Comhairle nan Eilean Siar

06/02/2019

Good morning

Please find attached response from Comhailre nan Eilean Siar.

Dùrachdan/Kind regards
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Recommendation	Action
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.	Fully agree. Not only should there be clear consistent policies and procedures, these need to be communicated to all staff and adhered to, monitored and reviewed on a regular basis.
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.	National policy and guidance on restraint and seclusion should be based on the foundations of wider guidance on relationships, such as Included, Engaged and Involved Part 2. It should further build on the well developed guidance in the field of restraint and seclusion which already exists in other disciplines. For example 'Holding Safely'. Indeed perhaps 'Holding Safely' should be the default position. Risk assessment standards must be an integral part of this venture. Children and young people should be involved. Within any approach taken in the area of restraint and seclusion there undoubtedly needs to be reference to Health & Safety legislation including principles such as the 'duty of care'. There requires to be a sophisticated understanding of competing and potential mutually exclusive needs which will inevitably emerge. National guidance which does not address these dilemmas will be in danger of breeding confusion rather than clarity.

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.	Agree in principle, however there needs to be a recognition that schools within the public, private and third sectors are using a plethora of different physical intervention and restraint systems. Each system, never mind school authority, may be defining differently the point at which recording is required. For example what is physical intervention and what is restraint. The update to 'Holding Safely' already recognises there is a difference. If we are going to consider a national data base it would be prudent to consider how this can be widened to include residential schooling, care homes and community settings. There needs to be an effort to avoid different data bases and expectations in different sectors
4. The Scottish Government should analyse and publish this data as part of its official statistics.	Agree, however any data published would require to be carefully handled and contextualised. Within small and remote communities would, for example, be possible to identify particular children.
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.	Agree. The development of such forms should be carefully thought through in order not to add layers of bureaucracy. Consideration needs to be given to streamlining the processes already involved. There is a danger in such recording which necessarily involves instances where restraint or seclusion has been deployed that we miss all the instances of practice where such situations have been avoided by the use of de-escalation. How do we capture the 'near misses'? It is important to record the successes as well as the challenges. Debriefing is vital. In addition to including children's and parental views in planning we need to ensure we fully debrief the child and adults involved in restraint and seclusion in order to encourage a developmental / learning approach to these incidents as opposed to a sense of blame pervading the aftermath. Debriefs should be signed completed by line managers and the outcomes analysed and acted upon. It is questionable whether Seemis is currently suitable to record the level of detail required to properly analyse such incidents.

6. In the interim, all local authorities should ensure that they are recording all incidents of restraint and seclusion.	Agree.
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.	Agree. And there should be reference to all legislation which impinges on this area of practice.
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.	Agree.
9. The Scottish Government should develop clear rights-based definitions of both restraint and seclusion as part of national policy and guidance.	Agree
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.	Agree.
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.	Agree.
12. Local authorities should amend their policies where necessary to make clear that damage to property should	This needs to be set within the context of sophisticated risk assessment. For example if the property being damaged

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.	was going to have a significant emotional or psychological impact on the young person or if the damage to property was part of an established pattern of behaviour indicative of imminent risk. There is a danger the statement in recommendation 12 is too simplistic.
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."	Agree in general terms. There is no doubt that restraint should be the least intrusive intervention, risk assessed where ever possible, using proportionate force. There is a risk that restraint and seclusion are being seen in similar if not identical terms. Going back to recommendation 11 – a time out strategy where a young person has 'time with' an adult is one thing. It is doubtful whether seclusion, where a youngster is isolated, as described above, is ever appropriate except in the most extreme emergency situations.
14. Local authorities should ensure that the child's plan includes de-escalation techniques and a risk assessment.	Agree. And should also include any contra-indicated physical intervention techniques and best de-brief processes.
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).	Agree. Where ever possible. There needs to be recognition it might not always be possible to 'agree' on the plan. The authority may be in the position where there are required to inform parents of a plan which includes physical intervention in order to meet the safety needs of all children and adults involved. If there is an absolute need for agreement there could be the potential for such young people to be at greater risk of exclusion. Consensus may not be possible.
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.	Agree. In instances where a young person is involved in a high regularity of restraint formal review of the child's plan after each incident may not prove practical, however a clear debriefing process will offer the opportunity for learning to be captured and then feed into agreed formal reviews.
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.	Agree.
18. Local authorities should ensure that the views of the child are sought,	Agree, however the post incident review is also a therapeutic opportunity for the child

recorded and reflected in all planning, risk assessment and post-incident reviews.	to learn how to deal with strong emotion without the need to resort to violent or dangerous behaviours. It is not simply a matter of seeking views.
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.	Agree. It is important inspectors are able to demonstrate knowledge and understanding in this acute area of practice.
20. Local authorities should ensure that restraint and seclusion is only carried out by staff members who are trained to do so.	Agree, other than in case of emergency. The time and cost of training staff groups in this area needs to be recognised. The practicalities of training an entire staff group cannot be under estimated. Equally the model where a small number of staff are trained within a larger staff group has the risk of developing into a 'restraint team'.
21. Local authorities should provide training to staff on a proportionate basis, with only those who have been assessed as needing training receiving it.	Agree. (As above)
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.	Training should be provided by BILD accredited organisations only. This accreditation process should ensure all legal and guidance requirements are met.