

ANGUS COUNCIL

CHILDREN AND LEARNING COMMITTEE – 21 MAY 2019

NO SAFE PLACE: RESTRAINT AND SECLUSION IN SCOTLAND'S SCHOOLS

1. BACKGROUND

On 30 March 2018, the Children and Young People's Commissioner Scotland began a formal investigation into 'Restraint and Seclusion in Scotland's Schools'. This issue was identified as a priority for the office's first investigation based on careful consideration of the rights issues at stake, the implications of those rights being breached, the vulnerability of the children and young people involved, and the extent to which concerns have been raised through the office's advice function.

The investigation focused on two main elements:

- The existence and adequacy of policies and guidance which reflect the law and the obligations of the State under international human rights instruments.
- The extent to which incidents are recorded and reported at local authority level.

The investigation required all 32 local authorities to provide copies of their policy documents and recording forms governing restraint and seclusion as well as complete an online evidence gathering form.

2. KEY FINDINGS WITHIN THE NO SAFE SPACE REPORT

Four out of thirty two local authorities had no policies or guidance in place to govern the safe and lawful use of restraint and seclusion. Where policies did exist, children and young people were rarely, if ever, directly involved in the development of these documents. Children's rights were referenced in many policies but not given meaningful expression in terms of how they should impact on practice.

Only 18 local authorities recorded all incidents of restraint and seclusion. Children's views were not routinely recorded by most local authorities following an incident where restraint and/or seclusion is used. Only 12 local authorities were able to provide full or partial data on the number of children with disabilities or other additional support needs who had been the subject of restraint or seclusion in the previous year. Only 18 of the 32 local authorities stated clearly that restraint should be used as a last resort when the child or another person is at immediate risk of harm.

Local authority guidance on seclusion generally does not reflect the legal tests to ensure compliance with the Europe Convention of Human Rights. 22 recommendations were made as a result of the investigation ([No Safe Place: Restraint and Seclusion in Scotland's Schools](#)). The report was published on 17th December 2018.

3. ANGUS COUNCIL'S RESPONSE TO THE RECOMMENDATIONS

The report and its recommendations were shared with Angus Head Teachers on the 7th February 2019. In order to fully consider any potential policy and practice changes arising from the recommendations, a short-term action group was formed. The group was chaired by the service's Education Manager (Additional Support Needs) and met on two occasions to consider the report's recommendations and discuss any required action. Members of the group were:

- Young Ambassador for Additional Support Needs
- Parental representative
- Council organisational development representative
- Large primary school representative
- Small primary school representative
- Secondary Principal Teacher Additional Support Needs
- Teacher Union representative
- School support staff Union representative

The full response to all 22 recommendations is appended to this information schedule. It was noted that many of the recommendations are already reflected in the corporate guidance on physical intervention which is in its final stages of development. This includes a Policy on Management of Behaviours that Challenge, Guidance on Incident Debrief and completing Behaviour Support Plans.

The group noted that Angus Council has reviewed the way incidents are recorded through the development of a new system known as Ivanti Service Desk. In addition, the Schools and Learning Service Leader for Additional Support Needs has developed with teacher union representatives a Joint Negotiation Committee (AJNCT) agreement for Teachers on managing violence and aggression in schools. This will now be subject to AJNCT formal consultation.

The group considered a recent survey carried out by Unison highlighting that incident reporting can be difficult due to staff working arrangements. Training of staff should be proportionate and recognise the skills gap within the change of role to School and Pupil Support Assistant (SPSA) as well as recognise the increase in the number of new staff that have been employed in Angus.

4. NEXT STEPS

- Adopt Corporate Policy and Guidance
- Present AJNCT paper for approval
- Trial new recording system in schools between April and June with a view to the system being active in all schools from August 2019.
- Provide time for school support staff to enable them to record incidents, read risk assessments, behaviour support plans and any other relevant information.
- Develop an induction programme for all new SPSAs
- Revise current training programme for SPSAs to include core and bespoke training through identified needs from schools.

Full Response to the 22 Recommendations:

Under Section 11 of the Commissioner for Children and Young People (Scotland) Act 2003, the Commissioner requires those organisations who are the subject of recommendations to respond in writing setting out:

- (a) what they have done or propose to do in response to the recommendation; or
(b) if they do not intend to do anything in response to the recommendation, the reasons for that

Recommendation	Comments
1. Local authorities should, as a matter of urgency, ensure that no restraint or seclusion takes place in the absence of clear consistent policies and procedures at local authority level to govern its use.	<p>Corporate guidance on physical intervention is in its final stages of development.</p> <p>This includes the policy, Management Of Behaviours That Challenge, Guidance on Incident Debrief and completing Behaviour Support Plans.</p> <p>The current guidance will be used until this is finalised.</p> <p>Service Leader for Additional Support Needs is working with union representatives on a Joint Negotiation Committee for Teachers.</p>
2. 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.	<p>The group acknowledged that the national guidance Included, Engaged and Involved Part 2: a positive approach to preventing and managing school exclusions emphasises the promotion of positive relationships, early intervention and the use of de-escalation in preventing the use of, or need for physical intervention, exclusion or seclusion within school.</p> <p>Some present felt that more detail with an emphasis on prevention of the need for restraint and/or seclusion would provide consistency across all 32 local authorities.</p> <p>Angus Council will look to ensure that any policy will be rights based and include children and young people in the process.</p>

