

BILD accreditation and Physical Restraint

Report by Mark Dawes - Mark Dawes - Friday, August 16, 2013

Even today, we are still coming across many inspectors from various Government agencies, care home managers, headteachers of schools, trainers, NVQ assessors and even HSE inspectors that believe that if you are delivering or commissioning training then the training must be BILD Accredited because they think that BILD Accreditation is in some way endorsed or recognised by Government. This is not true.

This problem arises because BILD's name appears in various Government Departmental documents, such as the 2002 Department of Health guidance document; 'Guidance for restrictive physical interventions: How to provide safe services for people with learning disabilities and autistic spectrum disorder'. Due to this some people, including NVQ assessors and CQC Inspectors, automatically promote BILD as the only recognised accredited source.

However, after long dialogue and correspondence with the Department of Health they are now going to be removing the reference to BILD as an example of an accredited source for trainers in physical intervention, as you can see from the e-mail below. However, this will be done when the document is re-written so at present the document is still current.

The e-mail we received is as follows:

"Dear Mr Dawes,

My colleague [name withheld] contacted me yesterday with an update regarding your enquiry and our progress with the Department of Health (DH).

Since receiving the copy of the email response from [name withheld] that you kindly forwarded to us, [name withheld] has advised me that she has taken advice from our legal team and consulted the Department of Health about the options proposed by our legal team.

As a result of this dialogue, we have taken their views into account to amend our current guidance for inspectors about the use of restraint in regulated services.

The changes include removal of the reference to BILD as an example of an accredited source for trainers in physical intervention.

We have kept the reference to the DH/DfeS Guidance for restrictive physical interventions (July 2002) in the appendix of our guidance, along with the brief explanation about its purpose.

We have done this because the 'DH/DfeS' guidance is referenced in the Schedule of Applicable Publications (Appendix B) of our 'Guidance about Compliance: Essential Standards of Quality and Safety' and, as advised by DH, remains valid.

As the Department of Health have now informed us that the document is being considered for review, we have added a sentence in the appendix of our guidance which says: 'N.B. This guidance (DH/DfeS 2002) is due to be reviewed and so possibly subject to change'.

The amended guidance will be published internally for our inspectors in the next few days. Unlike the guidance written by the Commission for Social Care Inspection, CQC's guidance is internal and is not published on the internet."

Therefore, until the current (out of date) document is reviewed and changed, it still remains valid.

Therefore, we have a problem in so much as we have an out of date Government Department document that gives the impression that it is in some way promoting a private company, namely BILD, which is obviously resulting in various individuals to infer from it that organisations can only use BILD accredited training.

Yet pursue the issue further, as we have done, and you find that the reality is that BILD accreditation is only recognised by BILD itself. It is not a standard that is supported, regulated, endorsed or promoted by the Department of Health, the Department for Education and Skills, the Care Quality Commission, or Skills for Care, or indeed any other Government Department, and this is supported by a whole range of correspondence that we have by various Government Departments to this effect and you can read all of this correspondence in our book 'What is Physical intervention?'

The other issue is that the current document in circulation (albeit out of date) seems to sight BILD as the 'recognised accredited source' and as such this prejudices other training providers operating in the same industry sector."

So we once again write to CQC and the Department of Health and received the following response:

"The Department of Health is aware of your concerns, and it has been seeking legal advice before advising the Care Quality Commission (CQC) on the issues that you have raised. These centred on the status of 'Guidance on restrictive physical interventions for people with learning disability and autistic spectrum disorder, in health, education and social care settings', which was published in 2002 and was developed jointly by the Department of Health and the Department for Education. You ask whether this is still valid and, if so, if the Department of Health is encouraging care homes to use only BILD accredited intervention training due to the section in the guidance stating: 'Planned physical intervention strategies should be ... implemented under the supervision of an identified member of staff who has undertaken appropriate training provided by an organisation accredited by BILD'.

