

Physical Intervention Working Group

Terms of reference

January 2020

Background

The Children and Young People's Commissioner Scotland's (CYPCS) first investigation was on 'physical restraint and seclusion' in schools. 'No Safe Place'¹ was published in December 2018, and listed a number of recommendations, a number of which were applicable to the Scottish Government. The CYPCS executive summary is attached at Annex A.

Following engagement between Scottish Ministers, CYPCS and the Equality and Human Rights Commission during 2019, it was agreed that the Scottish Government would implement the following asks:

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 Included, Engaged and Involved part 2: A positive approach to preventing and managing school exclusions²: 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.

¹ <https://cypcs.org.uk/wp-content/uploads/2020/02/No-Safe-Place.pdf>

² <https://www.gov.scot/publications/included-engaged-involved-part-2-positive-approach-preventing-managing-school/>

Objectives

The group will:

- consider and take action on the 5 asks as listed above;
- collectively contribute to and develop new, robust, rights based guidance;
- collate and share examples of best practice within local authorities which can be considered by the working group;
- consider the current approach taken by local authorities on recording and monitoring incidents, and make recommendations to take forward, which will include the introduction of a standard dataset that will ensure robust information is collected at a local authority level to support improved policy and practice; and
- a review one year from the publication of the new guidance to assess its effectiveness.

Scope

The working group will develop new guidance on physical intervention and seclusion, that will sit within a suite of documents in the 'Included, Engaged and Involved' series that places at its core positive relationships and behaviour, early intervention, de-escalation techniques and minimisation of the use of physical intervention and seclusion.

It is expected the new guidance will be published in early 2021.

Chair

The group will be chaired by Caroline Amos as the Association of Directors of Education in Scotland representative on the Scottish Advisory Group for Relationships and Behaviour in School.

Membership

Membership of the group will comprise of key stakeholders and Local Authorities. The following organisations will be represented:

- Scottish Youth Parliament
- British Institute of Learning Disabilities (BILD)
- Highland Council
- Positive and Active Behaviour Support Scotland (PABSS)
- CALM Training
- Association of Directors of Education in Scotland (ADES)
- Mental Welfare Commission Scotland
- Angus Council
- University of Glasgow Adverse Childhood Experience Centre
- University of Edinburgh
- Fife Council
- Scottish Government

- Stirling Council
- Enable Scotland
- Westwater Advocates
- Fife Council
- School Leaders Scotland
- Education Scotland
- Centre for Excellence for Children's Care and Protection
- Society of Local Authority Lawyers & Administrators in Scotland (SOLAR)
- First-tier Tribunal, Health and Education Chamber
- South Lanarkshire Council
- Children and Young People's Commissioner Scotland
- Convention of Scottish Local Authorities (COSLA)
- Association of Scottish Principal Education Psychologists
- Educational Institute of Scotland (EIS)
- The Association of Headteachers and Deputies in Scotland (AHDS)
- UNISON
- NASUWT
- National Parent Forum of Scotland

Meeting frequency

The first meeting was held on 20 January 2020. Frequency to be agreed during working group meetings.

Recommendations for the Scottish Government from CYPCS report, December 2018.

- The Scottish Government should publish a rights-based national policy and guidance on restraint and seclusion in schools. Children and young people should be involved at all stages of this process to inform its development. The policy and guidance should be accompanied by promotion and awareness raising.
- The Scottish Government should analyse and publish data as part of its official statistics
- The Scottish Government should ensure that national policy and guidance is clearly set within a human rights framework, including specific reference to the relevant articles of the European Convention on Human Rights, the UN Convention on the Rights of the Child and the UN Convention on the Rights of Persons with Disabilities, and other relevant international human rights instruments.
- The Scottish Government should ensure that the practical impact of respect for rights on practice is explained through the use of examples and case studies in national policy and guidance.
- The Scottish Government should develop clear rights-based definitions of both restraint and seclusion as part of national policy and guidance.
- The Scottish Government should ensure that the national policy and guidance sets out clear criteria on the use of restraint and seclusion, linked to the rights framework to ensure that children's rights are not breached, using examples to help staff understand appropriate and lawful use of these techniques.
- The Scottish Government should ensure that the national policy and guidance on the use of seclusion in schools draws a clear, well understood and well-communicated distinction between the use of a supervised, separate space as a planned response to a child's individual needs and placing a child in a room on their own where they are unable to indicate and receive an immediate response to discomfort or distress.