

Guidance on the Use of Force to Control or Restrain in Schools

NB: It is important to note that there may be changes in the law as a result of the Education Bill that is currently being debated in parliament. We will seek to update this guidance as quickly as possible if changes occur.

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Introduction

This guidance has been drawn up by Suffolk County Council in consultation with staff representatives and CSD (UniSAFE.) It should not be treated as a complete and authoritative statement of law. This document is intended to set out clear guidance taking account of legal guidelines.

The document draws together good practice with regard to legislation and guidance. New guidance on school discipline was issued by Suffolk's Children and Young People's Services in June 2008 in partnership with SchoolSAFE (UniSAFE) in response to the Education and Inspection Act 2006, DCSF Guidance on Pupil Behaviour and Discipline Policies (April 2007), DCSF Guidance on the Use of Force to Control or Restrain Pupils, 2008 and DCSF Guidance on Screening and Searching of Pupils for Weapons, 2007. Legislation on Safeguarding Children and Safer Recruitment in Education, 2007, and Guidance for Safe Working Practice for the Protection of Children and Staff in Educational Settings (February 2005) was also drawn on. Subsequent legislation in particular the Apprentices, Skills, Children and Learning Act is also reflected within this guidance

The guidance should be read in conjunction with:

- Behaviour Policy
- Anti-bullying policy
- Disadvantage and Equality Policy
- Safeguarding Policy
- Safer Recruitment Policy
- Complaints policy
- Whistle Blowing policy
- Health and Safety policy
- Teaching and Learning Policy
- Drugs Policy

At all times schools must treat pupils with dignity, compassion and humanity. It is always unlawful to use force as a punishment. This is because it would fall within the definition of corporal punishment, abolished by Section 548 of the Education Act 1996.

Aims

The school governing body, in partnership with the county council has a duty to ensure the health, safety and well being of everyone in the school.

Physical intervention may be considered when all aspects of the school's discipline policy have been exhausted. Section 93 of the Education and Inspection Act 2006 established the responsibility of teachers and other authorised staff who have lawful control or charge of pupils with regard to the application of reasonable force in order to prevent:

- children committing an offence
- causing personal injury
- damage to property
- engaging in behaviour prejudicial to the maintenance of good order and discipline

Minimising the need to use force

Although preventative measures will not always work, the school should take steps to reduce the likelihood of situations where the need to use force is required.

These steps may include:

- creating a calm orderly supportive environment
- avoiding situations likely to cause challenging behaviour
- developing effective relationships between pupils and staff
- adopting a personalised learning approach to develop social and emotional skills, meeting the needs of individual pupils
- recognising that challenging behaviours are often foreseeable e.g. anticipating and removing objects, so far as is reasonable, which may be thrown / used as weapons.
- implementing risk assessments based on the pupil's individual needs
- using observations to establish if there are triggers for inappropriate behaviour
- having realistic expectations, but not stifling ambition
- removing the threat of failure for the pupil
- effectively managing individual incidents
- wherever practicable prior to an intervention, warning a pupil that force may be used.
- providing a structured approach to staff development that supports staff in developing the skills of positive behaviour management, managing conflict and supporting each other during and after an incident

Strategies may include:

- deploying de-escalation techniques and communicating calmly with the pupil
- using non-threatening verbal and body language
- ensuring the pupil can see a way out of the situation
- using distraction
- withdrawal techniques, e.g. going to quiet area, removing the pupil from bystanders or removing others, including pupils
- giving clear directions / show what behaviour is expected
- recognising and responding to early warning of change
- establishing a signal or visual sign to act as a gentle prompt or reminder
- support being offered by a member of staff with whom the pupil has a positive relationship

Staff authorised to use force under the Education and Inspections Act 2006 (EIA)

Section 95 of the Act, allows any member of staff who has lawful control or charge of pupils to use reasonable force. This:

- a. includes teachers, support staff whose job normally includes supervising children such as teaching assistants, behaviour support assistants, learning support assistants, learning mentors and lunchtime supervisors
- b. can also include people to whom the headteacher has given temporary authorisation to have control or charge of pupils whose job does not routinely involve the supervision of pupils

The power may be used where the pupil (including a pupil from another school) is on the premises or elsewhere in lawful control or charge of the staff member (for example on a school visit).

