

## **PE01548/MM**

Petitioner submission of 17 January 2018

Since our last hearing at the petitions committee, our campaign on the use of restraint and seclusion on children who have additional needs and disabilities is gaining momentum throughout the rest of the UK.

In November 2017, The Dept. of Health & Social Care and The Dept. of Education at the UK Government published the draft of brand new guidance “Reducing the Need for Restraint and Restrictive Intervention – Children and Young People with Learning Disabilities, Autistic Spectrum Disorder and Mental Health Difficulties”

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/663453/Reducing\\_the\\_Need\\_for\\_Restraint\\_and\\_Restrictive\\_Intervention.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/663453/Reducing_the_Need_for_Restraint_and_Restrictive_Intervention.pdf)

This guidance is now out for consultation and is much more like the guidance we had hoped that The Scottish Government would have published to protect Scotland’s most vulnerable children as it is very clear and specific and was written by bespoke experts in the field of restraint and seclusion. I have been liaising with various organisations on this and partly as a result, have recently been invited to join The UK’s Restraint Reduction Network. The core purpose of the RRN is to reduce reliance on restrictive practices across education, health and social care services across the UK and will be made up of representatives from all relevant government departments, regulators, professional bodies, charities and experts in the field. It will provide expert guidance to steer all elements of RRN work including the development of an International Community of Practice and a new Code of Practice. It seems that professionals across all services elsewhere in the UK have got the message that the unrestricted use of restraint as a first resort does not provide solutions to challenging behaviour, and that indeed it is counterproductive. There are regrettably far too many professionals in Scotland, particularly in Education, for whom that particular penny has not yet dropped and until a proper understanding of this is part of the landscape in Scottish Schools and Teacher Training Programmes, children will continue to be hurt unnecessarily, good teachers will be unnecessarily distressed and deliberate abusers will be able to hide their crimes as it can be difficult to differentiate sufficiently from what is currently “acceptable” practice (at least as far as a number of Local Authority employers are concerned).

Included, Engaged and Involved Part 2: A Positive Approach to Preventing and Managing School Exclusions was published in June 2017. We have been sharing this with the 400 plus parents and family carers across Local Authority Areas in Scotland who have joined our campaign. They have been telling us about their experiences since IEI2 was published. Here are the most common observations.

1. The current guidance (June 2017) is a start but nowhere near robust enough.

2. IEL2 is not recognised in many schools- Parents produce it in meetings and staff have no idea of its existence or its contents. The rights of children therefore continue to not be upheld.
3. Restraint and Seclusion is still frequently used as a first response and it IS still being used as a punishment for many children- particularly in mainstream when there's not enough support for children with additional needs and a lack of understanding amongst staff of the futility of its use as a punishment, and the illegality of such use.
4. Still too many children with ASN are being contained in "isolation" all day every day with no plan to change this despite challenges from parents (contrary to what it says in IEL2)
5. Many disabled children prevented from accessing playgrounds/outdoor spaces as punishment when they have no understanding of consequences. Such punishment can therefore serve no purpose as the child cannot process the message that staff are trying to impart. Behaviour cannot and will not be modified by such action.
6. School staff quick to cite "health and safety" reasons for the use of restraint, seclusion and exclusion with no plan to address this or meet the needs of the child in other ways (again, contrary to IEL2)
7. Too many staff neither understand or have the appetite for PBS (Positive Behaviour Support) and continue to use aversive strategies for behaviour modification- which we know does not work. Staff reluctance to embrace PBS stems from a lack of understanding of what it is and ignorance of the evidence base of successful practice upon which it is founded.
8. Council employees in all relevant services seem to believe that GIRFEC and SHANARRI only apply in the family home, as does the term "wellbeing". There is nothing Safe, Healthy, Achieving, Nurturing, Respected, Responsible or Included about a disabled child being physically restrained and injured by untrained staff in schools. Child protection have no interest in stopping this practise- why not? They regard it as legitimate. If this treatment is unacceptable within a family home, why do we condone this from school staff? I have continually praised the good practice that I see, when I see it. At the same time, I cannot accept the current situation that in practice, *de facto* allows school staff in this country to be held to a different standard of accountability under the law than every other citizen. The way to protect staff is not to give them special protection, but to provide them with adequate training, knowledge, empathy and understanding. To do that would be a win-win for everyone.
9. Since 29th November 2017 The Dept. of Health/Social Care and Education at the UK Government has been consulting on draft guidance on reducing the need for restraint and restrictive intervention for children and young people with learning disabilities, autistic spectrum disorder and mental health needs. The UK is seeking views on how well this draft guidance helps a range of settings and services to support children recognised as being at higher risk of restraint. The guidance applies

to health and care settings and special educational settings. Why can the rest of the UK consult publically in this manner but Scotland cannot?

10. Records need to be kept and shared with the parent. There should be an independent body to review complaints. Local authorities are reluctant to recognise complaints against their employees. This leaves more parents with no choice other than to pursue legal action they can ill afford simply to stop the inadequate service and poor treatment their children experience. It has become routine in some local authorities that children's disabilities are not even being recorded in minutes of "Team Around the Child" meetings, and that the focus of minutes is on the child's behaviour even when many other things which contribute to the child's distress and behaviour are discussed. This happens so often that it cannot be anything other than an attempt to avoid accepting that the problem stems from the child's disabilities and that the staff have no clear strategy on how to respond appropriately.

In addition to my new position with the RRN, I have also been invited to attend a meeting with Welsh Government ministers and the children's commissioner for Wales and key civil servants in Cardiff in March where I will extend my campaign further.

Given the momentum that is gathering in the rest of the UK, it is extremely disappointing that The Scottish Government claim to see no merit in updating "Holding Safely" especially given The Children and Young People (Scotland) Act 2014 states that its core purpose includes improving the wellbeing of children and young people in Scotland. We also have GIRFEC and The SHANARRI Wellbeing Wheel, and we cannot understand why the wellbeing and rights of children with disabilities are not being upheld in schools and other children's services where they continue to use restraint and seclusion as a first response to behavioural distress displayed by children who have little or no means of communication. Without updating Holding Safely, there is a danger that the Scottish Government inadvertently send a message that Children with Disabilities do not need or merit the same level of protection as typically developed children.