

Physical intervention refers to the use of force to restrict or restrain movement or mobility, or the use of force to disengage from dangerous or harmful physical contact initiated by a service user. Physical intervention differs from manual guidance or physical prompting in so far as it implies the use of force against resistance. The main difference between “holding” and “physical intervention” is the manner of the intervention and the degree of force applied.

Physical intervention involves the application of the minimum degree of force needed to prevent injury or serious damage to property.

Listed in Appendix 1 are examples of physical intervention and other forms of restrictions considered to be unacceptable. Some incidents of challenging behaviour may require physical intervention. The following guidelines should be applied in all situations:

- ❑ Physical intervention will be always be a last resort, except where the person, staff or others are in immediate and serious physical danger.
- ❑ The least restrictive procedures will be used at all times, with the minimum force for the shortest period of time.
- ❑ Physical intervention will seek to maintain the dignity of the service user, staff and others as far as possible.

- ❑ Physical intervention will take into account the person's physical characteristics, behaviour, and location, as well as the wider context and location of the event.

Planned physical intervention

Planned physical intervention, where staff employ pre-arranged strategies and methods, is differentiated from emergency or unplanned physical intervention. Planned interventions should be:

- ❑ agreed in advance by a multidisciplinary team working in consultation with the service user, their carers and, in the case of a child, those with parental responsibility
- ❑ implemented under the supervision of an identified member of staff who has relevant qualifications and experience
- ❑ recorded in writing so that the method of physical intervention and the circumstances when it is sanctioned for use are clearly understood
- ❑ included as part of a service user plan. Where planned physical interventions are employed they should be one component of a broader approach to treatment or therapy. For some people physical intervention will form part of their service user plan. The process of drawing up the service user plan, if undertaken properly, will ensure many of the safeguards needed for service users and staff.

It should be noted that seclusion, to the extent that it involves restricting a person's freedom of movement, should also be considered a form of physical intervention. The use of seclusion is for people detained under the Mental Health Act 1983, and strict criteria for its use is laid out in the Code of Practice (1999).

Planned physical intervention, including restraint, can only be agreed as part of a full multidisciplinary service user planning meeting. The meeting will involve the manager of the service, key-worker, the service user (given their capacity to understand and agree) and/or their representative, who should be involved as far as practically possible. In the case of a child (under the age of 18), the person with parental responsibility must be involved.

Significant professional input should also be involved in the planning process, e.g. social worker or community nurse. Any guidelines set out by statutory agencies with policies in place for conducting such meetings and developing plans should be complied with.

Final agreement to any planned physical intervention must be sought from the placing authority and the service development manager. Any planning meeting considering physical intervention for challenging behaviour should also discuss the following areas:

- ❑ policy and law duties owed to the person, staff, community, Mencap, etc.
- ❑ code of practice, local authority/health authority guidelines
- ❑ aims of the service
- ❑ ethical issues of autonomy, protection, duty of care.

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If it is foreseeable that a person will require some form of physical intervention, then for that person there must be instructions or a written record that includes:

- ❑ the names and responsibilities of the people present at the planning meeting
- ❑ a description of the behaviour sequences and settings that may require physical intervention
- ❑ the results of an assessment to determine any alternative actions to the use of physical intervention
- ❑ details of previous methods that have been tried with or without success
- ❑ a risk assessment that balances the risk of using a physical intervention against the risk of not using a physical intervention
- ❑ a record of the views of those with parental responsibility in the case of a child, or family members in the case of an adult
- ❑ ❑ a description of the specific physical intervention techniques that may be used
- ❑ record of which staff are authorised and who are judged competent to use these methods with the person
- ❑ ❑ the ways in which this approach will be reviewed, the frequency of the review meetings and members of the review team. An up-to-date copy of this record or these instructions must be included as part of the person's service user plan.

Unplanned physical intervention

The unplanned use of physical intervention refers to the use of force by one or more persons to restrict movement or mobility, or the use of force to disengage from dangerous or harmful physical contact initiated by another person without there being an explicitly agreed plan permitting its use. Whilst there will be occasions where unplanned physical intervention is needed to protect a person or others from significant harm, physical intervention should ideally be planned as far as possible and the different aspects discussed.

