

PE1548/EE:

Children and Young People's Commissioner Scotland and ENABLE Scotland joint submission of 19 April 2017

MSP Briefing- PE1548

As organisations working for and on behalf of disabled children, we are fully supportive of PE1548, and have previously submitted written evidence to the Committee.

We have created this joint briefing ahead of the evidence session with the Deputy First Minister on Thursday, 20th April, 2017, as we believe there are a number of outstanding issues which Committee Members may wish to explore.

Monitoring of Incidents

The true extent of the use of restraint on disabled pupils across Scotland remains unclear.

A recent UK-wide Freedom of Information request submitted by BBC 5 Live on the use of restraint within special schools¹ resulted in only 17 out of 32 Scottish local authorities being able to provide up to date data. Of the data provided, this revealed 4383 incidences of restraint and 157 injuries in special schools in Scotland.

This clearly underlines the need for national oversight by the Scottish Government. Any national approach should be in addition to local authorities collecting and analysing data regularly to ensure that particular pupils are not being targeted or that particular staff members are not using restraint excessively.

If restraint remains hidden and undocumented, then disabled pupils are more vulnerable to abuse.

The use of restraint on disabled pupils should only ever be as a last resort and what constitutes a 'last resort' should be clearly defined in guidance. Restraint and seclusion should never be viewed as a normal part of the school day for disabled pupils.

Scrutiny and Accountability

Currently Education Scotland has responsibility for inspecting and reporting on the quality of education across all types of provision, but does not have a specific role to ensure appropriate care and dignified treatment. This lies within the remit of the Care Inspectorate but only in the setting of registered care providers.

This means that there is a gap in protection for vulnerable children who attend special schools which are not registered care providers (e.g. a non-residential local authority special school).

¹ <http://www.independent.co.uk/news/education/education-news/more-700-children-reported-injured-after-being-restrained-at-special-needs-disabilities-schools-a7674821.html>

We believe that this gap should be closed as a matter of priority by appointing a national agency; for example, the Care Inspectorate or Education Scotland, to ensure that all children receive the same protection regardless of where they are educated.

Guidance on Restraint

Restraint in Scottish special schools is an area which remains largely unregulated.

We therefore welcome the Scottish Government's commitment to producing guidance on this topic. However, we do not believe that it is appropriate for new guidance to sit within a document on Managing School Exclusions.

As the petitioner has made clear, much of the behaviour demonstrated by children in special schools is linked not to 'bad behaviour' or a desire to cause disruption in class, but rather is due to an unmet communication need².

By placing guidance in the context of Managing School Exclusions, then the focus will naturally fall on the child's behaviour, rather than encouraging staff to understand the reasons for that behaviour and seek alternative ways of resolving difficulties.

On balance, our view is that stand alone guidance would be more desirable. We believe that having such guidance will raise the profile of restraint and highlight particular concerns about its use on disabled children.

This guidance should be created in consultation with an expert advisory group, who can fully explore the children's rights implications of a child being restrained or secluded. The views of children and young people should also be sought, where at all possible.

Any new guidance should also be accompanied by a Children's Rights and Wellbeing Impact Assessment and cover both holds and other less visible forms of restraint and seclusion e.g. the inappropriate use of straps on a child's wheelchair.

Training

In 2010, a review of teacher education found that many new teachers expressed a lack of confidence in dealing with some of the most challenging aspects of the role, including positive behaviour management and ways of supporting learning for pupils with significant additional support needs.³

In 2016, ENABLE Scotland found the majority of families (88.01%) still felt classroom teachers were not trained to work with young people who had a learning disability.⁴

² We believe it is therefore important to involve specialist Speech and Language professionals in the creation of any guidance.

³ Graham Donaldson, *Teaching Scotland's future: Report of a review of teacher education in Scotland*, 2010 <http://www.gov.scot/resource/doc/337626/0110852.pdf>

⁴ ENABLE Scotland, *#IncludED in the Main?! - 22 Steps on the Journey to Inclusion for Every Pupil who has a Learning Disability*, 2016

Furthermore, 98% of the education workforce felt that initial teacher training education did not adequately prepare teachers for teaching young people who had additional support for learning needs, including learning disability; 55% said it did not prepare teachers, while 43% said it could be better.⁵

This echoes the findings of a report published by the Children and Young People's Commissioner Scotland in 2012 which found that initial teacher training and CPD did not include enough material on including disabled children. What courses did exist were not compulsory for all students or qualified teachers⁶.

The focus of any work moving forward should therefore be on providing teachers with the confidence and skills to recognise and meet the needs of all pupils, including those with complex additional support needs. Any training should reinforce Positive Behaviour Support and should stress that restraint should only be used as a last resort.

Seclusion

We remain concerned about the use of seclusion and isolation rooms on children with disabilities. Their use is sometimes presented as being in the best interests of children (e.g. allowing them 'time out' following a stressful situation). We believe that their use should also be explored by an expert advisory group (and most sensibly the same group considering the issue of restraint).

Our concerns cover the use of seclusion as a behaviour management technique generally, e.g. where a child's disability may make this particularly distressing for them.

We also have more specific concerns about the environment in which this seclusion takes place. As the Petitioner has stated, this includes seclusion which may involve children being locked for lengthy periods in very small rooms, with little or no access to daylight. We share the Petitioner's concerns about whether children are properly supervised during their time in seclusion.

The UN Committee on the Rights of the Child, in their 2016 Concluding Observations recommended that the use of isolation rooms be abolished⁷. We would support this recommendation.

<http://www.enable.org.uk/includedinthemain/Documents/IncludED%20in%20the%20Main%20-%2022%20Steps%20on%20the%20Journey%20to%20Inclusion.pdf>

⁵ ENABLE Scotland, *#IncludED in the Main?! - 22 Steps on the Journey to Inclusion for Every Pupil who has a Learning Disability*, 2016

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⁶https://www.cypcs.org.uk/downloads/Critical_review_and_analysis_of_research_research_and_policy_relati ng_to_disabled_children1.pdf.pdf

⁷http://tbiinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGBR%2fCO %2f5&Lang=en