

PE1548/I

Petitioner Letter of 18 May 2015

Petitions Committee
Scottish Parliament
Edinburgh EH99 1SP

18 May 2015

Dear Petitions Committee

There have been a range of interesting responses to petition 1548 from the organisations contacted. We will touch on a number later on but to start with we want to focus on the Scottish Government response.

Scottish Government

We are convinced that the Scottish Government wants to make Scotland a safe place for all of the country's children regardless of disability or other special needs. However from the start of our call for proper attention to the question of national guidance on restraint and seclusion in the schools, the Scottish Government has suggested existing guidance or systems are adequate to address this matter. Their latest response continues this without adequately addressing our concerns.

First it reiterates the incorrect message that HOLDING SAFELY is guidance that can be used in schools. HS was designed for young people in the residential care of local authorities to ensure their safety and the safety of those who lived with them. It was not designed for the short term relationships and planning structures of schools. In a letter to the petitioners, one of the contributors to the original policy has said "Our view is that Holding Safely cannot be suggested to exemplify current best practice with reference to the specific needs of [children with severe developmental delays / global learning disabilities and/or severe autism] in either the education or residential child care sector."

The Scottish Government concede that **Safe And Well** (2005) was withdrawn as out of date. Interestingly Holding Safely was also written in **2005** and can also be seen to be out of date. Here are a few reasons to support this assertion.

- a) Holding Safely makes no reference to Positive Behavioural Support as a practice model or to the Public Health Model as the basis for restraint reduction. Such paradigm have emerged as central to efforts to proactively address the root causes of behaviours that challenge at the level of the individual child and the organisation thereby reducing the need to use restrictive measures including restraint.

- b) Holding Safely makes no reference to the behavioural phenotypes that may play a significant part in the development of behaviours that may challenge services
- c) Holding Safely makes no reference to the role of hypo and hypersensitivity to stimuli that occur more frequently in children on the autistic spectrum or guidance around establishing individual sensory diets
- d) Holding Safely makes inadequate reference to the general legislative framework around the use of restraint in schools and makes no reference to the significant issues around the deprivation of liberty that can occur in schools.
- e) Holding Safely makes no reference to the challenges around dealing with resistance to the care that may be needed by children with severe developmental delay / autism e.g. refusal to take medication or resistance to attempts to change a child who has been incontinent
- f) Holding Safely makes limited reference to the use of mechanical restraint and no guidance on the use of, reins, lap belts and seatbelts for transfer purposes with children who actively resist their use
- g) Holding Safely makes no reference or explicit definition of seclusion and no guidelines on best practice.
- h) Holding Safely makes no reference or explicit definition of time out and no guidelines for best practice.
- i) Holding Safely makes no reference to the emerging use of individual communication passports.
- j) Holding Safely makes inadequate reference to the potential for medication to significantly increase the risks associated with physical intervention in a population i.e. children with disabilities who often have multiple health conditions

Secondly the Scottish Government suggest that the **Scottish Advisory Group on Relationships and Behaviour in Schools (SAGRABIS)** which is focussing on behaviour and indiscipline in schools can deal with the matter of National Guidance by means of a subgroup. SAGRABIS is rightly focussed on that group of children with social, emotional and behavioural difficulties (SEBD). These children present behaviours on a continuum between behaviour that is disturbing and challenges teachers but is within normal bounds, to that which is indicative of serious mental illness. This is quite different from the group we are concerned about - children with lifelong disabilities that have led them to receiving special education support to help them achieve.

There is a real problem of indiscipline and challenging behaviour with children with SEBD. Our contention is that is not the case for children with disabilities. Instead it is primarily one of communication and that a different approach is needed. We feel that there is some confusion in the Scottish Government response that brings these two groups together.

In terms of treatment children with SEBD are excluded from school far more often. In 2013, there were 949 exclusions of children with a disability in school (6.2%). For children with SEBD there were 6,568 exclusions (30.0%) – almost 5 times as much. There are genuine concerns by teaching and support staff in schools about violent incidents and general disobedience. Some of the work described in the SG

response is about how this is managed. For example, there is a very helpful training pack for support staff (p3). However this does not mention disabled children or disability once! Whereas the useful but in a different context resource – Child Protection and Disability Toolkit (p3) – only mentions school once!