The EIA does not over ride the rights of any adult to use reasonable force as applied by Common Law (see FAQ)

Schools have a duty of care to anyone affected by the way the school conducts its undertaking. Visiting staff (e.g. supply staff, outreach staff, specialist support staff) must agree protocols with the school prior to the start of an intervention programme being

delivered. Where a pupil is in a dual placement it is important that information is shared to ensure consistency of response.

Where there is a high or immediate risk of injury any member of staff would be justified in taking necessary action (consistent with the principles of seeking to use reasonable force) in line with the common law rights of citizens.

It is the responsibility of the governors, through the headteacher, to:

- ensure that all those working in school are familiar with and follow this policy
- make a copy of the policy available to parents, staff and pupils
- annually review the policy, its application and effectiveness
- ensure risk assessments are regularly reviewed and updated

It is the responsibility of the headteacher to:

- ensure that all staff employed at the school are familiar with and adhere to policy
- ensure a copy of the restraint policy is made available to parents on request
- ensure staff are competent to manage pupil behaviour

It is the responsibility of staff to:

- familiarise themselves with policies and procedure
- comply with agreed plans and interventions
- report incidents in accordance with school protocol
- attend training and updates

Individual members of staff have a responsibility in law to take action in the event of an incident. This does not mean staff must physically intervene, even if the legal test would be met. Responses may include observing the situation and assessing the appropriate action, seeking help, offering support assistance, removing other children at risk of physical or mental injury or deploying physical intervention.

All staff have a 'duty of care' to themselves, pupils and colleagues. By not taking positive action (refer to examples above) pupils and other members of staff could be placed at risk.

In addition, as part of staff responsibility to their duty of care, individual members of staff have a duty to report to their headteacher any factors that may restrict their ability to respond to incidents

Deciding on the need to use force

There is no legal definition of when to use force. Decisions on whether the precise circumstances of an incident justify the use of force will always depend on the individual case. Any physical intervention must be necessary, proportionate and deemed reasonable at the time. Such decisions have to be made quickly with staff giving consideration to the following in making the judgement:

- a. the seriousness of the incident, assessed by the effect of the injury, damage or disorder which is likely to result if force is not used. The greater the potential for injury, damage or serious disorder, the more likely that using force may be justified.
- b. the likelihood of achieving the desired result by other means. The lower the probability of achieving the desired result by other means, the more likely that using force may be justified.
- c. the relative risks associated with physical intervention compared with other strategies. The smaller the risks associated with physical intervention compared with other strategies, the more likely it is that using force may be justified.

Section 93 of the Education and Inspection Act 2006 enables school staff to use such force as is reasonable in the circumstances to prevent a pupil from doing or continuing to do, any of the following:

- a. committing any offence (or, if a pupil under the age of criminal responsibility, what would be an offence for an older pupil);
- b. causing personal injury to, or damage to the property of, any person (including the person himself); or
- c. prejudicing the maintenance of good order and discipline at school or among any pupils receiving education at school, whether during a teaching session or otherwise.

Examples of situations that call for judgements include:

- a. a pupil attacking a member of staff, or another pupil
- b. pupils fighting, causing risk of injury to themselves or others
- c. a pupil committing, or on the verge of committing, deliberate damage to property
- d. a pupil causing, or at risk of causing, injury or damage by accident, by rough play, or by misuse of dangerous materials or object
- e. a pupil absconding from class or trying to leave school

There are situations where staff should not normally intervene without help, unless it is an emergency, for example, intervening in a fight involving weapons. If a member of staff believes that he / she may be at risk of injury they should take steps to remove themselves and others who might be at risk and summon assistance from authorised members of staff. Staff should adopt clear systems of communication and support that enables a member of staff to summon rapid assistance when necessary. Consideration should be given to communication systems which allow all staff to access prompt support in all areas of the school campus.

