Managing the Behaviour of Children and Young People in the Secure Estate

Code of Practice
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Introduction

The establishments that make up the secure estate for children and young people must have strategies in place for managing the behaviour of the troubled and sometimes troublesome young people in their care. These strategies should emphasise:

- an expectation of positive behaviour within an environment of mutual respect
- a child-centred culture
- positive relationships between young people and staff.

There will, inevitably, be times when young people exhibit problematic and challenging behaviour, and on some occasions the behaviour may become so challenging that physical intervention is necessary. However, if an effective behaviour management strategy is in place, the need for such physical intervention should be relatively low.

This document sets out a framework for such a strategy, identifying the essential components and the underlying principles of effective practice.

Background

The Youth Justice Board for England and Wales (YJB) first published the code of practice, Managing the Behaviour of Children and Young People in the Secure Estate, in 2006. This followed consultation with other government departments, the inspectorates, the Association of Directors of Social Services, the various sectors of the secure estate for children and young people, and other experts in the field. It also took into consideration the opinions of children and young people.

During the consultation period, the joint inspectorates\(^1\) published their second report on safeguarding children, Safeguarding Children – the Second Joint Chief Inspectors’ Report on Arrangements to Safeguard Children.\(^2\) This recommended that the Department for Education and Skills (as it was then called), the Department of Health, the YJB, and the National Offender Management Service (NOMS) should:

\[...\text{issue one agreed set of principles for the use of control methods in all settings where children are cared for, including secure settings. This should take account of children’s views and the need to place physical control}\]

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\(^1\) Comprising: Commission for Social Care Inspection, Her Majesty’s Chief Inspector of Schools, Her Majesty’s Chief Inspector of Court Administration, Her Majesty’s Chief Inspector of Probation, Her Majesty’s Chief Inspector of Constabulary, Her Majesty’s Chief Inspector of Prisons, Healthcare Commission, Her Majesty’s Chief Inspector of the Crown Prosecution Service.

within an overall behaviour management strategy, and in a wider context of prevention.

The 2006 code of practice was the basis for such a set of common principles. Following two restraint-related deaths in custody, the government commissioned an independent review of the use of restraint in the under-18 secure estate. The Independent Review of Restraint in Juvenile Secure Settings (IRR) was published in December 2008, together with the government’s response, which accepted almost all of the review’s 58 recommendations.

Most importantly, the government committed to developing a new, common system of restraint for secure training centres (STCs) and under-18 young offender institutions (YOIs). The following recommendations were also among those accepted:

- all restraint systems and techniques used in the under-18 secure estate should be subject to accreditation by an independent body
- all establishments should have restraint minimisation strategies in place
- there should be significant improvements relating to training, monitoring, inspection and reporting.

The Restraint Advisory Board was established to assess the new restraint system for STCs and under-18 YOIs, known as Minimising and Managing Physical Restraint (MMPR). The Restraint Advisory Board comprised leading medical and behaviour management experts, and made a series of recommendations to ministers regarding the safety and appropriateness of the MMPR syllabus and the need for high-quality training, reporting and data collection.

The government has made good progress against both the IRR and Restraint Advisory Board’s recommendations and this major programme of work will continue for a number of years.

Since the code of practice was first published in 2006, the YJB has commissioned its second review of safeguarding in the secure estate. This led, in particular, to further, in-depth reviews of a number of areas of practice in the secure estate, each of which has an impact on behaviour management, including searches, separation and complaints. Each review had a series of accompanying recommendations for providers, against which progress has been monitored.

The YJB has updated the code of practice, published here, to reflect the contextual developments above. The changes that have been made are therefore either factual or reflective of new terminology, and any changes to the principles or policies within the code of practice have been accepted by government.

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Context: the secure estate for children and young people

Three types of establishment make up the secure estate for children and young people: under-18 YOIs, STCs, and secure children’s homes. The proportion of secure estate places within each type of establishment is as follows:

- at the time of writing (July 2012), 81% of commissioned places are in under-18 YOIs, which are managed by NOMS, or private companies. There are 11 under-18 YOIs: eight for boys and three for girls

- the remaining 19% of commissioned places are in four STCs (run by private companies) and 10 secure children’s homes (managed by local authorities). Generally, younger children and those who are assessed as posing greater risk and having greater needs are held in these establishments.

The average population in custody (under the age of 18) in 2010/11 was 2,040, down 16% from an average of 2,418 in 2009/10, and down 27% from an average of 2,807 in 2000/01. Around 95% of the young people in the secure estate are male.

