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# Restraint and Seclusion of Children with Additional Needs in Schools

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## 1 Introduction

In 2019 the British Association of Social Workers Northern Ireland (BASW NI) released a policy statement expressing concern at the lack of standardised guidance from the Department of Education (DE) regarding the use of restriction and seclusion with children and young people who have additional needs. This statement coincided with a number of high profile reports revealing the widespread and largely unmonitored use of both practices in schools across the UK. As a result of these reports and sustained campaigning from charities and parent groups, the English government introduced a new framework in 2019 aimed at reducing reliance on restriction and seclusion in educational settings, with Scotland and Wales also expected to release similar

frameworks in 2020. Northern Ireland is lagging behind in this regard with no indication that the DE is planning to release similar guidance.

Recent guidelines on the use of restrictive interventions acknowledge that they carry risks and can be damaging to children and young people. It may, however, be the only realistic response in some situations (for example, to prevent a child running into a busy road or to prevent a violent act against another person). But wherever possible, they should be avoided; and proactive, preventative, non-restrictive approaches adopted in respect of behaviour that challenges.

This briefing paper will discuss the use of restraint and seclusion in schools in the UK, specifically with children and young people who have additional needs. It will explore the relationship between challenging behaviour and the use of restrictive practices, as well as the impact that the use of such practices have on children, their families and education staff.

The paper will examine the use of restrictive practices and their implications for children's human rights as well as presenting an overview of policies and actions being introduced across the UK aimed at reducing their use. Finally, the paper will provide a brief overview of positive behaviour support (PBS) strategies as an alternative approach to managing challenging behaviour with restraint and seclusion used only as a last resort option.

## 2 Definition of restraint and seclusion

The Equality and Human Rights Commission describes the practice of restraint as:

'An act carried out with the purpose of restricting an individual's movement, liberty and/or freedom to act independently.'<sup>1</sup>

The use of restraint in schools can include several different acts including:

- Physical restraint (direct physical contact between the carer and person, including being pinned to the floor);
- Mechanical restraint (materials or equipment used to restrict or prevent movement);
- Blanket restrictions (including lack of access to certain places or activities); and
- Chemical restraint (the use of medication in response to someone's behaviour)<sup>2</sup>

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<sup>1</sup>Equality and Human Rights Commission (2019) *Human rights framework for restraint: principles for the lawful use of physical, chemical, mechanical and coercive restrictive interventions* March 2019

<sup>2</sup>The Challenging Behaviour Foundation (2019) *Reducing Restrictive Intervention of Children and Young People Case study and survey results* January 2019

Restraint does not necessarily require the use of force, it can also include acts of interference, for example moving someone's walking frame out of reach.<sup>3</sup> In the case of blanket restrictions it can mean purposely reducing someone's access to television or other leisure activities.

Seclusion is defined as the:

'Supervised confinement and isolation of a child or young person, away from others, in an area from which they are prevented from leaving, where it is of immediate necessity for the purpose of the containment of severely disturbed behaviour which poses a risk of harm to others.'<sup>4</sup>

It does not necessitate the locking of doors for it to be regarded as seclusion. A staff member holding the door from outside or simply where the child is physically unable to remove themselves from the space without assistance have the same effect. Relevant guidelines draw a distinction between seclusion and 'timeouts' which are used as part of behaviour management strategies in schools. Similarly, seclusion does not include occasions when a child or young person has become distressed or overstimulated and is diverted to a low stimulus environment (e.g. quiet room) as part of a support plan.<sup>5</sup>

The Royal College on Nursing highlights how restrictive practices can also be psychological. For example where staff attempt to exert control or force compliance by what is said or how it is said, and/or the use of body language and nonverbal methods of communication.<sup>6</sup>

### 3 Challenging behaviour and restrictive interventions

Challenging behaviour is any behaviour that someone displays that is a challenge for others to manage and puts the young person or others at risk.<sup>7</sup> Behaviours that challenge can include aggression, destruction, self-injury, and other behaviours (e.g. running away) associated with personal or social risks.<sup>8</sup> A definition by the Royal College of Psychiatrists covers more extreme instances:

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<sup>3</sup> Equality and Human Rights Commission (2019) Human rights framework for restraint: principles for the lawful use of physical, chemical, mechanical and coercive restrictive interventions March 2019

<sup>4</sup> HM Government (2019) *Reducing the Need for Restraint and Restrictive Intervention* Department of Education and Department of Health

<sup>5</sup> Positive Approaches Website. Understanding Seclusion, Withdrawal and Time Out [online] Available at: <https://proactiveapproaches.co.uk/understanding-seclusion-withdrawal-time/>

<sup>6</sup> Kelly, R, Hanna, H, Boyd, A Et. Al (2017) *Three Steps to Positive Practice. A rights based approach when considering and reviewing the use of restrictive interventions* Royal College of Nursing

<sup>7</sup> Chesterfield Royal NHS Foundation Trust *CAHMS Challenging Behaviour in Young People with a Learning Disability* [online] available at: <https://www.camhsnorthderbyshire.nhs.uk/learning-disabilities-challenging-behaviour>