Reasonable Force

To be judged lawful, the degree of force used should be based on proportionality. This is best defined by what is reasonably proportionate to the amount of harm likely to be suffered or likely to result if the physical intervention is not used. For example, when keeping a pupil safe the response is sufficient to stop a pupil harming themselves or others without the intervention excessively harming them. The degree of force should take into account the following:

- necessity – if there is an imminent risk of injury
- last resort in managing conflict.
- force should not be deployed in a situation that could be resolved using alternative interventions.

Force should not be used for revenge, retaliation, retribution or teaching a pupil a lesson.

The guidance has considered its impact on staff, pupils, parent / carers and other learners in respect of the school equalities schemes and policy. Where the restraint policy impacts on any people with whom we work or come into contact with:

- it does not disadvantage any group due to disability, age, race, religion, sexual orientation or gender
- it has taken into consideration the needs of people with a disability, the needs of various groups, various religious groups, various sexual orientations and the different needs of men and women.

Where possible, when a restraint is deployed, it is recommended that a member of staff should be present of the same gender as the pupil.

Suffolk County Council does not authorise the use of any techniques that involve downward facing positions or techniques that may restrict breathing.

Reporting and Recording

Suffolk County Council's Incident Reporting Process must be used following any occasion when physical intervention has been deployed. It should normally be completed by the member of staff concerned. The record, which details the nature, date and time of the incident, must be completed as soon as is reasonably practicable and in any event, within 4 days.

It should be brought to the attention of the headteacher or, in their absence, the deputy enabling them to maintain systematic records of every incident in which physical intervention was required in accordance with child protection requirements. Differing accounts of the same incident should all be recorded. The school must actively seek to investigate and learn from each incident, revising any risk assessments and implementing the recommendations arising from the investigation.

The headteacher or designated senior member of staff must ensure that all incidences requiring any use of physical intervention to control or restrain a pupil are recorded and reported to parents/carers. Parents are entitled to a copy of the incident report form if requested. It is good practice to advise parents/carers of significant incidents, unless to do so would affect the safeguarding of the pupil.

Further details on data in educational records which may be disclosed is contained in DfE guidance.

<https://www.education.gov.uk/publications/standard/publicationDetail/Page1/DCSF-00807-2008> and Suffolk guidance here:

[https://www.schoolsurf.suffolkcc.gov.uk/docs/unrestricted/Safeguarding_\(formerly_Child_Protection\)/General_Information/index.aspx](https://www.schoolsurf.suffolkcc.gov.uk/docs/unrestricted/Safeguarding_(formerly_Child_Protection)/General_Information/index.aspx)

Post incident support

Serious incidents that require restraint can be upsetting to all concerned and may result in injuries to the pupils, staff or bystanders. Immediate action should be taken to provide first aid and access to medical help for injuries that go beyond first aid.

It is also important that staff and pupils are given emotional support for as long as is necessary in respect of:

- physical consequences
- support to deal with any emotional stress or loss of confidence
- opportunities to analyse, reflect and identify strategies to avoid such crisis points in the future

To support the pupil following an incident, the school should consider whether multi-agency partners need to be involved. Where a pupil is responsible, opportunities for the pupil to develop their social and emotional skills and repair any harm done also requires consideration and follow up. Schools are reminded that fulfilling the duty of care will require possible use of the LA's Well Being service or a similar service, if procured independently.,

Risk Assessments

Proactively managing risk is a way in which schools and educational settings can reduce the likelihood of serious incidents. When a pupil's behaviour presents a significant and foreseeable risk, a risk assessment should be completed. The assessment is proactive in seeking to minimise challenging behaviour and is set against foreseeable as well as measurable and observed behaviours

Where a pupil whose behaviour is known to present a foreseeable risk, or is moving to another school or setting, a risk assessment process should commence prior to admission and be part of the referral process to determine:

- appropriateness of placement
- level of support to promote successful inclusion
- level of support to maintain the safety of all members of the school community.

