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14 February 2020

Clare

Petition PE1548: National Guidance on Seclusion and Restraint in Schools

Thank you for your letter of 31 January 2020 about the petition PE1548: National Guidance on Seclusion and Restraint in Schools which has been referred to the Education and Skills Committee by the Public Petitions Committee.

I have noted that the Committee have agreed to keep the petition open in order to keep a watching brief on the issue and I will of course provide the Committee with updates as the new national guidance develops.

In a joint letter of 23 October 2019 to the Scottish Government, about physical intervention and seclusion in schools, the Children and Young People's Commissioner Scotland (CYPCS) and the Equality and Human Rights Commission (EHRC) made five asks. I met with both of these organisations on 14 November 2019, and agreed that the Scottish Government would implement these asks. These are:

1. The development of a piece of human rights based guidance to minimise the use of restraint and seclusion, as part of a suite which ensures the appropriate links with IEI2 and with other policy areas including ASN, Trauma-informed Practice, Child Protection and Safeguarding, Positive Relationships and Nurture.
2. The involvement of children, young people and their families, as well as other key stakeholders, in the development of this guidance.
3. The involvement of children, young people and their families, as well as other key stakeholders in the one year review of the policy.
4. A commitment to consider the restraint and seclusion data collected by local authorities as part of the one year review, and to publish this alongside the other evidence collected by the Government, to inform its assessment of the success of its preferred voluntary approach. At the same time, to reconsider the benefits of collection and analysis of local data at a national level on an ongoing basis.

5. A commitment, should that review not clearly demonstrate improvement against an agreed set of indicators, to take action to place the guidance on a statutory basis, and to include specific requirements to record incidents of restraint and seclusion.

Following this agreement, a working group of key stakeholders with expertise in this area was established. I have attached the terms of reference for the working group, which includes a list of the members, to this letter. I am extremely pleased that the petitioner and the CYPCS have agreed to be part of the working group driving this important piece of work forward. The working group met for the first time on 20 January 2020 and agreed that the new guidance will sit within the 'Included, Engaged and Involved' suite of documents, which places at its core positive relationships and behaviour, and solution oriented and restorative approaches. The group also agreed that three sub groups would be created to focus on the definitions to be used, the drafting of the guidance, and the recording and monitoring of any incidents of physical intervention or seclusion.

It is anticipated that the group will develop and agree a new piece of national guidance on physical intervention and seclusion by October after which a 12 week consultation process will commence. This will provide all interested parties, including the Committee and National Autistic Society, the opportunity to comment on the draft guidance. Consultation responses will then be considered and the guidance amended accordingly before publishing in January 2021. I am happy to share a copy of the guidance with the Committee once it has been drafted.

Following discussions with the CYPCS and EHRC, it was agreed that initially a voluntary approach would be adopted, in order to reach a satisfactory outcome to these requests, rather than a statutory approach. The working group will be tasked with reviewing the effectiveness of the new guidance and Scottish Government officials will therefore develop a plan and delivery for this review in conjunction with the working group, which will begin 12 months after the publication of the new guidance. I am also happy to consult further with the CYPCS and the EHRC throughout this process when considering the timescales and milestones for the review process.

If following the review it is evidenced that we are unable to affect the necessary change to practice by non-statutory means, then I would, at that time, consider using statutory means to effect the necessary change.

I trust that the above provides reassurance to the Committee about my commitment to ensuring that an effective approach is adopted in Scotland's schools when considering the use of physical intervention and seclusion.

JOHN SWINNEY