The Department understands your concern that this appears to restrict the accreditation of appropriate training to one organisation. It should be noted that in some ways the guidance is now out of date. For example, it does not refer to the Mental Capacity Act 2005 nor the Mansell Report 'Services for people with learning disabilities and challenging behaviour or mental health needs', which was published in 2007. It also cannot take into account the outcome of the Department of Health's review following events at Winterbourne View, which was the subject of a BBC Panorama programme on 31 May 2011. All of this means that the Department of Health, in discussion with the Department for Education, will be considering over the coming months the status of the guidance and whether it needs to be reviewed and updated.

In the meantime, with regard to your question, the Department's lawyers have stated that the guidance is currently still valid and organisations to which it is addressed should have regard to it. However, as with all statutory guidance, under Section 7 of the Local Authority Social Services Act 1970, all organisations concerned would have to consider each case on its merits, and if any particular case has good reason to depart from the guidance (provided they do not take a substantially different course), then it would be lawful to do so. In relation to its own guidance, the CQC may decide, after consultation with its own lawyers, that it would be acceptable if the organisation concerned was able to show that although it had not applied the guidance strictly, it had departed from the guidance for good reason and had, for example, provided training that was comparable to that recommended in the guidance or even better.

The Department will be copying this email to the CQC for any further action it may decide to take in consulting its own lawyers."

We then received the following e-mail from CQC - the Care Quality Commission:

"We no longer advise providers about the most appropriate training providers to use under the Health and Social Care Act. However, Skills for Care are an organisation who are able to provide specific information regarding this requirement."

So we wrote to Skills for Care, and they came back with the following:

"It is considered best practice for physical intervention training to be accredited, but this is not compulsory." The CQC will expect workers to demonstrate that they have the right skills, knowledge and competence to carry out their duties and it is the responsibility of the Registered Manager to ensure that this is the case. Therefore, it is more important that the content of the course enables the workers to achieve competence, than it is for the training to be accredited."

We replied to this by asking:

"Can I take it that Skills for Care does not promote BILD Accredited training above any other form of training?"

Skills for Care replied with:

"That is correct Mark."

We also raised issues regarding a document that CQC Inspectors were using that inferred that CQC expect organisations to use only BILD Accredited training. Following guidance from CQC's regulatory department we received the following:

*"I have received the following guidance from our Regulatory Development Department:
The restraint guidance you refer to in your enquiry is no longer operational and was withdrawn from our website some time ago. It was written by CSCI and initially transferred to and re-branded by CQC. However it was then reviewed and amended and became an internal document. With regard the issue around BILD, the amended guidance now says:*

Training in physical interventions for staff who work with people with learning disabilities or an autistic spectrum condition should be from an accredited source. For example, BILD (British Institute of Learning Disabilities).

So BILD is given as an example only."

Our response was that although CQC and the DoH were sighting BILD as an "example only" that in itself was misleading, as no other examples of other sources offering accreditation were sighted.

Therefore, the inference created by CQC and the DoH for organisations, inspectors and NVQ assessors etc., who were referring to their documentation was that only BILD accredited training could be used. In addition, should a Government agency be promoting a private company?

Our e-mail to them was as follows:

"It seems that the DoH are supporting a guidance document that is not only out of date, but signposting individuals to a private company as an example of accreditation, whose accreditation system is not recognised by anyone except themselves. This is not only dangerous, but I will be suggesting, very strongly, that the DoH should be held culpable for creating an inference on this basis.

In addition, I also think that the guidance prejudices other private companies operating in the same field as the guidance is not compliant with the Human Rights Act; which is something required of all Government bodies, and is also discriminatory (Articles 8 and 14)."

And it was on the above points raised that we got the reply at the beginning of this article from CQC that stated that since receiving a copy of an e-mail response that I forwarded to them that the CQC had:

".....taken advice from our legal team and consulted the Department of Health about the options proposed by our legal team. As a result of this dialogue, we have taken their views into account to amend our current guidance for inspectors about the use of restraint in regulated services. The changes include removal of the reference to BILD as an example of an accredited source for trainers in physical intervention....."