Guidance is currently on SchoolSurf, here:

https://www.schoolsurf.suffolkcc.gov.uk/docs/unrestricted/Health_and_Safety/Forms/index.aspx

The personalised risk assessment should identify the specific behaviours and associated risks. This should be supported by a behaviour support plan (BSP). When all strategies have been exhausted, the BSP identifies an appropriate technique / techniques if physical intervention is required. This plan needs to identify any disability, impairment or condition that may be exacerbated by restraint. It should also detail interventions and strategies to match the individual needs of the pupil and be produced in consultation with all stakeholders who should also sign the plan.

Risk assessments are working documents which should be updated and reviewed on a regular basis. All members of staff supporting a pupil should be involved in the process. This information / strategies to be deployed should be shared with all members of staff that are likely to come into contact with the pupil. A model risk assessment form is available on [Schoolsurf](#)

Leadership teams should assess the frequency and severity of incidents requiring use of force that are likely to occur in their school. Analysis of data relating to positive handling incidences will help inform decisions regarding staff training, supporting pupils and future practice.

Staff Training

Schools must offer all staff theory training in de-escalation, legal rights and responsibilities. Training in the use of physical restraint should be provided to staff if required by the risk assessment and should be obtained from a recognised training provider, authorised by the LA. Where a Behaviour Support Plan identifies a requirement, training in physical de-escalation techniques must be made available to designated staff. Physical de-escalation techniques should be re-accredited according to guidelines to maintain competency. A member of staff will be identified by the headteacher to lead practice sessions. New members of staff, as part of their induction, will be offered relevant training authorised by the LA e.g. Unisafe.

Monitoring and reviewing

The senior leadership team should assess the frequency and severity of incidents occurring in their school. Analysis of data can identify patterns / triggers that will help inform decisions regarding staff training, supporting pupils and informing future practice.

The headteacher has an important role in reporting incidents to the governors. The governors are responsible for supporting / challenging the headteacher in the effectiveness of the policy in relation to managing incidents. The governors are responsible for formally reviewing the application and effectiveness of the policy every year.

In addition, all staff should be involved in the annual review of the policy. This should form part of the school self-evaluation process. Having reviewed the issue and evaluated their experience, the policy and management arrangements should be amended as necessary

Complaints and allegations

Schools should demonstrate commitment to involving parents / carers when an incident occurs involving their child. This document sets out clear guidelines with regard to physical intervention that all members of staff should adhere to. Following guidelines may not prevent concerns / complaints from parents /carers, therefore a clear complaints procedure should be available. If there is a dispute in relation to the use of force by a member of staff it may lead to an allegation made to the school, LA or Police. Any allegations will be dealt with in accordance with agreed policies and procedures

The possibility that a complaint might result in a disciplinary hearing, a criminal injury prosecution or civil action bought by a parent or pupil cannot be ruled out.

When recording incidents, staff should bear in mind that, if this information is later passed to the police, it may be included in Criminal Records Bureau disclosure. The school should retain records of such incidents.

In cases of allegations it would be for the disciplinary panel or court to decide whether the use and degree of force was reasonable in the circumstances. It would consider, in drawing a conclusion, whether the schools policy on restraint and staff training had been followed.

APPENDIX 1 FREQUENTLY ASKED QUESTIONS

Q: Can I intervene if I do not have powers under the Education and Inspections Act?

A: Everyone has powers under Common Law to use reasonable force to protect themselves. Any intervention would have to meet the criteria of necessary, reasonable and proportionate. Ultimately, this can only be decided in a court.

Q: Where do I go for additional advice regarding restraint techniques and training?

A: CSD Helpdesk Tel: 08456 053 000. Email: learninganddevelopment@csduk.com

Q: Who do we mean by staff?

A: According to the Education and Inspections Act 2006, Part 7, Chapter 1, member of staff means:

- 1 any teacher who works at the school, and
- 2 any other person who with the authority of the Headteacher, has lawful control of charge of pupils for whom education is being provided at the school.

Q: What training should be made available to all staff?

A: The headteacher should ensure that all staff are clear about the expectations in the behaviour policy and procedures, and they are required to meet the requirements of these documents. The headteacher should identify training needs through self-evaluation and individual performance development reviews. Where specific needs have been identified, staff must be offered advice as well as training and development opportunities.

Q: Should all staff be trained in physical intervention strategies?

