



Restrictive Interventions in Schools

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Our view: ENABLE Scotland's view is that restrictive interventions such as seclusion¹ and restraint² may, in some instances, be included as appropriate elements of a school's behavioural management strategy as part of a Positive Behaviour Support framework. However appropriate safeguards are required to ensure that the use of these techniques does not interfere with the basic rights of children and young people³. ENABLE Scotland notes that at the time of writing, no national guidance on the appropriate use of seclusion and restraint specifically in education settings exists; we would support the development of such guidelines⁴.

In relation to the use of seclusion and restraint, the following key principles should *always* apply and should underpin national guidance:

- Acknowledgement that inappropriate use of restraint may in some circumstances be considered assault and could therefore constitute a criminal offence.
- **Last resort** - where it is deemed necessary, physical restraint should be the *minimum* required to deal with the agreed risk, for the *minimum* amount of time.
- **No use of restraints that are cruel, humiliating, unnecessary** or not in line with trained techniques.
- **No use of restraint as a means of maintaining order and discipline.**
- **Regular training** in appropriate restraint techniques should be provided.
- **No use of restraint by untrained staff**, *except* in emergency situations.
- **Appropriate supervision** of the child at all times, including during seclusion.
- **Accountability** of teaching and support staff for their actions; this should include recording every incident leading to the use of seclusion or restraint and monitoring of this by the local authority.
- A **full debrief** should be carried out after every incident to embed learning and minimise risk in future.

ENABLE Scotland also believes that the appropriate use of restrictive interventions for managing behaviour in schools should form a key element of inspections by an external agency (either Education Scotland or the Care Inspectorate.) This would serve to safeguard and promote the wellbeing of children and young people with complex additional support needs⁵ while they are at school and should apply across mainstream and special educational provision.

Why is this our position? This is ENABLE Scotland's position because we believe that children and young people with learning disabilities and/or other additional support needs, have the right to be treated

¹ Seclusion is defined here as "the restriction of a person's freedom of association, without his or her consent, by locking him or her in a room" (MWC, 2014). Seclusion is not the same as 'time out' which is a behavioural intervention used as part of a structured behaviour support plan and does not necessarily involve being physically removed to a separate room or area.

² Physical restraint is defined as "holding a child to restrict their movement and...prevent harm" (SIRCC, 2005) and would include such techniques as CALM or MAPA manoeuvres. It should be noted that there are other types of restraint such as psychological, verbal, mechanical (e.g. wheelchair straps) and medical (e.g. sedation). The principles outlined in this paper apply to all restrictive interventions except those used during the course of normal activities or transportation e.g. seatbelts or wheelchair harnesses.

³ The articles of the United Nations Rights on the Convention of the Child (UNCRC) which apply in this context are:

Article 2 – principle of non-discrimination.

Article 3 - The best interests of children must be the primary concern in making decisions that may affect them.

Article 19 - Children have the right to be protected from being hurt and mistreated, physically or mentally.

Article 23 – Children with disabilities have the right to special care and support.

Article 37(a) – Children must not be punished in a cruel, inhumane or harmful way

⁴ MWC guidance (Rights, Risks and Limits to Freedom, 2013) applies primarily to adults in social care settings; SIRCC/Scottish Exec guidance (Holding Safely, 2005) is for residential child care establishments, no guidance exists to inform practice in schools.

⁵ Additional support needs are defined in legislation as any need for support, for any reason, beyond that which is normally provided.

with respect and dignity and not be subjected to treatment that has the potential to cause damage to their emotional, mental or physical wellbeing. The UNCRC's concluding observations in 2008 urged the UK State Party to "ensure that restraint against children is used only as a last resort and exclusively to prevent harm to the child or others and that all methods of physical restraint for disciplinary purposes be abolished." ENABLE Scotland agrees with this recommendation.

We recognise that on occasion, it may be necessary for education staff to use restrictive interventions as a legitimate means of managing behaviour that challenges and/or safeguarding the wellbeing of the child, other children in the class, or staff member(s). However, restrictive interventions should never be used as a form of punishment, or to maintain order and discipline.

