

1548/PP

Petitioner submission of 12 March 2019

As you are aware, the petitions committee have worked hard on PE01548 National Guidance on restraint & seclusion in schools since January 2015.

I know we havent looked at the petition for some time because of The Childrens Commisioners formal investigation which started in March 2018, and that is absolutley fine, but I hope you dont mind me contacting you with my thoughts on the commisioners investigation and subsequent report which was published in December 2018.

I very much welcome Bruce Adamsons report, No Safe Place.

<https://www.cypcs.org.uk/ufiles/No-Safe-Place.pdf>

I wholly agree with the points the commisioner makes. As you may remember I think we all felt that although I was grateful for the Scottish Governments agreement to publish Included Engaged and Involved Part 2 back in May 2017, the contents of the guidance were far from what I felt was needed to protect the children I represent.

Today, The Childrens Commisioner published The Scottish Governments response and the commisioners reply.

<https://www.cypcs.org.uk/news/in-the-news/restraint-and-seclusion-scottish-government-response-to-our-investigation-and-our-reply>

I feel that the response from the Scottish Government is a weak one. To simply refer back to IEI2 is disappointing. The Scottish Governments lack of engagement with the local authorities is surprising, and I agree with Bruce, this is a missed opportunity.

In order to really understand why we must have a National stance on this, the Scottish Government really must do more to engage and furnish themselves with the right information to make sure we get it right going forward. In April 2017, I had a conversation with the civil servant responsible for writing the IEI2 guidance and it was absolutely clear that she had no expertise or understanding of restraint or seclusion. In fact she didn't even appear to understand the difference between **seclusion** and **exclusion** which as you can imagine, worried me a great deal.

In September 2018 our First Minister promised to further protect children by making the children's rights convention part of Scottish law. She said that The Scottish Government will incorporate the principles of the UN Convention on the Rights of the Child (UNCRC) into domestic law.

In May 2016 after the issues highlighted by my campaign reached the UNCRC in Geneva, there were a series of recommendations made to all 4 UK Governments and Assemblies on the issue of restraint & seclusion, so far, these have not been implemented.

The response from the Scottish Government seems to ignore the UNCRC principles, so are they being selective over what they will incorporate and what they will not?

Since April 2017, I have had around 200 more Scottish families come forward to me telling me that their children have been harmed physically and emotionally by the use of restraint and seclusion. ALL of these children have significant additional support needs and disabilities.

I have been collecting those families stories and collecting anonymised data for my research.

I have provided a link to [a joint report](#) between my own (small) organisation Positive & Active Behaviour Support Scotland (PABSS) and The Challenging Behaviour Foundation which was done last September when I had 571 cases UK wide. A briefing paper connected with that report is included as an annexe to this submission. As of today I have 704 and the numbers are rising. 26% of the children subjected to the use of restraint & seclusion in our schools are just 6 years old!

Considering the ages of the children being targeted, I cannot help wondering why are we spending millions of pounds on training teachers and staff a reactive strategy to restrain children in order to manage what should be a "last resort" instead of training the staff to use PBS & pro-active strategies, meeting the needs of our children to prevent these instances occurring ?

As Willie Rennie said at last month's Scottish Liberal Democrats conference "2600 cases of restraint does not sound like a last resort to me"

I feel the focus is all wrong. The training is wrong, the teachers and support staff are not getting the right support and training to do their jobs.

Should we even be using restraint at all on young children in schools? There are many experts who believe we shouldn't be doing this unless there is a serious threat to life.

I look forward to seeing the 32 responses from the local authorities and The Scottish Governments response to the commissioners response.

Thank you all once again. We have all worked very hard on this, its taken a long time and we should be proud of what we have achieved so far. I think the tide is turning. My campaign started in Scotland, but it is now UK wide. I do think Scotland is leading the way- for now.

You may also like to know that I have supported families in Northern Ireland, England and Wales to secure funding for a series of Judicial Reviews for failure to implement an adequate legal policy/framework under article 8 of human rights law to protect children with disabilities from the inappropriate use of restraint & seclusion. The latest JR will go ahead in England within the coming weeks & months and we are confident that we will get a successful outcome.

Let's hope we can bring real change for children with disabilities in Scotland so our country truly will be the best place for a child to grow up.