A: Decisions about staff training must be made with reference to the needs of the school and the individual circumstances. Risk assessments will help inform decisions about staff training. Leadership teams should take into account the frequency and severity of incidents requiring physical intervention and/or any pupils whose SEN or disability is associated with extreme behaviour.

Q: Should schools use metal detectors to search pupils?

A: The DSCF guidance "Screening & Searching pupils for Weapons" clearly recommends that staff are trained before any screening takes place. Metal detectors are one way in which pupils may be searched or screened.

Staff undertaking screening may be putting themselves at risk, therefore any screening or searching should only be undertaken after a risk assessment has been completed and staff are trained to be capable in dealing with situations that may develop

Q: Can I lock a child in a room or hold the handle of the door to prevent them leaving, providing I supervise?

A: Locking a child in a room or preventing them leaving an area by holding the door handle for example, would constitute a restraint and should be recorded accordingly. This would be an exceptional response to extreme circumstances and should not be used as a standard physical intervention or form part of behaviour support plan. It is important to clarify not only the legal perspective but also what best practise would recommend.

If locking a door is currently a planned response then other alternatives must be considered as routine 'imprisonment' is not legal.

Q: What does the statement 'professional judgement' mean?

A: 'Staff professional judgement' is based upon the advice provided by the school

management team, the agreed school policy, the training the member of staff has received and any other support that has been received.

Q: When can a headteacher extend or restrict the disciplinary powers of staff?

A: The headteacher may extend or restrict disciplinary powers of individual members of staff with reference to an individual pupil. The headteacher may do the same for a group of staff of a particular description, in respect of a group of pupils of a particular description or all pupils.

Q: What does 'published' mean in the context of the school discipline/behaviour policy

A: The DCSF guidance School Discipline and Pupil Behaviour Policy states that the "headteacher is under a legal duty to publicise the behaviour policy that he has determined in the form of a written document. The headteacher must take all reasonable steps to ensure that pupils and parents are aware of the policy and that it is brought to their attention and attention of persons who work at the school at least once a year. The policy should be available in the staff book and a copy given to supply staff on arrival. The policy or key principles could also be clearly set out in the prospectus, home school agreements, websites, information for prospective pupils and information for staff applying to work at the school. The head teacher should also take reasonable steps to make it available in a range of accessible formats and in minority languages to reflect the community served by the school "

Q: Do I have to provide a hard copy of the school discipline/behaviour policy to all parents and carers?

A: A policy document (on paper) should be available and its availability publicised to all parents and carers.

Q: Under the Education and Inspections Act, what can I search for?

A: DCSF guidance Schools Discipline and Pupils Behaviour Policy states: "The legal power for school staff to search currently only extends to weapons. A pupil might be reasonably asked to turn out their pockets or hand over an item. If it is necessary for a pupil to be searched for illegal drugs or stolen property, this should be done by the police". The power to search was extended to include drugs, alcohol or stolen items in September 2010– The Apprenticeships, Skills, Children and Learning Act 2009

Q: Must staff be trained in order to physically intervene?

A: Staff training must be based on risk assessment taking into account the individual needs of pupils within the school and any foreseeable risk.

