

PE1548/BB

Petitioner letter of 9 January 2017

I am grateful to the Scottish Government for their latest response to the petitions committee with regard to PE01548 - National Guidance on Restraint and Seclusion in schools. There are a number of elements which please me and show progress.

Having said that, I remain frustrated by an apparent failure to grasp fully some of the key elements necessary to elicit meaningful improvements in the daily lives of disabled children in Scotland's Schools.

In the first instance, it is of the utmost importance that the committee refers to Dr Brodie Paterson's letter to the Petitions Committee dated 6th December 2016. Dr Paterson is recognised as a leading expert in this area and is one of a number of experts in the field of learning disabilities who support the aims of my petition. A number of these experts have offered their services to The Scottish Government to help write the guidelines, but so far, this offer has not been taken up. As I shall explain later, this failure to use the correct people to help draft guidelines is a fundamental flaw in the process that has taken place so far in progressing what my petition is trying to achieve.

I continue to be frustrated at the Scottish Government's stance on the new guidelines, mainly in the unwillingness to allow people with bespoke skills in the field of learning disability to help draft the guidelines. Because of this, the problem has been treated as an education issue, rather than a learning disability issue within an education environment. For the uninitiated, the difference may appear subtle. In truth, the difference is fundamental.

I am acutely aware that the new petitions committee may not yet fully understand the reasons behind the petition so I will go back to basics in the hope the committee can see how they can help make a meaningful difference to the lives of Scotland's most vulnerable children. I came to the petitions committee with a very serious concern about the way a particular demographic of children in Scotland were (and are) being treated and dealt with in many of our schools.

I represent children who have disabilities and often suffer from severe and debilitating communication difficulties. Many of the children have little or no verbal language whatsoever. When their basic needs are not met, they need to use other methods to communicate. Put yourself in the place of a non-verbal disabled child. How do you tell your teacher or carer "I need to go to the toilet", or "I am hungry" or "I am in pain or discomfort" or "I have wet myself", or simply "I am bored"? Imagine you are that child and the teacher doesn't understand you need to "go" or recognise your pain or hunger. Imagine your frustration when all of your attempts to communicate non-verbally are repeatedly misunderstood and you are told sternly by the teacher to sit down and stop being disruptive. Imagine your distress of having to "hold it in" because no one is listening to you or understanding what you are trying to communicate. Now imagine that you are so desperate that you will do anything to be able to relieve yourself including resorting to behaviour which the teacher believes is "naughty" or "challenging" An all too common scenario is that the teacher decides that s/he will not tolerate this disruptive behaviour and the child is removed from the class using "physical intervention". This is usually 2 or more staff who will be really angry that they are having to deal with what they perceive as the child's terrible

behaviour. Imagine you have Autism and you hate being touched, never mind held by force. Would you accede to the demands of staff or struggle against the restraint? What now if despite your struggling and protestation, instead of taking you to the toilet, the staff are hauling you against your will to the euphemistically named "quiet room". You know from past experience that this is usually a bare room, often simply a cupboard, where the naughty children are sent and where you will be locked in and left, all alone until you "calm down and behave yourself", except of course you can't do that because you don't have the cognitive skills to recognise that is required of you, so instead the "behaviour" escalates. Is that fair? Would you like to be treated in this way? How would your own behaviour be in this harrowing situation? It is an all too common occurrence that a failure of school staff to recognise and meet the needs of learning disabled children results in behaviour that is mistaken as bad behaviour which leads to punishment. (This is after all how schools deal with behavioural issues for typically developed children). This "solution" simply frustrates the learning disabled child further and escalates the situation.

This is a common problem in Scotland and elsewhere. It occurs every day and in most schools which have learning disabled children. It is a failure to recognise that learning disabled children CANNOT be treated in the same way as typically developed children, nor in the same way as Socially and Emotionally Disturbed Children. This latter demographic (SEBD) is particularly important, as regrettably, up until now, many of the solutions put forward by Scottish Government Advisers have been based on solutions for SEBD children. This is why we have great concern that our own bespoke experts have not been properly engaged, as those who have produced the current draft fail to grasp the fundamental difference between the demographics and their need for different treatments and therefore different guidelines. This is the reality that many disabled children go through every single day. Children who show their distress and anxiety through their behaviour are viewed in a very negative way by many staff in many schools. Typically, schools simply do not tolerate behaviour which challenges staff. Children with disabilities are going home bruised and injured, sometimes seriously, because staff are using physical intervention and punishments to "manage" their behaviour because staff lack the skills, expertise and training in Positive Behaviour Support and there is absolutely NOTHING that poor child or their parents can do about it. The worst thing of all is that there is currently NO GUIDANCE to protect these kiddies, and the law is rarely on their side when their parents try to do something about it. I hope you will agree that this is unacceptable!

The Scottish Government have committed to writing the new guidance, but they are doing so without having the right people with the right expertise involved. We will never get it right for children if we continue to look at this issue as an education problem and use people with expertise in education and/or expertise in behaviour relating to typically developed and SEBD children. The reality is, we cannot achieve the right outcomes without experts in learning disabilities being involved in a fundamental way in the drafting of the guidelines.