<sup>8</sup> The Challenging Behaviour Foundation (2014) *Briefing Paper Early intervention for children with learning disabilities whose behaviours challenge* November 2014

‘Behaviour can be described as challenging when it is of such an intensity, frequency or duration as to threaten the quality of life and/or the physical safety of the individual or others and it is likely to lead to responses that are restrictive, aversive or result in exclusion’.<sup>9</sup>

Challenging behaviour, is strongly associated with certain developmental difficulties and disabilities.<sup>10</sup> Having a learning disability (LD) affects the way a person understands information and how they communicate. Children with more severe LD may have no, or extremely limited, verbal communication and may require support with everyday tasks such as dressing and toileting. Many will experience complex physical health, sensory, and mobility difficulties.<sup>11</sup>

As a result, children with a disability are more likely to exhibit challenging behaviour in order to express themselves and consequently are more likely to be subject to restraint and seclusion in attempt to manage these challenging behaviours. Recent guidelines introduced in England on the use of restrictive practices in schools describe how challenging behaviour should be viewed as a means of communication with a cause and a purpose:

‘Behaviour that challenges may signal a need for support. It may, for example, be the result of a medical condition or sensory impairment, previous trauma or neglect, or be exacerbated by an unmet need or undiagnosed medical condition. It may reflect the challenges of communication, faced by children with learning disabilities’<sup>12</sup>

The increased understanding of challenging behaviour as a method of communication rather than behaviour that needs to be controlled has led to the development of preventative therapeutic models including PBS strategies, with restrictive practices used only as a last resort.<sup>13</sup> However, a lack of standardised guidance and sufficient training for staff in educational settings on the use of PBS strategies means that in many cases restrictive practices remain the main method for managing behaviours that challenge.

## 4 The use of restrictive interventions in UK schools

The recording of restrictive interventions is recognised internationally as a critical means of ensuring that any practice is rights-compliant and appropriately monitored

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<sup>9</sup> Royal College of Psychiatrists (2007) Challenging behaviour: a unified approach. Clinical and service guidelines for supporting people with learning disabilities who are at risk of receiving abusive or restrictive practices College Report CR144

<sup>10</sup> Wilton, J (2020) *Briefing 54: Trauma, challenging behaviour and restrictive interventions in schools* Centre for Mental Health

<sup>11</sup> The Challenging Behaviour Foundation (2014) *Early intervention for children with learning disabilities whose behaviours Challenge* November 2014

<sup>12</sup> HM Government (2019) *Reducing the Need for Restraint and Restrictive Intervention* Department of Education and Department of Health

<sup>13</sup> The Challenging Behaviour Foundation *Key Messages about Positive Behavioural Support* [online] Available at: <https://www.challengingbehaviour.org.uk/learning-disability-assets/pbskeymessagesapril2017.pdf>

and scrutinised.<sup>14</sup> It has implications for the ability of settings to improve their practices and for local and national Government to monitor the use of these interventions.<sup>15</sup> Currently, there is no legal requirement for education providers to record or report use of restrictive interventions in any of the four regions of the UK. As a result it is difficult to assess with any certainty the extent of their use. However several recent reports have attempted to shed light on this.

### **BBC Five Live Investigates – Restraint in Special Schools (2017)**

During a 2017 investigation by the BBC programme ‘Five Live Investigates: Restraint in Special Schools’ a Freedom of Information request was submitted to 207 local authorities in England, Scotland and Wales. The information provided by schools revealed that 13,000 incidents of physical restraint had occurred in the previous three years, resulting in 731 injuries. However, only 37 local authorities - less than a fifth - were able to provide data, suggesting the numbers could be much higher.<sup>16</sup>

The BBC investigation submitted the same request to the Northern Irish Education Authority who stated in reply that it is the responsibility of individual schools to record any incidents of restraint and seclusion and as a result the data is not held centrally.<sup>17</sup>

### **The Challenging Behaviour Foundation and Positive Behaviour Support Scotland – Reducing Restrictive Intervention of Children and Young People (2019)**

A joint research study carried out by the charities - the Challenging Behaviour Foundation (CBF) and Positive Behaviour Support Scotland (PBSS) attempted to assess the use of restrictive practices on children with additional needs in schools across the UK including Northern Ireland. The research included a survey carried out by CBF with 204 parents whose children have additional needs as well as analysis of 566 case studies of families being supported by PBSS gathered over a 12 month period. The survey revealed that:

- 88% of parents reported that their child had been restrained in school with 35% stating this happened on a regular basis;
- 71% of families reported that their child had been secluded in school, with 21% stating this was happening on a daily basis; and
- 50% of respondents’ children had been prescribed medication specifically to manage challenging behaviour.

