

# Use of Restrictive Practice in NAS Schools Policy

<b>Reference Number</b>	SO-0040
<b>Date of Issue</b>	July 2024
<b>Next Review</b>	July 2025
<b>Version Number</b>	1.0
<b>Policy Owner</b>	Director of Education & Children's Services
<b>Policy Lead (s)</b>	National Lead for Behaviour Management and Low Arousal, Clinical Leads and Safeguarding Lead
<b>Distribution</b>	Education and Children's Services

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## Scope

This policy applies to all children and young people under and over the age of 18 in National Autistic Society schools.

## Purpose

The purpose of this policy document is to state the National Autistic Society's philosophy towards the use of and reduction in restrictive practice(s) within the relevant legal and regulatory framework.

The rights and dignity of children and young peoples at National Autistic Society schools, even when behaving in a physically challenging way, must always be borne in mind. Any restrictive practice must be used with a view to keep them and others safe, with the aim of allowing the children and young people not only to recover from significant dysregulation and distress, but also to acquire alternative adaptive behaviours and functional skills that, over time, decrease the level of intervention needed.

NOTE - Procedure for admission to a school where children and young people are dependent on seclusion or restraint to manage their behaviour must be read in conjunction with this Policy (Related Document - SO-0039-005-0723).

All staff are required to adhere to the principles and values set out in the NAS Ethical Framework and endeavour to embed them in their daily working ethos and routines.

## Introduction

Autistic children and young people sometimes behave in ways that others can find challenging and which, on some occasions, may be dangerous; potentially resulting in harm to the person displaying the behaviour, peers, staff or the public. Such behaviours may initially appear to be unpredictable and can be frightening for all concerned including the person displaying the behaviour.

The primary duty of the National Autistic Society as an education provider is to ensure our children and young peoples are safe from harm. The fundamental but complex need to balance the right to freedom, dignity and respect, with ensuring safety from harm is at the heart of this policy and guidance (The Restraint Reduction Network (RRN) Key Strategy 1).

## Legal Context

The UK government guidance on *Reducing the Need for Restraint and Restrictive Intervention* (2019) states that:

1. 'The use of all forms of physical intervention and physical contact, or even imminent threat of force, are governed by criminal and civil law. The unnecessary or inappropriate use of force may constitute an assault and may also infringe the rights of a child or young person under the Human Rights Act 1998. The use of restraint can be justified for purposes set out in relevant legislation.'
2. 'Restrictive intervention should only be used when absolutely necessary, in accordance with the law and clear ethical values and principles which respect the rights and dignity of children and young people, and in proportion to the risks involved. It can never be a long-term solution, and we are particularly concerned about long-term or institutionalised uses of restrictive intervention'
3. *Department of Health and Social Care and Department for Education - Reducing the need for restraint and restrictive intervention (2019)*

Section 93 of the Education and Inspections Act 2006 allows the use of reasonable force to:

- *prevent or stop the committing of any offence by a children and young people;*
- *prevent or stop personal injury to, or damage to the property of any person (including the children and young people themselves) by a children and young people; or*
- *prevent or stop a children and young people prejudicing the maintenance good order and discipline.*

Staff should not hesitate to act in these situations provided they follow this policy and guidance; however, they should always satisfy themselves that the action they take would be considered justifiable by a wider audience of their professional colleagues. This includes ensuring all other measures are taken to provide effective support and quality teaching and avoid the use of restrictive practices.

To ensure that we follow best practice when Managing signs of Distress and physically challenging behaviour, we follow and adhere to the guidance within the RRN guidance, the guidelines include trainer and trainee codes of practice and the 6 key strategies to the reduction of the use of restraint.

Anyone using restraint must make sure they comply with the law. Inappropriate or excessive restraint is a violation of human rights and could be seen and interpreted as an assault and result in criminal proceedings.

There is no specific piece of legislation dealing with 'restraint', setting out what is lawful in a care setting and what is not.

The law relating to the use of restraint is largely the common law. This is law which has developed over the years as cases come before the courts.

Restraint exercised without legal authority may be considered as a criminal offence.