In their latest response The Scottish Government have said they will replace the word "seclusion" with "supported separation". I have a fundamental objection to this. This appears to be an attempt to appear to comply with the UNCRC recommendations to "ABOLISH the use of isolation rooms". However, the Scottish Government cannot surely simply change the language in an effort to disguise what is actually going on behind the school doors? The word ABOLISH is very clear. We

cannot allow schools to change the name of the room, but fail to change the way they handle issues such that nothing changes in the way children are treated! We need the Scottish Government to make it clear that they are going to comply with the UNCRC recommendations and ABOLISH isolation rooms completely, NOT that they are going to allow schools to keep such rooms and call them something different.

It is our contention that this issue shows the problems of seeking advice from people with the wrong expertise. Guidance has been sought from COSLA, the Association of Directors Of Education in Scotland, and the EIS for example. Whilst I recognise fully their right to be consulted, I cannot accept that anyone from these organisations will have been able to provide a practical solution. So they will plead for the continued use of these rooms. Remember I said earlier that the problems I have highlighted happen in many schools in Scotland that have learning disabled children? You may ask yourself why does it not happen in ALL schools with such children? The reason is very simple. There is another way, and in schools where the culture is more enlightened, such problems are substantially less likely to occur. We simply want the Scottish Government to ensure that the best practice that does exist in Scotland is delivered across the country. Best practice meaning staff have empathy, understanding and an ability to meet the needs of the children such that challenging behaviour is much less likely to occur, and when it does occur, they are able to de-escalate it without the need to resort to restraint and seclusion. Schools with such a culture have the same children with the same learning difficulties and the same challenges. They are simply dealt with in a different way. A way which improves the daily experience of both the children AND the staff! A method which is proven by an evidence base of research.

I am concerned that you may look at the petition and if you simply accept the Scottish Government's promise at face value, it may seem that the aims of the petition have been fulfilled. It is true that the Petitions committee have helped make significant changes happen and we should be proud of this. However, in the last 2 years, things have moved on significantly, especially since the UNCRC recommendations which go much further than we dared hope and we need the committee to ensure that the Scottish Government implements the UNCRC changes in their entirety. This is especially important in relation to the recording and monitoring of physical intervention (restraint) and seclusion (isolation rooms).

As per Dr Paterson's letter, in the absence of National Guidance, local councils have been left to write their own policies. At present there is essentially nothing to stop them doing what they want and no official body monitoring what they do. Some are reasonably good, others do not comply with the British Institute of Learning Disabilities code of practice, and some do not bear the slightest resemblance to current ways of thinking and are essentially Dickensian! Other councils have no policy at all! This situation must not be allowed to continue. We must have robust guidance NATIONALLY and again, as per the UNCRC, we must have a NATIONAL recording system which should be monitored. Right now, there is no data available because the data is simply not collected. This has to be addressed.

I very much welcome the Scottish Government's statements that inappropriate restraint, sanctions, humiliation, intimidation, verbal abuse, and having needs ignored; depending on the circumstances, may also be criminal offences, acts of gross misconduct and reportable to Police Scotland and relevant professional regulatory bodies. The reality is, Police Scotland lack the expertise themselves so

criminal charges are rarely brought. Of course, what we are trying to do is create a situation where there would be no need to do so because children would not be hurt in the first place. I now have over 400 case studies from families whose small disabled children have been injured during restraints. Some children have been dragged along corridors by staff who literally throw the child into an isolation room and they are left there crying, humiliated and forced to urinate and defecate in these rooms. Disabled children's needs have been ignored (e.g. incontinence pads not changed in school ALL DAY, faeces not cleaned from incontinent children's skin causing horrific nappy rash) we have even had disabled children who are fed by a tube who went without sustenance for several days because the school milk machines were broken! Can you imagine if a school kitchen was out of order and typically developing children didn't eat lunch- there would be a huge outcry! Where is the accountability? Not one single family has had any kind of redress. Councils and Police Scotland take little or no action.

We should be hanging our heads in shame that this is allowed to continue. If children were being neglected in the family home, restrained to the point of injury and locked in cupboards, you can be sure that the parents would be held accountable. Why are staff in schools not held to the same standards of accountability? Scotland has the chance to lead the way on this issue. Because of my petition, and the subsequent recommendations by the UNCRC, we have the attention of the other 3 UK Governments & assemblies. All 4 of the UK's children's commissioners support the UNCRC recommendations, and they support the issues in our petition. They have pledged to work together to lobby their respective administrations. I would therefore like to ask the petitions committee to consider the following

- 1.** Ask the Equalities and Human Rights Committee at Holyrood for their views on the UNCRC recommendations and how we can get the Scottish Government to implement them. Also, do they see merit in calling for a National Inquiry as to how children with disabilities are cared for and treated in Scotland's Schools?
- 2.** I should be pleased if the committee would allow me to come before them once more with my team of bespoke experts to update them and answer questions at one of the next petitions committee hearings.
- 3.** Should we be looking at legislation rather than "guidance" given that it is so difficult to bring criminal charges against staff who deliberately use restraint and seclusion as a kind of corporal punishment for children with disabilities?
- 4.** I repeat my earlier suggestion that we have an advisory group made up of experts in learning disability, physical intervention and children's rights so that any guidelines that are written by The Scottish Government are written by the right people.
- 5.** Ask the Scottish Government for clarification on Abolishing isolation rooms and also how it intends to address the UNCRC's recommendations for a NATIONAL recording and monitoring system.

I look forward to your response.