SAGRABIS is a good initiative that will benefit children over Scotland but it is also the scene of intense political challenge as the 4 school unions taking part in it argue that more resources are needed while the Scottish Government takes the view that it can be done better within the existing schools establishment. The SAGRABIS process will rightly focus on children with SEBD who present particular challenges. Both the EIS and COSLA responses also conflate the needs of children with SEBD with those of children with learning disabilities and communication difficulties and both are major players in SAGRABIS.

For the concerns that we have identified a much clearer and distinct process is needed. There is a real danger that if SAGRABIS is asked to examine this work it will get lost in a range of competing agendas.

Thirdly the Scottish Government suggests that the Ministerial Working Group on Child Protection and Disability may be of some help to our concerns. We have no idea why this has been thrown into the response. This body is aimed at looking at risk posed to disabled children by their families and how to support disabled parents where there are concerns over their treatment of children. These are important issues but not of relevance to our petition or the committee's questions of the Scottish Government.

The Scottish Government's work of child protection and disability is very important for disabled children in Scotland. It can offer them a large degree of protection. However there is a challenge in that existing guidance which does not address the risks of institutional abuse and focuses particularly on family risk may repeat some of the mistakes of the past.

The research quoted - Disabled Children and Child Protection in Scotland - points out that children with disabilities may be subject to high levels of abuse. "The evidence to date has shown few disabled children have protection plans in place or are placed on a child protection register and that a medicalised approach dominates. Communicating with children with communication impairments is seen as particularly challenging." The research says the high levels of may be explained in part "by a tendency of professionals to over-empathise with the parent and to be more tolerant of some behaviours than they would be of parents of non-disabled children."

Our concern is that higher levels of abuse of children with communication difficulties in schools may be taking place for similar reasons and that the authorities are "more tolerant of some behaviours" from teaching and support staff than they would otherwise be.

COSLA

COSLA's response to the Petitions Committee repeats much of the Scottish Government's points but there are two points that we want to highlight because we feel they suggest a worrying degree of complacency.

Towards the bottom of page 1, Mr Urquhart says, "The Care Inspectorate also have a role in ensuring pupils with additional care needs are well looked after."

Obviously someone has forgotten to tell the Care Inspectorate this as they bluntly say in their response, "However, the Care Inspectorate has no legal locus in day schools whether in the non educational areas or the classroom." If COSLA's senior policy officer has such a poor grasp of what actually happens in schools, it's not clear how much reliance we can place on the rest of their comments.

Secondly in the last paragraph of page 1, Mr Urquhart dismisses the Scottish Government's programme on training and involving teaching and support staff in a national programme by stating that "Specialist techniques for new teachers, working in particular sectors rather than in mainstream schools, may be delivered in house by more experienced staff members."

Relying on existing staff to train new staff can create a real problem of the transmission of inappropriate practices through subsequent generations of teaching and support staff.

Instead we think local authority education departments should play a vital role in equipping staff, by understanding the full implications of seeking accredited training and in supporting schools to become *proactive* organisations able to support and reduce behaviour over time, rather than *reactive* services that deal with situations as they arise and commission solely from the stand point of, 'we need something that keeps our staff safe'.

EIS

The EIS mention that employers should carry out risk assessments to identify potentially violent situations. This is extremely interesting and we agree. However, some of the families who have contacted us tell us that risk assessments were never done by their child's school, and in some cases the parents themselves brought this up in school meetings and were told by staff "we do not do risk assessments". This makes us even more convinced that we need National Guidance so that ALL councils and their employees are making the same checks in the interests of health and safety.

Other Responses

The other petition responses are broadly sympathetic to our petition and while there are some resource implications that would have to be addressed as stated in the Care Inspectorate response, we do not think they will be especially onerous.

In conclusion

We would request that the Petitions Committee ask the Scottish Government to carry out two tasks. First to establish a Short Life Working Group to look at issues around the design, implementation and monitoring of national guidance for schools on the use of restraint and seclusion in the context of positive behaviour support. We believe the following bodies should be represented on this working group.

- The Scottish Government Learning and Justice Directorates
- Education Scotland
- Care Inspectorate
- COSLA or other local government representation
- Children's Commissioner
- Family Carers representatives
- Teaching and other school unions
- Challenging Behaviour Foundation
- Voluntary Organisations working with children with profound disabilities and complex needs.

Second to examine what legislative requirements would be needed to extend the Care Inspectorate legal locus in day schools to cover both the non educational areas and the classroom and to estimate what additional resources would be required in the future to manage this new commitment.

I would like to thank you again for your help in this matter.

Yours Sincerely

Beth Morrison