It should be exceedingly rare for staff to have to physically intervene in unplanned situations. In general, managers will normally be aware of the possible need for intervention and should have plans in place to manage the situation. When physical intervention is required, regardless of whether the physical intervention is planned or unplanned, it should be undertaken within the guidelines stipulated in a physical intervention policy

Guidance where physical intervention is required

- ❑ When staff are required to physical intervene with a person they should always:
- ❑ keep the person's airways clear
- ❑ not inflict pain on the person to gain control or use as punishment

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- ❑ use deflection and redirection over continuous contact with the person
- ❑ hold clothing, not the person, wherever possible
- ❑ consider their size, weight and height relative to the individual
- ❑ consider the behaviour of the individual and others
- ❑ consider the location and context of the situation
- ❑ take account of ethics and the law.

Recording and reporting

Full and comprehensive reporting is essential where an individual exhibits challenging behaviour, especially if it is potentially or actually physically harmful or has involved the use of physical intervention.

After the use of physical intervention, the following actions should be taken:

- ❑ Everyone involved should be checked for injury and treated accordingly.
- ❑ A verbal report be made to the manager within 24 hours. In some cases the manager should be notified immediately, depending on the severity of the situation. Staff should always contact their line manager if in doubt.
- ❑ Within 24 hours a written record of the use of restraint, kept in a separate dedicated bound and numbered book, should be made that includes:
 - the name of the service user or child
 - the date, time and location
 - details of the behaviour requiring use of restraint
 - the nature of the restraint used
 - the duration of the restraint
 - the name of the staff member(s) using restraint
 - the name(s) of any other staff, service users/children or other people present
 - the effectiveness and any consequences of the restraint
 - any injuries caused to or reported by the child or any other person
 - the signature of a person authorised by the registered person to make the record.
- ❑ Carry out a review of existing risk assessments and service user plan and update as necessary.
- ❑ Where applicable, the relevant Mencap incident and accident forms (AIRS) should also be completed and forwarded as required.

- ❑ Check whether the incident is reportable under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulation 1995 (RIDDOR).

- ❑ A meeting should be arranged by the manager of the service within 5 working days to discuss the need for future action. This meeting should be fully recorded and identify any future action and how such behaviours will be managed in the future.

- ❑ The manager of the service will monitor the record books on restraint, and any other measures of control, to ensure compliance with national and local policies and procedures and to review current care practice.

Appendix 1

Examples of unacceptable forms of physical intervention and other restrictions

The following should be read within the context of the whole document and not simply as a “checklist”.

Unacceptable forms of physical restraint on movement

- ❑ the tying of a person’s arms and/or legs to furniture, e.g. chairs or beds
- ❑ the positioning of furniture close to the person, with the intention of making it impossible for the person move or rise
- ❑ sitting the person in an isolated position, with the intention of making it impossible for the person to move about
- ❑ the practice of tilting a chair back or the use of a low sitting position, with the use of bean bags of other low or unstable forms of seating, with the intention of immobilising a person
- ❑ the use of sleeping bags to restrict movement
- ❑ the tucking in of bed clothes so tightly that movement is restricted
- ❑ the inappropriate use of fitting beds with “cot” sides to restrict movements.

Unacceptable forms of physical restraint to mobility or movement

- ❑ the unjustified practice of locking external doors to restrict movement
- ❑ locking of a person in any room to restrict movement
- ❑ the unjustified use of locks that impede the movement of people to communal areas of the workplace
- ❑ the practice of leaving people who are in care in their night clothes in communal areas, with the intention of making it inappropriate for them to move outside of the building
- ❑ failure to provide reasonable assistance to a person who is in care resulting in them being unjustifiably left in bed or placed in bed early
- ❑ the removal of mobility aids or placing them out of reach so as to intentionally restrict the movements of the person.

Drugs

- ❑ the inappropriate use and administration of drugs, outside of medical advice and direction

Supervision and observation

- ❑ the inappropriate use of listening devices and video cameras

- ❑ the use of personal electronic “tagging” devices without proper assessment, consultation and review.

Cultural

- ❑ the use by staff of threats or language that undermines the person, with the intention of restricting their movement
- ❑ irresponsible use of power and personal control
- ❑ coercive or punitive use of emotional or social punishment.