In these circumstances the children and young people carrying out the restraint may face prosecution as well as disciplinary action. Any physical act which causes injury or harm the victim could constitute an assault if there is no lawful justification for its use. The common law recognises that someone may use force or restraint if there is reason to believe another person is about to cause him or her harm. No more than the minimum necessary force can be used. If the person acts in bad faith or uses more force than is reasonably necessary, his or her action is outside the law. No child or young person is to be restrained other than in exceptional circumstances. Staff should use restraint only if this is the only practicable means of securing the welfare of the child or young person or of other children and young people.

As well as the presence of a clear, imminent and immediate danger staff must also be able to demonstrate that all other available less restrictive options have been tried and failed before the use of a restrictive practice. Immediate and imminent risk of harm to themselves or others, last resort and when everything else has been tried and failed. The Managing Signs of Distress framework and training offers guidance and a series of non-restrictive and non-aversive techniques to avoid/reduce the use of restrictive practices. There is an expectation that alternatives to a restrictive practice would increase with staff training, experience and knowledge of the children and young people (RRN Key Strategy 4).

If you can find no alternative to using a restrictive practice, then you should use it. (Examples of Non-Restrictive Practice see Related Document - SO-0039-002-0623)

## The 6 Key strategies for restraint reduction

### Strategy One: Leadership.

The organisation develops a mission, philosophy and guiding values which promote non-coercion and the avoidance of restraint. Executive leaders commit to developing a restraint reduction plan which is implemented and measured for continuous improvement.

### Strategy Two: Performance Measurement.

The organisation takes a 'systems' approach and identifies performance measures which determine the effectiveness of its restraint reduction plan, and which measure key outcomes for children and young people.

### Strategy Three: Learning and Development.

The organisation develops its staff with the knowledge and skills to understand and prevent crisis behaviour. Training is provided which gives staff the key competencies and supports the view that restraint is used as a last resort to manage risk behaviour associated with aggression and acute behavioural disturbance.

### Strategy Four: Providing Personalised Support.

The organisation uses restraint reduction tools which inform staff and shape personalised care and support to children and young people.

### Strategy Five: Communication and Customer Focus.

The organisation fully involves children and young people in a variety of roles within the service, identifies the needs of children and young people and uses these to inform service provision and development.

### Strategy Six: Continuous Improvement.

The principle of post-incident support and learning is embedded into organisational culture.

## **Restrictive Physical Interventions**

All children and young peoples supported by the National Autistic Society who require any form of supportive strategies, will have an Individual Behaviour Support Plan that provides detailed information relating to all aspects of a children and young people's likes, dislikes, strengths, qualities, aspirations and key behaviour and how to support them.

Restrictive practices can be categorised as planned or unplanned practices: (see RPI Procedure for further details – SO-0040PR)

Medical attention should be sought if a Restrictive Practice has been used to support someone with underlying health issues (RRN Key Strategy 5).

**Duty of Care** – National Autistic Society staff have a duty of care towards the children and young people supported, which requires the organization to take reasonable care to avoid doing something or failing to do something which results in harm to another person. There are situations where some action must be taken, and it is a matter of choosing the course of action that would result in the least harm.

**Best Interest** – The principle of best interest applies. A member of staff must demonstrate that in the presence of a clear and immediate danger they have considered all available alternatives, acted in the best interest of the person in their charge, have considered that not acting could result in greater harm, and does not use unreasonable or excessive force, then the action can be defended in law.

**Reasonable & Proportionate** – Any force used must be 'reasonable and proportionate', reasonable in that it is the minimum force required to prevent injury and proportionate in that it is not excessive given the seriousness and likely harmful consequences of the person's behaviour. As with all issues to do with caring for, developing and teaching the children, young people and adults we support, decisions need to be made on the best available knowledge at the time.

A useful concept to bear in mind when carrying out any restrictive practice is that of Social Validity. During any restrictive practice we should be conscious both of how our intervention may look to others not involved in the interaction and how we would like ourselves, family members or friends to be interacted with in similar circumstances.

## **Seclusion**

Seclusion refers to the supervised confinement and isolation of a person, away from

other people who use services, in an area from which the person is prevented from leaving, where it is of immediate necessity for the containment of severe behavioural disturbance which is likely to cause harm to others.