<p>3. Local authorities should record all incidents of restraint and seclusion in schools on a standardised national form. Anonymised statistical data should be reported to the Scottish Government's Children and Families Directorate.</p>	<p>Angus Council has reviewed the way incidents are recorded through the development of a new system known as Ivanti Service Desk. This is being piloted at school level.</p> <p>A recent survey carried out by Unison with its members has highlighted incident reporting can be difficult due to staff working arrangements. They have requested that time be built into staff days to enable them to record incidents; read risk assessments, behaviour support plans and any other relevant information. Consideration is now being given as to how this can be achieved.</p>
<p>4. The Scottish Government should analyse and publish this data as part of its official statistics.</p>	<p>If data was collected by the Scottish Government, concerns were expressed regarding how this data would be published.</p> <p>The publication of data recording should be seen as a supportive measure that improves current policy and practice. Transparency would be required.</p>
<p>5. Local authorities should ensure that all recording forms at school level include sections for de-escalation techniques considered and attempted, the child's and parents and carers views. They should be incorporated into the assessment and planning processes in place under Additional Support for Learning legislation and Staged Intervention processes, as well as the GIRFEC National Practice Model and SEEMiS data management system.</p>	<p>Angus Council has reviewed the way incidences are recorded through the development of a new system known as Ivanti Service Desk.</p> <p>Parents and children's views will be captured in one of three ways - debrief, review of risk assessment or behaviour support plan.</p>
<p>6. In the interim, all local authorities should ensure that they are recording all incidents of restraint and seclusion</p>	<p>The report and these recommendations were shared at the Head Teachers' meeting on the 7th February 2019.</p>
<p>7. 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.</p>	<p>The revised policy recognises the rights of children and young people and reflects 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.</p>

8. 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	It was felt that for any existing or new policy it would be beneficial to have case studies, examples of best practice and a Frequently Asked Question section
9. The Scottish Government should develop clear rights-based definitions of both restraint and seclusion as part of national policy and guidance.	Agreed that this would be of benefit.
10. 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.	Agreed It was felt that the revised Angus policy is clear in this area. Any revision to include examples of good practice. The group felt that examples of what is intended by 'last resort' would be helpful.
11. 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.	It was recognised that Included, Engaged and Involved Part 2 outlines circumstances where Physical Intervention and Seclusion may be used. However the group agreed that clear definitions with worked examples would aid consistency and support practice.
12. Local authorities should amend their policies where necessary to make clear that damage to property should only be a justification for the use of restraint or seclusion when it presents an immediate risk of harm to the child or another individual. The same principle should be reflected in national policy and guidance.	This is reflected in the revised Policy and Guidelines. As a result of this group, the policy has been amended to include the non-use of restraint in relation to damage to property unless there is a risk of significant harm to the child or individual.
13. Scottish Government and local authorities should ensure that all policies, whether at national or local level, make clear that restraint and seclusion are measures of last resort."	Agreed and reflected in revised Policy and Guidance.
14. Local authorities should ensure that the child's plan includes de-escalation techniques and a risk assessment.	Agreed however this requires the addition of examples of proactive strategies that can be used, e.g. behaviour support plan, multi-agency working and communication passports.

15. Local authorities should ensure that all children considered to potentially require physical intervention have a plan agreed in advance with the child and their parent(s) and/ or carer(s).	Within Angus this is the behaviour plan and is included in the revised guidance for physical Intervention.
16. Local authorities should ensure that the child's plan is reviewed on a regular basis, as well as following any incident of restraint or seclusion.	Yes, this is highlighted within policy as minimally 6 months or after an incident.
17. Local authorities should ensure that parents and carers are informed as soon as reasonably practicable in every instance when restraint or seclusion is used on their child and offered the chance to take part in a post-incident review.	Good practice is highlighted in the revised policy and emphasises that Incident De-Briefing Meetings should be planned at least 24 hours after the incident but must be within 5 working days of the incident.
18. Local authorities should ensure that the views of the child are sought, recorded and reflected in all planning, risk assessment and post-incident reviews.	Good practice is highlighted.
19. Education Scotland and the Care Inspectorate should further scrutinise the use of restraint and seclusion in schools as part of their inspection regimes. The organisations should involve children and young people in developing ways of doing this that enable the voices of children with disabilities or Additional Support Needs to be heard.	
20. Local authorities should ensure that restraint and seclusion is only carried out by staff members who are trained to do so.	Yes as is current policy. Any training must be authorised by the Additional Support Needs Manager (3-18) who should be confident that all other strategies have been put in place prior to this decision having been made.
21. Local authorities should provide training to staff on a proportionate basis, with only those who have been assessed as needing training receiving it.	Agreed staff should be trained in proportion and recognise the skills gap within the change in roles but also the increase in the number of new staff that have been employed in Angus.
22. This training should be rights based and in line with the Council of Europe recommendations set out in Recommendation 2004(10) and with the principles in the Common Core.	Any training will reflect this.