Most of the restrictive interventions reported in the CBF survey were taking place in schools; for example 68% of the physical interventions. Over half of the cases of

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<sup>14</sup> Children and Young Peoples Commissioner Scotland (2018) *No Safe Place: Restraint and Seclusion in Scotland's Schools*

<sup>15</sup> The Challenging Behaviour Foundation (2019) *Reducing Restrictive Intervention of Children and Young People Case study and survey results* January 2019

<sup>16</sup> BBC Five Live Investigates – *Restraint in Special Schools* [online] Available at: <https://www.bbc.co.uk/programmes/b08ljdhv>

<sup>17</sup> BBC Five Live Investigates – *Restraint in Special Schools* [online] Available at: <https://www.bbc.co.uk/programmes/b08ljdhv>

physical intervention or seclusion reported were of children between the ages of five and ten. The youngest case involved a 2 year old child.<sup>18</sup> Analysis of PBSS case studies revealed 1058 reports of restraint and 544 reports of seclusion. Families who submitted their experiences stated that recording and reporting of restrictive intervention and associated injuries is very rare. From the 566 case studies collected, only 19% of families reported that injuries were recorded and only 17% reported that the restrictive intervention was recorded.<sup>19</sup>

Separately, PBSS reported that between 2017 and 2019, their organisation was contacted by 720 families from across the UK, including NI, who reported that their children had been inappropriately restrained in school. Of those children, 26% were 6 years of age.<sup>20</sup>

### **Children and Young People's Commissioner Scotland – No Safe Place (2018)**

A 2018 investigation carried out by the Scottish Children and Young People's Commissioner (CYCPS) found extensive use of restrictive interventions in Scottish schools including 2,674 incidents relating to 386 children occurring in the 2017/18 school year.<sup>21</sup>

Similar to findings by the BBC 5 live investigation, the CYCPS reported that only a third of local authorities were able to provide data and as a result it was difficult to assess the full extent of these practices with any certainty.<sup>22</sup>

Of particular concern was the finding that many local authorities do not have policies in place on the use of restraint and seclusion, raising concern that significant physical interventions may be taking place in some authorities without any kind of policy or procedure to ensure that their use is lawful and rights-compliant. The study also highlighted that where policies do exist, there is significant variation between local authorities in the type of documents in use, their status and their context.<sup>23</sup>

### **The Northern Ireland Commissioner for Children and Young People (2019)**

There is no research that reports on the use of restrictive interventions in Northern Irish schools other than what has been reported in UK wide studies. However, the office of the Northern Ireland Commissioner for Children and Young People (NICCYP) has stated that they are aware of seclusion and restraints being used with children with

<sup>18</sup> The Challenging Behaviour Foundation (2019) *Reducing Restrictive Intervention of Children and Young People Case study and survey results* January 2019

<sup>19</sup> The Challenging Behaviour Foundation (2019) *Reducing Restrictive Intervention of Children and Young People Case study and survey results* January 2019

<sup>20</sup> The Challenging Behaviour Foundation (2019) *Reducing Restrictive Intervention of Children and Young People Case study and survey results* January 2019

<sup>21</sup> Children and Young Peoples Commissioner Scotland (2018) *No Safe Place: Restraint and Seclusion in Scotland's Schools*

<sup>22</sup> Children and Young Peoples Commissioner Scotland (2018) *No Safe Place: Restraint and Seclusion in Scotland's Schools*

<sup>23</sup> Children and Young Peoples Commissioner Scotland (2018) *No Safe Place: Restraint and Seclusion in Scotland's Schools*

special educational needs to address behavioural challenges. They have also been informed of some cases of seclusion being used as ‘in school’ or ‘informal’ suspensions for breaches of uniform rules.<sup>24</sup>

## 5 Addressing Restrictive Interventions – Policy and Action in the UK

### Overview

In recent years there has been significant focus on reducing reliance on restrictive interventions in mental health and social care settings across the UK including the development of statutory frameworks and investment in staff training. The same pace of change has not occurred in the education sector. Commentators have argued that this has resulted in a situation where adults with additional needs have more protection than children.<sup>25</sup>

The increasing focus on the use of restrictive practices in schools also comes at a time when the number of children with additional needs are growing. In Northern Ireland around 80,000 school-age children have some form of special needs or almost a quarter of all pupils. More than 18,000 of those have a statement. As many children with additional needs attend mainstream schools the need to equip teachers with alternative ways to manage challenging behaviour has become even greater.<sup>26</sup>

England, Scotland and Wales have begun the process of introducing frameworks aimed at reducing reliance on the use of restrictive practices in schools. Northern Ireland has yet to indicate whether it would consider establishing similar policies.