Under the Children Act 1989 any practice or measure, such as 'time out' or seclusion, which prevents a child from leaving a room or building of his/her own free will, may be deemed a restriction of liberty. Under this Act, restriction of liberty of children is only permissible in very specific circumstances, for example when the child is placed in secure accommodation approved by the Secretary of State or where a court order is in operation.

The reason for seclusion might be because the children and young people is highly dysregulated, overly- aroused, agitated, overactive, distressed is making serious threats or gestures towards others, or is being destructive to their surroundings, when other therapeutic interventions have failed to safely contain the behaviour. Staff should not use seclusion as a default action when a children and young people present as being dysregulated.

The Human Rights Act (1998) sets out important principles regarding protection from abuse by state organisations or people working for these institutions (including the National Autistic Society). It is an offence to lock children and young people in a room without recourse to the law (even if they are not aware that they are locked in) except in an emergency.

The right to liberty and personal freedom is enshrined in Article 5 of the Human Rights Act (1998) and is protected by the criminal and civil law. For these reasons the use of seclusion outside the Mental Health Act should only be considered in exceptional circumstances and should always be proportional to the risk presented by the child or person supported.

## **Training (RRN Key Strategy 1-5)**

All training which includes the use of Physical Interventions and Restrictive Practices should be assessed by the school and the children and young people needs. The process will be managed through the use of a Tiered School approach and children and young people Risk Management Planning and Training needs assessments. (RRN Key Strategy 3, 4 & 5).

Any agreed plan around the training of staff in the use of Restrictive Practices, should include a completed Restraint Reduction Plan as part of the overall plan, and should be monitored in line with our internal monitoring and reviewing processes to ensure the justified and necessary use of the restriction, and promote the reduction where proactive management plans are in place and working for the children and young people (RRN Key Strategy 6).

Training must be provided to the highest children and young people tier needed within the service / school that the staff member is working in, this is to ensure that the use of restrictive practices are minimised, and clear reduction plan(s) and strategies exist for those where restrictive practice is necessary.

## **Responsibilities**

### **Trustees**

- Trustees review of policy on the use of Restrictive Practices.
- Trustees will monitor the reduction in use of Restrictive Practices on a quarterly basis.

### **Director of Education and Children's Services**

- Monitoring of implementation of this policy.
- Monitor the use of Restrictive Practices on a regular basis.
- Ensuring the allocation of internal and external resources (including clinical and counselling) to address the needs of children and young people we support and staff with regard to the implications of serious behaviour of concern.

### **Principals**

- Enforcing the implementation of this policy in their school
- Maintaining a comprehensive recording and reporting process relating to the use of restrictive practices
- Ensuring relevant staff undergo training in the use of restrictive practice, with regular refreshers; currently provided by Studio III
- Supporting staff teams in developing risk assessments and positive behaviour support and care plans with regard to restrictive practices – with particular reference to calling for external or internal expert opinion as required.
- Ensuring plans are shared with parents/advocates, purchasers and other interested agencies, and where appropriate with the children and young people concerned, recognising the importance of consent in terms of the fundamental issues of respect and dignity.
- Regular monitoring of such plans.

### **All Staff**

- Working always in the best interests of the children and young people.
- Taking part in training provided in the use of restrictive practices and applying the principles and strategies taught.
- Satisfying themselves that they are clear on what they may and may not do in terms of restrictive practices, seeking clarification as necessary.
- Using Support, reflective practices, & supervision sessions to confirm their understanding of this policy and to seek further explanation or personal development as necessary.
- Following the recording and reporting procedures.
- Contributing to the development of positive behaviour support and/or care plans, and good practice.

