



**PE1548/D**

Friday, 17 April 2015

Dear Petitions Committee

Thank you for the opportunity to contribute to the discussion over Petition PE1548 on National Guidance on Restraint and Seclusion.

The Learning Disability Alliance Scotland is a coalition of 42 learning disability organisations from all over Scotland. It works with people with learning disabilities and family carers throughout the country to help them raise, discuss and resolve the issues that matter to them

We are fully supportive of this petition. We have supported those designing and promoting this petition throughout their long campaign for justice and hope you will be able to support its demands.

We think that new national guidance is needed because

- Having adequate guidance can ensure robust protection for some of the most vulnerable children in our society.
- Such guidance can clearly define and describe appropriate practices, and the ethical and legal context in which they may be used.
- Such guidance will be used by local authorities to develop their own policies easily and simply, based on nationally agreed good practice.
- Such guidance helps all staff in schools to understand how to manage the behaviour of the pupils who attend, some who communicate through behaviour, and others whose behaviour marks underlying distress.
- Good guidance means that school staff can have the essential training and knowledge to understand complex behaviours and as a consequence, children will not be unnecessarily restrained and injured.

We want to take this opportunity to address 2 key issues.

1. What should be included in any new national guidance.
2. Who should be responsible for the inspection of care aspects of support in day schools.

We think that this guidance should be designed around the following 8 themes which draw upon the work of the British Institute of Learning Disabilities which has carried out significant pieces of research into good practice in this area. We have used in particular, BILD, 2010, *Code of Practice for the Use and Reduction*

*of Restrictive Physical Intervention, A Guide for Trainers and Commissioner of Training, 3<sup>rd</sup> ed and BILD, 2004, Post Incident Management and Debrief, 4th ed.*

### **(1) The importance of Using Positive Behaviour Support approaches.**

“Positive Behaviour Support (PBS) is an approach that is used to support behaviour change in a child or adult with a learning disability. Unlike traditional methods used, the focus is not on ‘fixing’ the person or on the challenging behaviour itself and never uses punishment as a strategy for dealing with challenging behaviour. PBS is based upon the principle that you can teach someone a more effective and more acceptable behaviour than the challenging one. PBS helps people learn new skills. We can make this happen by understanding the reasons people display challenging behaviour.”

-- Challenging Behaviour Foundation, *Information Sheet: Positive Behaviour Support Planning, Part 3.*

### **(2) The Importance of reducing the use of physical intervention.**

If physical intervention is used as a planned response, it must be accompanied by a behaviour assessment and support plan; and include a restrictive physical intervention reduction plan.

If it is used as an unplanned response or emergency intervention it should, whenever possible, be followed by a debriefing of the incident in question. If appropriate, a full behaviour assessment should be undertaken and a support plan developed.

### **(3) To comply with the law, physical intervention can only be considered as the last resort, and must be the least restrictive alternative, that will manage the behaviour.**

Recognising that using physical intervention is a restrictive practice, and that its use should always be as a last resort when all other alternatives have been considered and found to be either ineffective or inappropriate

### **(4) The need to address the use and misuse of seclusion (as it may represent a deprivation of liberty under the Human Rights Act, 1998).**

“Seclusion (involuntary confinement) is an extreme procedure that is not developmentally appropriate and should serve no purpose as an intervention with young children. In the author’s opinion, young children must never be alone in a room or isolated completely from social interaction.”

-- Dunlop, Ostry, & Fox, 2011, *Preventing the use of restraint and Seclusion with Young Children: the Role of Effective, Positive Practice.*

It is important to understand the difference between “time out” and seclusion. Time out can be used as strategy to help the young person have the quiet time in a low arousal environment, which helps the young

person get their behaviour back in control. Unlike seclusion, in time out the person can access the space voluntarily, they are accompanied by a teacher/support worker, and they can leave the room independently. Time out can be part of an assessed and agreed behaviour support plan.

**(5) A record of any restrictive physical intervention must be completed as quickly as possible after the incidence.**

It is important that there is accurate recording, reporting, reviewing and monitoring of the occurrence of behaviours that challenge, and any use of restrictive physical interventions. Such recording will support the need to keep the key people in the person's life informed about the individual's behaviour support, identifying ongoing learning for the organization involved.

**(6) Staff should receive training in Positive Behaviour Support; they should feel knowledgeable, skilled, competent and supported to do their job.**

Staff groups should receive appropriate training and supervision to enable them to offer care and support, learning opportunities and skill acquisition in a safe environment that is free from abusive practices.

**(7) All training in physical intervention should be BILD approved.**

This will introduce a set of agreed standard in the use of physical interventions. There should be a record of everyone who has been trained in these techniques which includes dates when the skills were taught and the specific techniques that each person has been found competent to use. The training must be specifically reviewed and refreshed as regularly as is required. BILD recommends this takes place at least every 12 months.

**(8) Accountability of teaching and support staff.**

Should an incident occur, staff have a responsibility for recording what happened before, during and after the incident. Staff should also inform parents or those with parental responsibility about any incidents of physical intervention.

The second part of the petition is just as important as the first. We believe that such guidance needs to be supported by a new inspection regime implemented by the Care Inspectorate:

- The Care Inspectorate does inspect all aspects of residential schools but has no current role in inspecting day schools which have significant amounts of social care such as special schools or special units in mainstream schools.
- HMIE is primarily concerned with the inspection of educational standards and considers relationships and behaviour management only in relation to how these impact on the educational standards of each school.
- Currently it is local authority education departments that monitor the social care aspect of school lives but it is also responsible for the quality of that care creating a conflict of interest.

- It is impossible for the same people to be responsible for the provision of the service at one point and to also be independent inspectors for the same service. This is unfair on the many good and professional staff in schools and education authorities who have to face and manage this conflict day after day.
- Independent inspection of the care regimes in schools can ensure good quality care and the confidence of the entire school family in the service.
- It is our view that this aspect of inspection should be delegated to the Care Inspectorate. They currently have a responsibility to ensure appropriate care and dignity for residential schools and other registered bodies.
- Giving this responsibility to the Care Inspectorate would create a clear channel for those affected by care issues at day schools to relate to include both lodging complaints and appeals.
- The work of the Care Inspectorate has changed over the years from inspecting mainly residential services to inspecting a much more varied care regime in different settings. We think they will be well placed to provide monitoring of the care regimes in schools that support children with special needs.

Where existing government guidance is inadequate then so are the inspection and safeguarding processes that are based upon them. Without new guidance could be argued that government are failing in their duty to safeguard the human rights of the most vulnerable children. We urge the Committee to act on this as soon as they can.

Yours Sincerely

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