### Northern Ireland

There are no official guidelines or policies to guide the use of restraint and seclusion practices in schools in Northern Ireland. The use of physical contact by education staff in classrooms is guided by the principle of ‘reasonable force’ and is governed under Article 4 of the Education (Northern Ireland) Order 1998.<sup>27</sup>

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<sup>24</sup> Joint submission to the United Nations Committee Against Torture 66th session on the sixth Periodic Report of the United Kingdom of Great Britain and Northern Ireland by the Scotland, Wales and Northern Ireland Children and Young People’s Commissioners [online] available at:

[https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/GBR/INT\\_CAT\\_NHS\\_GBR\\_34433\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/GBR/INT_CAT_NHS_GBR_34433_E.pdf)

<sup>25</sup> House of Commons Hansard *Children and Young People: Restrictive Intervention* 25 April 2019 Volume 658 [Online] available at: <https://hansard.parliament.uk/Commons/2019-04-25/debates/219AD17C-EF28-467A-B459-653096428AB1/details>

<sup>26</sup> Commissioner for Children and Young People Northern Ireland (2020) ‘*Too Little, Too Late*’ A rights Based Review of Special Educational Needs Provision in Mainstream Schools Summary Report

<sup>27</sup> Article 4 of the Education (Northern Ireland) Order 1998 [online] <https://www.legislation.gov.uk/nisi/1998/1759/article/4/made>

The act is based on the principle that the need to use reasonable force to restrain or control a pupil should be rare. However, where a pupil's behaviour threatens the safety of other pupils and staff, a member of staff may use such force as is reasonable in the circumstances to prevent the pupil from:

- committing an offence
- causing personal injury to, or damage to the property of, any person (including the pupil him/herself)
- engaging in any behaviour prejudicial to the maintenance of good order and discipline at the school or among any of its pupils, whether during a teaching session or otherwise<sup>28</sup>

The Department of Education *Circular 199/09 Pastoral Care: Guidance on the Use of Reasonable Force to restrain or Control Pupils* confirms who can use reasonable force, when it is appropriate to use it, and the procedures for recording incidents.<sup>29</sup>

In 2002, the DE published '*Towards a Model Policy in schools on the use of reasonable force*', the aim of which was to provide schools with best practice guidelines they could incorporate into their own behavioural policies.<sup>30</sup>

This was followed in 2004 by a '*Regional Policy Framework on the use of Reasonable Force/Safeguarding*' which provides a template that schools can replicate when developing behavioural policies.<sup>31</sup>

The guidelines are clear that reasonable force should only be used as a last resort and never as a form of punishment which falls under corporal punishment and is unlawful. The guidelines also set out a number of principles that schools should incorporate into their own policies:

- Positive behaviour strategies should be used to minimise the need for force;
- Procedures for using force or handling should be clearly defined;
- Staff should be trained in the appropriate use of force;
- Schools should have a procedure for recording and reporting incidents;
- Parents should be informed where there has been an incident; and
- Post incident support and debriefs should be used.<sup>32</sup>

<sup>28</sup>Education (Northern Ireland) Order 1998. Northern Ireland Orders in Council. 1998 No. 1759 (N.I. 13 )Part II Article 4 [online] available at:<https://www.legislation.gov.uk/nisi/1998/1759/article/3/made>

<sup>29</sup>Department of Education (1999) *Circular 199/09 Pastoral Care: Guidance on the Use of Reasonable Force to Restrain or Control Pupils* Bangor: Department of Education

<sup>30</sup> Department of Education (2002) *Towards a Model Policy in Schools on the Use of Reasonable Force* [online] Available at: [https://dera.ioe.ac.uk/8462/1/reasonable\\_force2002-3.pdf](https://dera.ioe.ac.uk/8462/1/reasonable_force2002-3.pdf)

<sup>31</sup>Department of Education (2004) *Regional Policy Framework on the use of Reasonable Force/ Safe Handling* [online] Available at:<https://www.education-ni.gov.uk/sites/default/files/publications/de/Reg-policy-framework-reasonable-force.pdf>

<sup>32</sup> Department of Education (2002) *Towards a Model Policy in Schools on the Use of Reasonable Force*. 30<sup>th</sup> August 2020 [online] Available at [https://dera.ioe.ac.uk/8462/1/reasonable\\_force2002-3.pdf](https://dera.ioe.ac.uk/8462/1/reasonable_force2002-3.pdf)



There is limited mention of how these guidelines might apply in the context of children with additional needs other than to highlight that staff members should be cognisant of a child's special needs when deciding whether the use of force is appropriate and that all staff should be made aware of any specific physical requirements of pupils with additional needs.

All schools have a statutory responsibility under Articles 3-6 of the Education (Northern Ireland) Order 1998 for developing their own good behaviour and discipline policies, including any sanctions that may be taken.<sup>33</sup> A recent survey carried out by the Northern Ireland Committee of the Irish Congress of Trade Unions (ICTU NIC) among 1427 teaching and support staff on their experience of violence in the classroom indicates variable use and knowledge of behaviour policies at a school level:

- 50% of respondents were unaware of whether risk control measures and/or procedures relating to violent behaviour were in place; and
- 45% of respondents stated that they had never seen a risk assessment or behaviour plan for any of the students that they work with.<sup>34</sup>

Although the survey was primarily designed to understand teachers experience of violence and what if any support they receive, the lack of awareness among respondents of their school's behavioural policies was also concerning in the context of restrictive practices. It poses the question as to whether teachers are fully informed of procedures for using force or handling, the application of best practice alternatives and their responsibilities for recording and reporting incidents.

