

Edinburgh

To

Mr Bruce Adamson,

Children and Young People's Commissioner Scotland,
Bridgeside House,

99 McDonald Road,

Edinburgh

EH7 4NS.

30 January 2019

Children and Young People's Commissioner Scotland Report No Safe Place: Restraint and Seclusion in Scotland's Schools.

The City of Edinburgh Council Communities and Families welcomes the Commissioner's report No Safe Place: Restraint and Seclusion in Scotland's Schools.

We note that 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

The Report makes 22 recommendations in total, including 13 recommendations applying to Local Authorities. We are committed to uphold the Children's Human Rights working with the statutory frameworks. We will work closely with the Scottish Government and other agencies as required to address the wider recommendations within the report.

With particular regard to the recommendations for local authorities we will ensure these are addressed in the development of our policy and procedures to protect and promote the rights and wellbeing of children and young people, with due regard to parent's rights in law and the principles of Getting it Right for Every Child. Work is currently well advanced to set out a new policy for Inclusion and supporting procedures for schools. Separately, but cognisant of our

commitment to children's rights and wellbeing, we are taking active steps to ensure that our duty of care to learners and staff is fulfilled. This likewise involves robust procedures, training recording and quality assurance.

The Commissioner's report acknowledges that a number of the recommended measures are already in effect in whole or part in Edinburgh. We intended to ensure that all of the recommendations are fully addressed appropriate to the context of Edinburgh Schools. We have some reservations over element of detail in recommendation 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."

We agree with the principal recommendation that recording *'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) ... the GIRFEC National Practice Model.'*

However, we wish the Commissioner to note that we reserve our position regarding the following:

- We do not agree that recording should be specified as requiring 'forms' the mode of recording should be open so long as it is fit for purpose.
- Whilst the merits of a Staged Intervention process are currently a matter for discussion, as things stand there is no recognised 'Staged Intervention process nationally.
- We are content about the need to ensure we have a robust and effective integrated approach to assessment planning and recording for Additional Support for Learning and Getting it Right for Every Child. However, we do not agree that there should be a specific requirement to embed assessment and planning in SEEMiS. Whilst we would agree that ideally this would be the case, as it is currently constituted SEEMiS does not always provide a good fit with effective child assessment and planning, authorities need to maintain discretion in how best to ensure effective planning and recording.

Over the period up to June 2020 we will complete, implement and review new procedures with reference to all of the recommendations. We will ensure that children and young people's views are sought and taken into account in the review alongside feedback from parents staff and other partners.

We would welcome continuing dialogue with the Commissioner as we progress this important work.

Yours sincerely,

Alistair Gaw

Children and Young People's Commissioner Scotland

No Safe Place: Restraint and Seclusion in Scotland's Schools

Recommendations

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.
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.
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.
4. The Scottish Government should analyse and publish this data as part of its official statistics.
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.
6. In the interim, all **local authorities** should ensure that they are recording all incidents of restraint and seclusion.
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.
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.
9. The Scottish Government should develop clear rights-based definitions of both restraint and seclusion as part of national policy and guidance.
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.

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.
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.
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.
14. **Local authorities** should ensure that the child's plan includes de-escalation techniques and a risk assessment.
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).
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.
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.
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.
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.
21. **Local authorities** should provide training to staff on a proportionate basis, with only those who have been assessed as needing training receiving it.
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.