Children and young people in custody are known to have some of the greatest needs of any in the country. They are likely to come from violent, chaotic or abusive backgrounds, and are often frightened and/or angry about their circumstances. The probability that they will exhibit difficult and problematic behaviour is high.

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General considerations

This section contains some general points to be made about the approach to behaviour management set out in this code of practice.

Who does the code of practice apply to?

The aim of the code of practice is to guide the practice of all staff responsible for managing the behaviour of children and young people sentenced or remanded to custody in England and Wales. It does not explicitly apply to the behaviour of children held in secure establishments on welfare grounds, although in practice the same principles should apply.

What does the code of practice cover?

It should be recognised that there are some factors that may critically influence the behaviour of children and young people in custody, but which are not covered in this code of practice, for example, appropriate placement, and timely receipt of relevant information by the secure establishment. This is not because these issues are unimportant, but because they are largely beyond the control of those who manage and work in secure establishments. We only include in this code of practice those elements that can reasonably be controlled and/or influenced by the secure establishment and its staff.

In most areas, the code of practice does not prescribe how the components of the strategy should be delivered. This needs to be decided locally, informed by the type of establishment, and local circumstances.

Legal basis

The code of practice’s approach is consistent with, and encourages the recognition of, the rights of children and young people in law and international conventions, and specifically as outlined in:

- the United Nations Convention on the Rights of the Child, to which the government is committed to having due consideration
- the Human Rights Act 1998

The approach is also consistent with law and regulations that govern the care of children and young people in each of the three types of secure establishment.

The code of practice itself does not have the force of statute: it offers guidance. The legal basis for policy and action lies in the statutory rules and regulations for the relevant establishment. However, many elements of the code of practice have now been incorporated into the contractual arrangements that exist between the YJB and the various establishments within the secure estate. In addition, the YJB’s risk-led approach to monitoring the performance of
establishments allows for detailed examination of specific areas of practice outlined in this code of practice, as and when they are required.

**Core principles**

All 10 elements of the code of practice are based on the following core principles of managing the behaviour of children and young people in the secure estate.

**Principle 1: There is an expectation of good behaviour**

While this document inevitably focuses on problem behaviour, there should also be a strong emphasis in secure establishments on the importance of encouraging and rewarding positive behaviour. The expectation of good behaviour must be promoted as the norm.

**Principle 2: Consultation, complaints and advocacy systems should be in place**

The code of practice is based on the premise that an important driver of angry and sometimes violent behaviour is the feeling of powerlessness young people may experience regarding the living circumstances and care arrangements to which they are subject. This is why significant attention is paid in the code of practice to consultation mechanisms, complaints systems and advocacy. Children and young people who have an effective way of raising concerns and problems are less likely to resort to challenging behaviour.

**Principle 3: Restorative justice is key**

A further premise of the code of practice is that restorative justice is a proven and effective approach, and so establishments should embed its principles at the centre of their behaviour management approach. Restorative justice brings into contact (either directly or indirectly) those who have caused harm, and those who have been harmed, in order to:

- identify the impact of an incident
- decide how to deal with its aftermath
- contribute to a solution.

The primary aim is to repair harm and resolve the underlying causes of the behaviour.

**Principle 4: There should be good relationships between staff and young people**

The most important factor that influences the behaviour of children and young people is the quality of the relationships that are made between caring adult staff and those in their care, set within the context of an organisational culture that is child-centred. If a culture of positive relationships between staff and young people does not prevail, then the promotion of positive behaviour is unlikely to be achievable.
Core principles of restraint

Within its Use of Restraint Policy Framework, the government has established the following principles for the under-18 secure estate, including for secure escorts.

The status of children

All persons under-18 and detained by the state are children. As a matter of law, they retain the same protection (provided by domestic and international legal frameworks) which is afforded to children who are not in custody. The welfare of children is of paramount importance, and this principle must remain at the forefront when making decisions about care for and management of children detained by the state. Children should have a say in how they are cared for and managed. They should be able to voice their concerns over restraint confidentially and to an independent person. When they wish, they should be able to do so with support from an independent advocate.

Use of restraint

The use of restraint must always be necessary, proportionate and in accordance with the law. The use of restraint carries a potential to harm the child who is restrained, and such risks must be kept as low as possible in the circumstances. The restraint techniques and holds must be developed and applied as part of an effective overall strategy for managing behaviour.

Restraining children involves special considerations

Restrain must not be deployed as a punishment. It arises from a need to protect. The use of restraint should not be understood and applied from a purely adult perspective, but in the context of what we know about child and adolescent development. This includes the physical and emotional characteristics of children as maturing, still developing young people with very wide ranging needs and capacity to understand their circumstances, who will exhibit a very diverse range of behaviour.