## England

In 2014 the English government introduced statutory guidelines to minimise the use of restrictive interventions in adult health and care services. This guidance was introduced as a result of several investigative reports which discovered excessive and inappropriate use of force in adult mental health facilities. At the same time, concerns were expressed about the use of restrictive interventions in children's settings and the government committed to developing a similar set of guidelines for settings that look after children, including schools.<sup>35</sup>

In 2017, the Department of Health and Social Care (DHSC) and the Department for Education (DfE) launched a joint consultation on a set of draft guidelines aimed at reducing reliance on restrictive interventions in special education, health and care settings that care for children and young people. The purpose of the guidelines were to:

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<sup>33</sup>(Articles 3-6 of the Education (Northern Ireland) Order 1998 (as amended))

<https://www.legislation.gov.uk/nisi/1998/1759/article/3/made>

<sup>34</sup> NIC-ICTU (2019) *An Acceptable level of violence?* [online] Available at: <https://www.ictuni.org/news/2019/03/20/survey-of-education-workers-reveals-scale-of-violence/>

<sup>35</sup> House of Commons *Hansard Children and Young People: Restrictive Intervention* 25 April 2019 Volume 658 [online] Available at: <https://hansard.parliament.uk/Commons/2019-04-25/debates/219AD17C-EF28-467A-B459-653096428AB1/details>

'Help special education, health and care settings develop plans to support children and young people whose behaviour challenges, in order to reduce the incidence and risk associated with that behaviour and promote and safeguard the welfare of children and young people in their care. Eliminating inappropriate use of restraint is vital in this'<sup>36</sup>

The finalised guidelines 'reducing the need for restraint and restrictive intervention' were published in 2019. While stakeholders have welcomed the move towards a standardised framework there have also been several criticisms of the new guidelines, specifically that:<sup>37</sup>

- The guidance is non-statutory;
- It does not cover mainstream schools where a significant amount of restrictive practices take place;
- It does not require schools to inform parents if a restrictive intervention has occurred;
- It defends the use of restrictive practices such as seclusion rooms 'as a disciplinary penalty';
- No accompanying training programme in alternative methods has been included; and
- It fails to prohibit the use of prone restraint (prohibited in adult care)<sup>38</sup>

A second consultation is now underway to develop guidance that also applies to main stream schools. The results of this consultation which are not yet available were initially expected in spring 2020.<sup>39</sup>

## Scotland

In 2017, following a sustained period of campaigning by local charities and stakeholder organisations, the Scottish government developed an initial set of guidelines concerning the use of restrictive practices in schools. The guidelines were contained within two pages of the policy document 'Included, engaged and involved part 2: preventing and managing school exclusions'.<sup>40</sup> While campaigners welcomed the increased focus on the use of restrictive practices in schools there were concerns that

<sup>36</sup> HM Government (2019) *Reducing the Need for Restraint and Restrictive Intervention* Department of Education and Department of Health

<sup>37</sup> HM Government (2019) *Reducing the Need for Restraint and Restrictive Intervention* Department of Education and Department of Health

<sup>38</sup> Hattenstone, S and Allison, E (2019) 'He was covered in bruises': the vulnerable children being harmed in special schools'. The Guardian. 6<sup>th</sup> July 2019 [online] Available at: <https://www.theguardian.com/society/2019/jul/06/he-was-covered-in-bruises-the-vulnerable-children-being-harmed-in-special-schools>

<sup>39</sup> Department of Education (2019) *Restraint in mainstream settings and alternative provision* [Online] Available at: <https://www.gov.uk/government/consultations/reducing-restraint-and-restrictive-intervention-in-schools>

<sup>40</sup> Scottish Government (2017) 'Included, engaged and involved part 2: preventing and managing school exclusions' 19<sup>th</sup> June 2017 <https://www.gov.scot/publications/included-engaged-involved-part-2-positive-approach-preventing-managing-school/>

including the guidelines in a document that it is focused and framed around behaviour management risks giving the impression that the problem is a result of the child's behaviour rather than an unmet or unrecognised need.<sup>41</sup>

In 2019, following the publication of several high profile reports that revealed widespread and largely unmonitored use of restrictive interventions, the Scottish government pledged to introduce a comprehensive framework to guide the use of restraint and seclusion in schools.<sup>42</sup> Specifically, the government agreed to:

1. Produce human rights-based guidance on restraint and seclusion and review the effectiveness of that guidance;
2. Involve children and their families in the drafting and review of the guidance,
3. Consider statutory action should the guidance prove to be ineffective, and
4. Develop and introduce a standard dataset to be implemented across Scotland to ensure consistent recording and monitoring of incidents.<sup>43</sup>

A working group, the 'Physical Intervention Working Group' was established in December 2020 to develop the guidelines which are expected to publish in early 2021.