Summary Conclusion

1. BILD are only a private company that offers accreditation to organisations that wish to adopt BILD's own code of practice.
2. BILD and its own Code of Practice are not endorsed by the Department of Health nor CQC nor Skills for Care and are only mentioned in their documentation as "an example only".

3. The documents that BILD are mentioned in are also, according to the DoH and CQC: "out of date" or "no longer in circulation". Therefore, we have a Government Department that is still mentioning BILD as "an example only" in a document that is nearly ten years old and, in their own words, "out of date".

The fact is that the documentation currently in circulation, that has been produced and circulated by CQC and the DoH, is itself misleading and that is where the misrepresentation exists.

However, until the current guidance is reviewed and changed, it remains in place. Therefore, the DOH and CQC intend to remove BILD, do not recognise nor endorse their accreditation or code of practice, yet it still remains in a document that they state is out of date. Confused and misled?

The real issue here is that you are responsible for the training that you commission therefore, my best advice to you is to do your own due diligence by asking the right questions, so as to get the right answers. Do not rely purely on whether a system is 'accredited' or not. What is most important is whether it enables people to be competent in that area.

This material was originally posted by Mark Dawes on the National Federation for Personal Safety website:

http://www.nfps.info/blog/NFPS_Blog/post/bild-accreditation-what-is-it/

Mark Dawes

Mark Dawes is a Director and National Coach Tutor of NFPS Ltd.



Mark has worked as a hostage negotiator and is a competent physical skills instructor with over thirty years of experience to fall back on. In addition he is a member of the Expert Witness Institute, a certified competent Risk-Assessor, a registered and qualified Stress Consultant (Registered in 1994), a Licensed Cognitive Hypnotherapist licensed with the National Council for Hypnotherapy, a Master Practitioner of Neuro-Linguistic Programming licensed through the Society of Neuro-Linguistic Programming and the founder of Quantum Thinking.

During his career he has undertaken audits, risk assessments, training needs analysis' and post incident reports for his clients in relation to staff safety and the use of physical force. In addition, Mark has written reports for court cases ranging from negligence to Manslaughter and has provided written evidence for a House of Lords and House of commons Joint Committee on Human Rights in relation to the use of physical intervention.

He has delivered training to other diverse public and private sectors including: NHS Hospital Trusts, Health Care Authorities, Social Services Departments, Charities, Colleges, Transport Companies, Courts, Security Companies, etc., and has also been involved with various Crime Prevention Initiatives.

He is also the author of a number of books including: 'What is Physical Intervention?', 'Understanding Reasonable Force', 'Understanding Unreasonable Force', 'Understanding Quantum Thinking', 'Live This Life' and 'Managing the Monkey'.

Gerard O'Dea

Gerard is Principal Trainer and Adviser for Dynamis Insight



Gerard has delivered training in personal safety, conflict risk management and physical intervention for over 150 organisations and frequently provides professional consultation and advice on:

- *The issues in common and criminal law in relation to use of force*
- *How the Human Rights Act 1998 impacts on training and management of violence*
- *How Health and Safety legislation relates to staff who face occupational violence*
- *Restraint-related risks of sudden death*
- *Human Factors-based Training Needs Analysis and Programme Design*
- *Psychological and Physiological factors in high-risk violent confrontations*
- *Obligations of managers under the Management of Health and Safety at Work Regulations 1999*
- *The impact of legislation and national guidance for the care of vulnerable people in crisis*

Gerard's client list includes the Scottish Prison Service, Police Services, HM Courts Service, State Hospital at Carstairs, Critical National Infrastructure Agency Rapid Response Team, NHS primary care, Dubai Hospital Security services and hundreds of private care providers and educational institutions across the UK.