Q: Does the school have to use Schoolsafe training or any external trainer

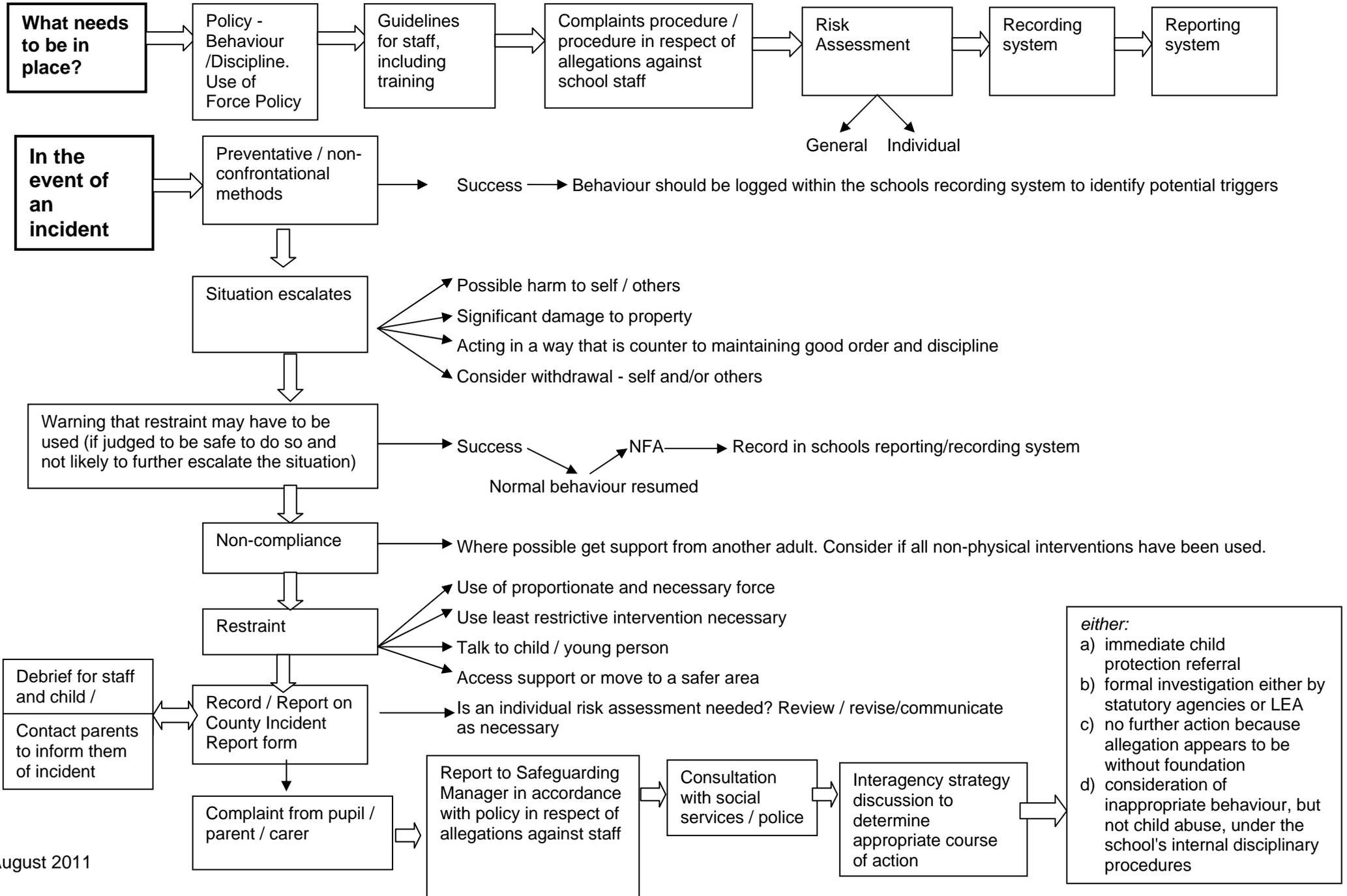
A: The council's duty of care, and therefore the school's, requires we take reasonable measures to control risks. 'Doing nothing' is not an option, but the council cannot stipulate precisely what means a school uses to achieve the goal of having competent staff. Being competent can include being trained. Schoolsafe is the council's most cost effective and reliable means of bringing staff to an acceptable standard and enabling them to cope with foreseeable situations. It is tailored to circumstances in Suffolk's schools and the training cross refers to the council's other risk control systems, such as incident reporting. It is therefore a very good component in meeting the duty of care.

Schools that do not use Schoolsafe will have to be able to demonstrate that they achieve the same ends by other means. Schools not using Schoolsafe will also have to demonstrate their preferred approach represents good value for money as a comparable system will, almost certainly, cost more than a Schoolsafe programme.

Schools will be subject to formal auditing in the future to determine how well they are meeting the duty of care. This is a requirement of the new corporate approach to H&S management and is far more stringent than in recent years.

**APPENDIX 2
Restraint Guidance Flowchart**

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