## Wales

Current guidelines on the use of restrictive interventions in schools in Wales are set out in 'Safe and Effective Intervention: Use of Reasonable Force and Searching for Weapons'.<sup>44</sup> The guidance has two parts, one relevant for all schools and pupils and one relating to pupils with severe behavioural difficulties.<sup>45</sup>

In 2019, the Welsh government took a further step and began consulting on a framework to promote measures and practice that will lead to the reduction of restrictive practices in childcare, education, health and social care settings. The draft framework 'Reducing Restrictive Practices Framework' has a number of key components:

- Non Statutory – principles for practice (should, not must);
- Cuts across all health, education and social care settings;

<sup>41</sup> BBC Five Live Investigates – *Restraint in Special Schools* Available at: <https://www.bbc.co.uk/programmes/b08ljdhv>

<sup>42</sup> Children and Young People's Commissioner Scotland (2019) *Scottish Government heeds calls to protect children from unlawful restraint and seclusion in schools* [online] available at: <https://cypcs.org.uk/news-and-stories/scottish-government-heeds-calls-to-protect-children-from-unlawful-restraint-and-seclusion-in-schools/>

<sup>43</sup> Children and Young People's Commissioner Scotland (2019) *Scottish Government heeds calls to protect children from unlawful restraint and seclusion in schools* [online] available at: <https://cypcs.org.uk/news-and-stories/scottish-government-heeds-calls-to-protect-children-from-unlawful-restraint-and-seclusion-in-schools/>

<sup>44</sup> Welsh Government (2013) *Safe and effective intervention – use of reasonable force and searching for weapons* Guidance document no: 097/2013

<sup>45</sup> Welsh Government (2013) *Safe and effective intervention: use of reasonable force and searching for weapons*. Guidance document no: 097/2013

- Includes people with mental health conditions, people with a learning disability, autistic people, people with dementia, children in care and more;
- Includes All ages – nursery – to older people; and
- Set within a Human Rights framework.<sup>46</sup>

Reponses to the consultation are currently being considered.

## 6 Restrictive practices and children’s human rights

The four jurisdictions of the UK are signatories to several international agreements which deal directly with issues of bodily integrity, liberty and a right to be free from torture or demeaning treatment including:

- The European Convention on Human Rights;<sup>47</sup>
- The United Nations Convention on the Rights of the Child (UNCRC);<sup>48</sup>
- The United Nations Convention on the Rights of Persons with Disabilities;<sup>49</sup>
- The United Nations Human Rights Committee;<sup>50</sup> and
- The United Nations Convention against Torture.<sup>51</sup>

The above conventions have several implications with regard to the use of restrictive interventions in schools. The seclusion of a child may for example constitute a deprivation of liberty in terms of Article 5 of the European Convention on Human Rights. The practice of restraint may also be an interference with the child’s right to respect for their private life under Article 17 of the Convention on the Rights of Persons with Disabilities, Article 16 of the United Nations Convention on the Rights of the Child and Article 8 of the European Convention on Human Rights.<sup>52</sup>

While the conventions do not prevent states from using restrictive practices, they do place a responsibility on governments to ensure any use is appropriate and lawful, necessary and appropriate. Concern has already been expressed by two UN committees that the UK is failing in this regard.

<sup>46</sup> Welsh Government (2019) *Consultation Document Reducing Restrictive Practices Framework* Number: WG38962 [online] Available at: <https://gov.wales/sites/default/files/consultations/2019-10/consultation-document-reducing-restrictive-practices-framework.pdf>

<sup>47</sup> Equality and Human Rights Commission Website. *What is the European Convention on Human Rights?* [online] Available at: <https://www.equalityhumanrights.com/en/what-european-convention-human-rights>

<sup>48</sup> UNICEF Website. *How we protect Children's rights with the UN Convention on the Rights of the Child.* [online] Available at <https://www.unicef.org.uk/what-we-do/un-convention-child-rights/>

<sup>49</sup> United Nations Website. *Convention on the Rights of Persons with Disabilities (CRPD).* [online] Available at <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>

<sup>50</sup> United Nations Human Rights Office of the High Commissioner Website. Human Rights Committee. [online] Available at: <https://www.ohchr.org/EN/HRBodies/CCPR/Pages/CCPRIntro.aspx>

<sup>51</sup> Equality and Human Rights Commission Website *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (CAT)* [online] Available at <https://www.equalityhumanrights.com/en/our-human-rights-work/monitoring-and-promoting-untreaties/convention-against-torture-and-other>

<sup>52</sup> Inclusion Ireland (2018) *Shining a light on seclusion and restraint in schools in Ireland: The experience of children with disabilities and their families* [online] Available at: <http://www.inclusionireland.ie/seclusion-restraint-paper>

In 2016, the UN Committee on the Rights of the Child expressed its concern about ‘the use of restraint and seclusion on children with psycho-social disabilities, including children with autism, in UK schools’<sup>53</sup> In 2017, the UN Committee on the Rights of Persons with Disabilities urged the UK to ‘adopt appropriate measures to eradicate the use of restraint for reasons related to disability within all settings’.<sup>54</sup>