## **Complaints**

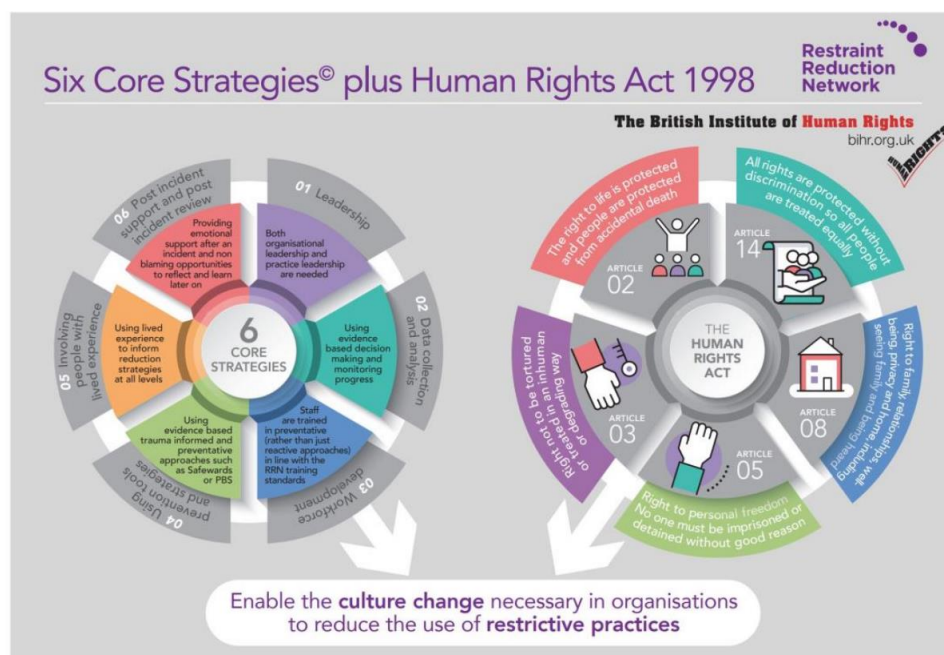
Adults, parents, guardians, carers or children and young people have the right to offer comments and refer to the local complaints procedure (Complaints Resolution Policy QS-0010) in the case of any disagreement in the use of restrictive practices.



Alternatively contact can be made with the appropriate external regulator: Care Quality Commission (England) / Care Inspectorate Wales / the Care Inspectorate, Scotland / Regulation and Quality Improvement Agency (Northern Ireland) / Ofsted – details can be found on the internet.

## Whistleblowing

Employees of the National Autistic Society have a duty to voice any concerns over care practice. Please refer to the Policy on Whistleblowing for further information.



## References and Resources

### Law

[Children Act 1989](#)

[Mental Capacity Act 2005](#)

[Human Rights Act 1998](#)

[Education and Inspections Act 2006](#)

### Statutory Guidance and Regulations

[Department for Education - Keeping Children Safe in Education 2023](#)

[Department for Education - Working Together to Safeguard Children \(2023\)](#)

[The Education \(Independent School Standards\) \(England\) Regulations 2014](#)

[Department for Education - Use of Reasonable Force in Schools \(2013\)](#)

### Restraint Guidance and Resources

[Restraint Reduction Network](#)

[Restraint Reduction Network Training Standards \(2020\)](#)

[Department of Health and Social Care and Department for Education - Reducing the need for restraint and restrictive intervention \(2019\)](#)



## Related Documents

<a href="#"><u>SO-0039-001-0623</u></a>	Information to be recorded for each use of a Restrictive practices
<a href="#"><u>SO-0039-002-0623</u></a>	Non-Restrictive & Restrictive Intervention Practice
<a href="#"><u>SO-0039-003-0623</u></a>	Restrictive Practice Form
<a href="#"><u>SO-0039-004-0623</u></a>	How to complete Restrictive Practice Form
<a href="#"><u>SO-0039-005-0723</u></a>	Procedure for Admission to a School or Service where children and young people are dependent on seclusion or restraint to manage their behaviour
<a href="#"><u>SO-0039-006-0623</u></a>	Unplanned Response Reporting
<a href="#"><u>SO-0039-007-0623</u></a>	Managing Signs of Distress Framework
<a href="#"><u>SO-0039-008-0623</u></a>	Incident Analysis Form
<a href="#"><u>SO-0039-009-0623</u></a>	Studio 3 Verification Sheet
<a href="#"><u>SO-0039-010-0723</u></a>	Protocol for Unplanned Restrictive Practices
<a href="#"><u>SO-0039-011-1120</u></a>	Training Request / Referral Form
<a href="#"><u>SO-0039-012-0623</u></a>	Restrictive Practice Management and Restraint Reduction Plan
<a href="#"><u>QAF2</u></a>	Incident Management Policy & Procedure
<a href="#"><u>QS-0009</u></a>	Complaint Resolution (Adult Services) Policy
<a href="#"><u>QS-0010</u></a>	Complaint Resolution (Schools & CYP Services) Policy