A safe system of restraint requires effective governance

Each establishment must demonstrate robust governance arrangements. Such arrangements are the means by which the management of each establishment is accountable for and can provide assurance that all of the key elements of a restraint system are operating as intended and to specified standards.

High quality training is essential for safer restraint

The quality and frequency of training is vital to safe restraint. Training must be child focused, built upon the above principles and must enhance staff skills in de-escalation and diversion to minimise the recourse to restraint.  

Next steps

The programme of work to implement the agreed recommendations from both the IRR and the Restraint Advisory Board's assessment of MMPR will continue. This will include:

- comprehensive training for all staff in under-18 YOIs and STCs in MMPR, which includes, crucially, how situations can be de-escalated to avoid the need for restraint
- more frequent refresher training for all staff in under-18 YOIs and STCs
- implementation of a comprehensive data collection, governance and monitoring framework for MMPR
- implementation of a systematic approach to reviewing and updating the MMPR syllabus
- further improvements to debriefing practice
- a continued emphasis on restraint minimisation strategies, against which establishments will be monitored on an annual basis.

In addition, NOMS will be taking forward work to implement a revised, overall approach to behaviour management in under-18 YOIs. The YJB will work closely with NOMS during this process.

The YJB will also continue with its work to embed changes to practice following its reviews of searches, separation and complaints.

As noted in the introduction, this updated version of the code of practice has been produced to reflect the changed landscape since publication of the original version in 2006. However, the YJB also recognises the need for a complete review of the principles and policies underpinning the code of practice at a later date; this would be subject to a full public consultation.
The code of practice

The code of practice consists of ten elements:
1. Management responsibilities
2. An acceptable behaviour statement
3. A coherent and fair system of rewards and sanctions
4. A planned approach to managing individual behaviour
5. Processes for consulting with children and young people
6. An independent advocacy service
7. A complaints procedure
8. Processes for diversion, de-escalation and defusing
9. Processes for separation
10. A system for restrictive physical intervention.

Further details of each of these elements are set out below.

1. **Management responsibilities**
   
   1.1 It is important to place behaviour management within a framework of overall management responsibility. The senior managers of each establishment are responsible for leading the approach to managing behaviour and, in particular, they must:
   
   - demonstrate a commitment to a child-centred culture that encourages a calm, ordered, and respectful living environment (which helps to promotes self-control)
   
   - ensure that every relevant member of staff receives appropriate training in all aspects of managing behaviour
   
   - ensure that monitoring systems are in place to identify the extent of compliance with the code of practice
   
   - ensure that lessons learned from monitoring information and from incident analysis are used to inform and improve the development of effective practice within their establishment.

2. **An acceptable behaviour statement**

   2.1 The establishment must have a clear, widely distributed statement, written in child-friendly language, about the type of behaviour that is acceptable and unacceptable.
2.2 This statement must be made available to the young person as part of the induction process, and be continually referenced (for example, through personal officer/key worker relationships and during care planning meetings).

2.3 Information about the consequences of unacceptable behaviour must be made clear (see point 3, below).

3. **A coherent and fair system of rewards and sanctions**
   3.1 The establishment must have a clear, widely distributed statement, written in child-friendly language, about the rewards and sanctions that are used, and the kind of circumstances in which they are deployed.
   3.2 This statement must be made available to the young person during the induction process and be continually referenced, for example, through personal officer/key worker relationships and during care planning meetings.
   3.3 The system must be consistent with the principles outlined in the YJB’s guidance note, *Rewards and Sanctions Systems.*
   3.4 Restorative justice principles should be at the heart of the system.

4. **A planned approach to managing individual behaviour**
   4.1 Behaviour management must be specifically covered in care and sentence planning processes.
   4.2 Triggers to unacceptable behaviours, and tactics for avoiding or defusing them, should be identified in the planning process, in consultation with the child or young person.
   4.3 A child or young person who is assessed as needing a tailored behaviour management plan must have one in place. This should be formulated at planning meetings and developed in consultation with the child or young person, his or her parents/carers, and relevant professionals.
   4.4 Behaviour management plans must be reviewed at each planning meeting.
   4.5 Parents/carers and relevant professionals must be kept informed about behavioural problems and achievements.

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5. Processes for consulting with children and young people

5.1 The establishment must demonstrate a commitment to consulting with children and young people about issues that affect them, and provide information about the processes that are in place to support this commitment.

6. A complaints procedure

6.1 The establishment must demonstrate that it has an effective complaints procedure.

6.2 Information on the complaints procedure, written in child-friendly language, must be provided to children and young people, and followed up with explanations from staff during the induction process.

