

The ethical and legal principles for locking doors in children homes

Related CAPBS information sheets:

1. Information sheet on the use of confined spaces and tents in classrooms
2. The use of seclusion, isolation and time out

There are also two case studies, Meera, and Jamie, to support learning and discussion.

There is a tension between duty of care – keeping children and young people safe, and their right to develop and learn to manage risk and not experience unnecessary or disproportionate restrictions.

Legal Considerations

Locking doors is considered a form of restrictive practice. Several legislative, policy or guidance documents have described forms of restrictive practice and locking doors would ordinarily be described as environmental restraint, sometimes mechanical restraint.

The underpinning framework of the UN Convention on the Rights of the Child (1990) balances the rights of the child to be consulted and involved in decisions about their care, and the need to understand risks, limit them or remove them where it is in the interest of the child's safety and welfare. The UK legal framework continues to support

this balance and describes appropriate, reasonable and necessary use of force where risks to individual safety or the safety of others is compromised.

More recently the role of the Mental Capacity Act has been made more prominent under the Children and Families Act (2014) for young people aged 16 and over in acting as the primary decision maker, where they have capacity. Where it is established a young person aged 16 or over lacks capacity to make specific decisions, the statutory principles of the MCA must be followed in order to determine the least restrictive option, in the best interest of the young person. Seeking the views of all those involved in the care and support of the young person forms part of this decision making process.

Deprivation of Liberty (DoL) occurs when a person is under continuous supervision and is not free to leave. This is the acid test laid down in recent DoLs case law. For this to be permissible in law a DoL Safeguarding application must be made and authorised. Currently this applies to age 18+ however, the DoLs framework is under review and a new legal framework is being proposed and consulted on.

Good practice would be to ensure you understand the level and nature of restriction imposed on any individual in your care and if they are over the age of 16 begin a conversation with the Local Authority who has responsibility for the young person to ensure any potential deprivation is identified and highlighted for assessment early.

There are likely to be three categories of situations where staff might consider locking doors in children's homes

1. Locking inside doors for health and safety purposes

Locking a cupboard door or drawer because it contains data protected information , medication or restricted chemical substances is a normal expectation and staff would be expected to do this as a matter of normal routine to protect the young people in their care .

Locking the door to a room in the part of the children's home needs different consideration. Sometimes kitchen doors are locked to prevent young people from entering either accompanied or unaccompanied. This may be to prevent them from harm as equipment in the kitchen is seen as potentially dangerous or to prevent them from having free access to food or drink. This kind of restriction should be based on individual risk assessment and should not be for staff convenience.

The least restrictive option should be considered – Can the knives be locked away? Can the hob be turned off? So that the whole kitchen does not need to be restricted,.

can young people have their own snack cupboards? Can young people have free access to healthy snacks be left out? Doors should be locked for the least amount of time that is necessary.

The level of restriction needs constant monitoring as children and young people should be developing, so restrictive interventions need to be regularly reviewed and reassessed – if you are using a restrictive intervention to manage a potentially risky behaviour – what are you doing to enable that young person to develop the skills to manage it themselves, or use an alternative? Using a restriction should not be the only strategy.

Principles

The principles are

- The least restrictive option should always be taken
- All children with or without disabilities should have the opportunity to learn to manage everyday risks and there should be a developmental plan in place if a restriction is used using a restriction should not be the only strategy
- Restrictions' should be based on individual risk assessment and be continually reviewed

2. Locking doors to prevent children and young people from leaving a room

Seclusion is defined as

'The supervised confinement and isolation of a person, away from other users of services, in an area from which the person is prevented from leaving.'

Department of Health, Para 87 P and S 2014

In care services for children and young people, the Children Act 1989 states any practice or measure, such as 'time out' or seclusion, which prevents a child from leaving a room or building of his own free will, may be deemed a 'restriction of liberty'. Under this Act, restriction of liberty of children being looked after by a local authority or accommodated by NHS establishments 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.

Advice for staff working in children homes is that seclusion should not be used. If it is used as an unplanned response to prevent harm in an emergency, there should be an immediate review and risk assessment and the production of a plan that considers the use of proactive strategies and less restrictive options.

Principles

- Seclusion is not a therapeutic method of behaviour support and it is likely to be psychologically damaging – it is not permissible as a planned strategy without the proper authorisation
- If seclusion is used as an unplanned emergency response the incident should trigger an immediate review and the development of alternative planned proactive and reactive strategies
- A behaviour assessment should be carried out to find out the purpose of the behaviour that triggered the emergency
- A least restrictive approach should always be taken

3. Locking the doors to prevent children and young people from leaving the building

3.1 Locking the door in response to an individual risk assessment that indicated the child or young person was not at a developmental stage to be safely out on their own.

This may apply to young children and young people with learning disabilities and autism who would be at risk if they went outside on their own. This is likely to be a planned approach based on individual risk assessment with multi agency and parental agreement. Authorisation may be needed for over 18 year olds as it may constitute a Deprivation of Liberty. It may involve the use of key pads etc. - but a developmental approach should still be considered and restrictions reviewed as children grow and are encouraged to develop new skills , services are advised to seek the advice of their local authority

The principle of the least restrictive alternative should always be considered, for example could the garden be secured so the garden is accessible, etc? Can some young people in the house have free access?

3.2 Locking the door on specific occasions to prevent young people who would normally have free access from leaving because of safety concerns

This is a less straightforward as this will depend entirely on the specific factual circumstances pertaining at the time. Regulation 12 CHR requires staff to take effective action if there is a serious concern about a child's welfare. This action could include a number of approaches such as convening a risk management meeting (see Guide 9.32), talking to the child about what is happening or the locking of a door as a short term measure where it is necessary and proportionate to the risk and only in relation to the child concerned.

There may be a range of responses might put in place if there was a serious concern about the child's welfare. All staff should have a clear understanding that where restraint (use of force, or restriction of liberty of movement) is used to keep a child safe, it is never used solely on the basis that a child 'might leave the home', but rather the home is satisfied there is a clear risk of harm to a person or damage to property that could not otherwise be controlled.

There are a clearly then number of factors to take into consideration at the time when the staff member makes a decision about whether to lock a door to prevent a child or young person from leaving the building if circumstances

To support staff to be able to make these difficult decisions organisations should ensure that good supervision and an open culture exists, so staff are able to talk though these difficult situations both individually and as a team. Clear guidance and jargon free policies should be provided as well as competency assessed training that takes into consideration the specific need so the children that live in the home

(continues)

Principles

Locking the door may be one course of action as a short term emergency measure for young people that would normally have free access if it was believed there is a 'clear risk of harm' but it is one of a range of actions that need to be considered

The least restrictive option should be taken at all times

If an individual risk assessment indicates that children and young people are not safe to leave the house alone what other approaches are being used to help the child learn safety behaviour?

Interventions should be based on an understanding of why the young person is displaying risky behaviours and may be multicomponent

Seek parental agreement for 16 to 18 years olds, if possible

Seek advice from the local authority as locking the front door in some circumstances may be considered a deprivation of liberty

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