In 2019, the Children and Young People’s Commissioners for Wales, Scotland and Northern Ireland made a joint submission to the UN Committee against Torture. The submission was based on the UK’s compliance with the UN Convention against Torture (UNCAT) and highlighted several areas of concern with regard to children’s rights including the use of restraint and seclusion in schools.<sup>55</sup>

The joint submission highlighted areas where the UN Committee against Torture could hold the UK and devolved governments accountable for their lack of action and made a number of recommendations:

- All four governments should create national policy and statutory guidance on restraint and seclusion of children in all settings.
- The Scottish government should record analyse and publish data on restraint and seclusion of children in all settings as part of its official statistics.
- The NI Government must ensure that restraint is only used where the child poses an imminent threat of injury to themselves or others, and only when all other means have been exhausted, Schools should also be required to record and report uses of restraint and seclusion.
- The Welsh Government should promote ‘Positive Behaviour Support’ approaches through guidance and training, ensure that guidance for practitioners is clear and that children’s human rights are at the forefront of all policies.<sup>56</sup>

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<sup>53</sup> UN Committee on the Rights of the Child (2016) *Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland* [online] Available at: <https://www.unicef.org.uk/babyfriendly/un-committee-on-the-rights-of-the-child-calls-on-uk-to-protect-breastfeeding/uk-crc-concluding-observations-2016-2/>

<sup>54</sup> Convention on the Rights of Persons with Disabilities (2017) *Concluding observations on the initial report of the United Kingdom of Great Britain and Northern Ireland* [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fGBR%2fCO%2f1&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fGBR%2fCO%2f1&Lang=en)

<sup>55</sup> *Joint submission to the United Nations Committee Against Torture 66<sup>th</sup> session on the sixth Periodic Report of the United Kingdom of Great Britain and Northern Ireland* by the Scotland, Wales and Northern Ireland Children and Young People’s Commissioners [online] Available at: [https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/GBR/INT\\_CAT\\_NHS\\_GBR\\_34433\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/GBR/INT_CAT_NHS_GBR_34433_E.pdf)

<sup>56</sup> *Joint submission to the United Nations Committee Against Torture 66<sup>th</sup> session on the sixth Periodic Report of the United Kingdom of Great Britain and Northern Ireland* by the Scotland, Wales and Northern Ireland Children and Young People’s Commissioners [online] Available at: [https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/GBR/INT\\_CAT\\_NHS\\_GBR\\_34433\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/GBR/INT_CAT_NHS_GBR_34433_E.pdf)

## 7 Restrictive interventions and outcomes for children

The CYPCS has stated that even when the use of restraint or seclusion is a necessary response as a measure of last resort to prevent harm it still has a profound impact on children: both those who experience it, and those who witness it.<sup>57</sup> The use of restrictive practices can have a range of negative physical, emotional and psychological health outcomes for children with additional needs.

### **Emotional impacts are profound and long lasting**

Parents have reported a range of negative emotional impacts where their child has been exposed to restrictive interventions. The joint CBF and PBSS report revealed commonly reported issues included panic attacks, night terrors, anxiety, a lack of trust in adults, low self-esteem and depression.<sup>58</sup> Children themselves describe the experience as traumatic using terms such as confused, scared, unloved, anxious and hurt.<sup>59</sup>

In a report by Enable Scotland on the use of restrictive practices in Scottish schools, one parent told how their daughter was regularly restrained and secluded including being locked in a "safe space" for 45 minutes where she soiled herself. As the child was non-verbal the incident only came to light after another pupil wrote about it. The parents reported that their child remains on anti-anxiety medication as a result of her experiences.<sup>60</sup>

An increasing number of legal challenges are being brought in England by parents whose children with learning disabilities have suffered severe emotional impacts including attempted suicide as a result of being held in isolation booths for extended periods of time.<sup>61</sup>

Behavioural experts describe how experiencing trauma in early childhood increases the risk of needing additional care in later life as well as poorer educational and social outcomes. This is particularly relevant when considering the use of restrictive interventions in schools as the majority of reported incidents occur among primary school aged children.<sup>62</sup>

<sup>57</sup> Children and Young Peoples Commissioner Scotland (2018) *No Safe Place: Restraint and Seclusion in Scotland's Schools*

<sup>58</sup> The Challenging Behaviour Foundation (2019) *Reducing Restrictive Intervention of Children and Young People Case study and survey results* January 2019

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<sup>60</sup> Enable Scotland (2019) *In Safe Hands?* [Online] Available at: <https://www.enable.org.uk/wp-content/uploads/2019/11/In-Safe-Hands-CampaignReport2019-20-FINAL.pdf>

<sup>61</sup> Perraudin, F (2019) *Mother sues over daughter's suicide attempt in school isolation booth*. The Guardian Wed 3<sup>rd</sup> April 2019 [online] Available at:

<https://www.theguardian.com/education/2019/apr/03/isolation-of-children-at-academies-prompts-legal-action>

<sup>62</sup> Wilton, J (2020) *Briefing 54: Trauma, challenging behaviour and restrictive interventions in schools* Centre for Mental Health

### Physical Injuries are Common

The responses of families to the CBF survey demonstrate how restrictive practices can also lead to physical injury with 58% of respondents indicating that their child had been injured as a result of a restrictive intervention. Parents described the type of injuries their children experienced:

- 'Unexplained bruises, what looked like carpet burns to knees and ankles and an unexplained broken wrist'
- 'During the period she was secluded she self-harmed by head-butting kicking and hitting the walls, she had broken toe nails, sore hands and bruising soreness to her head'.<sup>63</sup>

### Challenging behaviours are exacerbated

Research indicates that restraint and seclusion not only result in adverse outcomes but can increase the extent of challenging behaviour. Parents report that their children's behaviour, which in many cases was well managed prior to attending school, deteriorated following their experiences.