6.3 Children and young people must have access to an independent advocacy service to support them through the complaints procedure.

6.4 There must be a staged or tiered procedure for resolving complaints.

6.5 The initial stages of the procedure must seek to resolve complaints locally, informally and swiftly.

6.6 Restorative justice principles must be used in resolving complaints wherever possible.

6.7 Any complaint which involves an allegation against staff, or which raises child protection concerns, should be notified to the relevant local authority and the YJB.

6.8 The establishment must have a monitoring system in place to review the operation of the complaints procedure in terms of the nature of the complaints made and their outcomes from the child or young person’s perspective. Monitoring should take place at both an individual and aggregate level.

7. An independent advocacy service

7.1 The establishment must ensure that children and young people have access to an advocacy service that is:

- child/young person-led
- independent of the establishment
- confidential (within the limits of child protection and security requirements).

8. Processes for diversion, de-escalation and defusing

8.1 The policies of the establishment must emphasise de-escalation, and defusing potentially violent or conflictual situations.
8.2 Restorative justice principles should be used where possible to help de-escalate and defuse conflict.

8.3 This approach must be reflected in the establishment’s training strategy.

9. **Processes for separation**

9.1 Separating young people from their peers is a procedure used throughout the secure estate to assist in the management of certain types of behaviour. Although the language and some practical aspects of the process differ according to the type of establishment, the following principles must underpin the process wherever it takes place.

9.2 The decision to separate a child or young person from their peers because of problematic behaviour must be made only on the basis of an assessment that:

- separation represents the best approach to meeting the needs of that young person, and/or
- separation is the best way to manage the risks posed to young people and staff.

9.3 Separation must not be used as a punishment and its use should be proportionate to the young person’s needs and risks.

9.4 The decision to separate a child or young person must be taken by a senior member of staff.

9.5 The reasons for the separation must be made clear to the child or young person.

9.6 Every effort must be made to assist the child or young person in addressing the behaviour that led to the separation, so that he or she may be reintegrated to the normal regime as soon as possible.

9.7 While the child or young person is separated, he or she must continue to have access to regime activities, particularly education.

9.8 Periods of separation must be reviewed frequently to ensure that they are still justified.

9.9 When the period of separation is over, the child or young person must be given the opportunity to debrief with a suitable member of staff.

10. **A system for restrictive physical intervention**

This section of the code of practice should be read in conjunction with the government’s Use of Restraint Policy Framework, which sets out the principles underpinning the use of restraint in the under-18 secure estate and the government’s core expectations that secure establishments must abide by when restraint is used. The code of practice includes some additional requirements of establishments, reflecting the YJB’s commissioning function.

10.1 Only staff who are properly trained and competent to use restrictive physical interventions should undertake them.
10.2 Restrictive physical interventions must only be used as the result of a risk assessment.

10.3 Restrictive physical interventions must be mindful of the particular needs and circumstances of the child or young person being restrained, for example, medical conditions or pregnancy.

10.4 Restrictive physical interventions must not be used as a punishment, or merely to secure compliance with staff instructions.

10.5 Any intervention must be in compliance with the relevant rules and regulations for the establishment, and staff should ensure that they carry out interventions in accordance with training they have received.

10.6 Restrictive physical interventions must only be used as a last resort, when there is no alternative available or other options have been exhausted.

10.7 Methods of restrictive physical intervention that cause deliberate pain must only be used in exceptional circumstances.

10.8 Restrictive physical interventions must be carried out with the minimum possible force, and for the shortest possible period of time.

10.9 The degree of physical intervention must be proportionate to the assessed risk.

10.10 Every effort must be made to ensure that other staff are present before the intervention occurs.

10.11 Medication must only be used for treatment of a medical condition, and not as a means of control.

10.12 After the intervention, the child or young person must have the opportunity to debrief with a suitable member of staff, with the support of an advocate, if requested.

10.13 A medical examination must be arranged immediately if there is any evidence of injury, or if the child or young person complains of discomfort or pain, or requests it.

10.14 Following a restrictive physical intervention, child protection procedures should be initiated if a child or young person is injured or complains about the intervention.

10.15 Staff must have the opportunity to debrief with their manager.

10.16 Family/carers and appropriate professionals must be informed of the intervention.

10.17 A monitoring system must be in place to record individual incidents in a way that allows them to be aggregated over time to give a total picture of the use of restrictive physical interventions in each establishment.

10.18 The establishment must prepare an annual report, which evaluates practice in the area of restrictive physical interventions for the previous year.
10.19 The establishment must have processes in place to ensure that practice is informed and developed by the debriefing and monitoring information.