ANNEXE

Briefing Paper- Reducing Restrictive Intervention of Children and Young People

This work was undertaken due to significant concerns about harmful restrictive intervention of the disabled children and young people whose families we support. The report shares data collected by two small family-led charities (A survey by the Challenging Behaviour Foundation (CBF) and case studies collected by Positive and Active Behaviour Support Scotland (PABSS)). Both the CBF survey and the PABSS case study data have revealed concerning results regarding incidents of, and attitudes towards, restrictive intervention. Overall the data showed a high number and regular occurrence of restrictive intervention cases.

- **88%** of the 204 respondents to the CBF survey said their disabled child had experienced physical restraint, with **35%** reporting it happening regularly.
- **71%** of families completing the CBF survey said their child had experienced seclusion - **21%** reported that this was taking place **on a daily basis**.
- Of the respondents to the CBF survey **50%** of children had been prescribed medication to manage challenging behaviour.
- Most of the restrictive interventions reported in the CBF survey were taking place in schools; for example **68%** of the physical interventions.
- The PABSS collection of case studies included **1058** reports of restraint and **544** reports of seclusion.

Recommendations

- **Government action:** For the Government to take action to better understand the scale and nature of this problem across the UK and to take action to safeguard disabled children in schools and children's services.
- **Skilled staff:** For Headteachers and service leaders to ensure staff have the skills, values, training and supervision they need to support children with learning disabilities and autism whose behaviours challenge.
- **Family support:** Provision of skilled trauma support for those disabled children who have experienced traumatic restrictive interventions at school or in children's services settings, including effective support for their families.
- **Accountability:** Better accountability is required at all levels including: reporting and recording within settings; effective data collection by local authorities and the Government; inspection and a review of the way restrictive intervention cases are handled by the justice system.

Background information

The CBF and PABSS

The Challenging Behaviour Foundation (CBF) is the only UK independent registered charity for children and adults with severe learning disabilities whose behaviour challenges. We provide information and support; run workshops; share evidence and best practice and speak up for families on a national level.

Positive and Active Behaviour Support Scotland (PABSS) is an independent charitable organisation that aims to provide awareness, training, support, campaigning and advocacy in Positive Behaviour Support to those families and

professionals involved in the care and education of children and adults with learning disabilities and/or support needs.

The report

Both charities have been contacted by family carers telling us about restrictive interventions used on their disabled children, particularly within school settings but also in the wider community. This has been an area of growing concern, particularly as there is no formal requirement for local authorities or the Government to collect national data about the extent or frequency of this practice and the resulting impact on children and families.

The report ***Reducing Restrictive Intervention of Children and Young People: Case study and survey results, CBF (2019)*** shares information gathered regarding children and young people aged 0-25. The report contains data collected from 566 PABSS case studies and results from a CBF survey completed by 204 families. This research was conducted within a short time frame as we had no funding to take the work forward. Despite this limitation, the high number of responses within the short time period suggests restrictive intervention is an issue of concern to many families who engage with our charities and we are clear this issue merits much greater investigation.

Background

There is no current guidance on the use of restraint on disabled children in schools in England; the Government has been promising imminent guidance since 2014. Guidanceⁱ was published in Scotland in June 2017 and is due to be reviewed in April 2019 but, despite this, families tell us that the use of restraint in Scottish schools remains too high and an investigation by the Scottish Children's Commissioner in December 2018 found a significant number of restrictive interventions reported by local authorities which had no restrictive intervention policies in placeⁱⁱ. NICEⁱⁱⁱ guidelines and Department of Health and Social Care guidance^{iv} are clear that restrictive interventions should only ever be used as a last resort. They recommend Positive Behaviour Support- an evidence-based approach which aims to understand the reasons for a behaviour (or its function) - for example addressing the reason behind a child running away, rather than simply restraining them when they try to

ⁱ *Included, Engaged and Involved: preventing and managing school exclusions*. Scottish Government, (June 2017.)

ⁱⁱ *No safe place: restraint and seclusion in Scotland's schools*, Children and Young People's Commissioner, Scotland (Dec 2018)

ⁱⁱⁱ *Challenging behaviour and learning disabilities: prevention and interventions for people with learning disabilities whose behaviour challenges*, NICE guideline [NG11] (May 2015)

^{iv} *Positive and Proactive Care: Reducing the need for restrictive interventions*, Department of Health, (2014)