Physical restraint techniques of any kind should only be performed by trained staff, in line with a recognised method such as CALM or MAPA (Management of Potential or Actual Aggression, formerly known as NVCI). The only exception to this would be in an emergency situation where failure to intervene by an untrained person could result in serious injury or death e.g. if a child is about to run into a busy road. In this instance the Duty of Care would override all other concerns.

It is important to note that some forms of restraint, when used inappropriately or by untrained individuals, have the potential to cause serious physical or psychological harm to children and young people; this could be classed as assault which is a criminal offense. Mental Welfare Commission guidance (2014) states that "the use of seclusion can cause distress, psychological harm and increase the likelihood of self-harm and can only be justified on the basis of a clearly identified and significant risk to others that cannot be managed with greater safety by any other means."

Background information: In 2013 there were 131,621 pupils in Scotland's schools (primary, secondary, special and grant-aided) recorded as having an additional support need; this represents 19.5% of the total number of pupils. 95% of all pupils with additional support needs are taught in a mainstream setting. In 2013, there were 6,984 pupils attending special schools in Scotland. Of those pupils identified as having an additional support need, 15,510 were recorded as 'Assessed or Declared Disabled', 15,859 were recorded as having a learning disability and 9,946 were recorded as having an autistic spectrum disorder.

The terms restraint and seclusion are not clearly defined in Scottish legislation or regulations. Currently there is no specific national guidance on the use of these practices in Scottish schools. ENABLE Scotland believes that this is a significant gap which has implications for children and young people with complex additional support needs. A significant number of these pupils show behaviours that may be unfamiliar to staff and without clear guidance, an inappropriate response may occur.

Getting it Right for Every Child (GIRFEC) is the overarching policy framework driving children's services reform in Scotland. Its aim is to improve outcomes for all children and young people. The concept of wellbeing and the principles of children's rights are at the heart of GIRFEC, with 8 areas identified as essential to enable children to flourish – safe, healthy, achieving, nurtured, active, responsible, respected and included.

The Keys to Life (2013) is the Scottish Government's key policy guidance on supporting people with learning disabilities and improving the quality of their lives. The Keys to Life (p121) states that "for some people with learning disabilities and challenging behaviour, restrictive interventions may be necessary. Restrictive interventions, such as physical restraint and other types of restriction e.g seclusion are still a significant element of support for people with challenging behaviour and complex needs; however there is still a lack of clear guidance or standards for use."

The Mental Welfare Commission (2013) and the Scottish Institute for Residential Child Care (2005) have produced guidance on the appropriate use of seclusion and restraint, for use primarily in residential care settings. MWC guidance has a short section (Appendix 1, p47) on the legal principles surrounding the use of restraint with children and young people. These policy documents also contain general principles about the use of restraint that can apply in any setting and could provide a basis for developing national guidance specifically for schools.

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 some extremely vulnerable children who attend special schools or units which are not registered care providers. ENABLE Scotland believes that this gap should be closed as a matter of priority by appointing national agency (potentially either the Care Inspectorate or Education Scotland) to ensure that all children receive the same protection in terms of the care and support they receive at school, even if that school is not a registered care provider.

Key documents:

- BILD (2014), Code of Practice for minimising the use of restrictive physical interventions: planning, developing and delivering training.
- BILD, 2009. Factsheet: Timeout and Seclusion.
- Education (Additional Support for Learning) (Scotland) Act 2004, amended 2009.
- Equality Act (2010).
- Getting it Right for Every Child (GIRFEC) framework.
- Keys to Life (2013).
- Mental Welfare Commission (2013), Rights, Risks and Limits to Freedom.
- Mental Welfare Commission (2014), Good practice guide: The Use of Seclusion.
- The Scottish Institute for Residential Child Care (2005), Holding Safely.
- United Nations Convention on the Rights of the Child, (1989).
- UNCRC Concluding observations (2008), paras 38, 39.

For more information on any element of this position statement, please contact:

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