'I believe he is suffering from PTSD which manifests itself in anger towards all staff and particularly us as parents'<sup>64</sup>

The Centre for Mental Health highlights how persistent childhood trauma affects children's ability to self-regulate their emotions and behaviour. The use of restrictive interventions such as seclusion, restraint or exclusion can have the potential to re-traumatise children and therefore contribute to further challenging behaviour.<sup>65</sup>

## 8 Effects on families and Carers

Families of children who have been exposed to restrictive practices also experience adverse outcomes. Parents report feeling let down and mistrustful after discovering their children had been subject to restraint practices without their permission. The Enable Scotland report revealed that parents often only found out that their child has been secluded or restrained because their child tells them or they observe changes in their physical appearance or behaviours.<sup>66</sup>

<sup>63</sup> The Challenging Behaviour Foundation (2019) *Reducing Restrictive Intervention of Children and Young People Case study and survey results* January 2019 <https://www.challengingbehaviour.org.uk/cbf-articles/restraintseclusionnews.html>

<sup>64</sup> The Challenging Behaviour Foundation (2019) *Reducing Restrictive Intervention of Children and Young People Case study and survey results* January 2019 <https://www.challengingbehaviour.org.uk/cbf-articles/restraintseclusionnews.html>

<sup>65</sup> Wilton, J (2020) *Briefing 54: Trauma, challenging behaviour and restrictive interventions in schools* Centre for Mental Health

<sup>66</sup> Enable Scotland (2019) *In Safe Hands?* [Online] Available at: <https://www.enable.org.uk/wp-content/uploads/2019/11/In-Safe-Hands-CampaignReport2019-20-FINAL.pdf>

Parents use terms like ‘traumatised’ to describe how they felt when their child had been exposed to restrictive practices without their knowledge:

‘I can't even begin to explain how it makes you feel knowing every day I'd send her into the school and she felt that alone that she wanted to take her own life’.<sup>67</sup>

Parents and carers also report frustration when trying to challenge practices they consider have resulted in physical and emotional harm to their children. Limited reporting, a lack of coherent policies and an absence of monitoring can frustrate the process of parents seeking redress on behalf of their children or attempting to develop support plans to prevent similar incidents occurring in the future. As a result, some have resorted to reporting incidents to the police, seeking criminal prosecutions for assault.<sup>68</sup>

Best practice indicates that where restrictive practices have been used, post incident support in the form of debriefs are crucial.<sup>69</sup> Debriefs help children, family and staff to identify what led to the incident, what could have been done differently as well as putting in place future support plans to avoid a similar incident occurring again. Debriefs also provide an opportunity to evaluate the physical and emotional impact on those involved and offer support where necessary.<sup>70</sup> Research suggests that the extent of post incident support currently being provided is limited. The joint CBF and PBSS study found that just 17% of parents had been offered post incident support following the use of restrictive practices on their children.<sup>71</sup>

## 9 Education staff also experience a range of negative outcomes

To date there is limited research on the psychological impact of restrictive practices on staff in educational settings however, several studies have been carried out among nurses and mental health workers which demonstrate adverse mental health outcomes resulting from the use of restrictive interventions.

In a study of nurses working in a secure mental health unit, a range of emotional responses to the use of restraint procedures were reported. They included anxiety, anger, distress and crying. Staff coped with their emotional responses in a variety of

<sup>67</sup> Perraudin, F (2019) Mother sues over daughter's suicide attempt in school isolation booth. The Guardian Wed 3<sup>rd</sup> April 2019 <https://www.theguardian.com/education/2019/apr/03/isolation-of-children-at-academies-prompts-legal-action>

<sup>68</sup> Meredith R (2019) Pupil restraint and seclusion laws 'must be made tougher' BBC News Website 11<sup>th</sup> June 2019 <https://www.bbc.co.uk/news/uk-northern-ireland-48594662>

<sup>69</sup> HM Government (2019) *Reducing the Need for Restraint and Restrictive Intervention* Department of Education and Department of Health

<sup>70</sup> HM Government (2019) *Reducing the Need for Restraint and Restrictive Intervention* Department of Education and Department of Health

<sup>71</sup> The Challenging Behaviour Foundation (2019) *Reducing Restrictive Intervention of Children and Young People Case study and survey results* January 2019 <https://www.challengingbehaviour.org.uk/cbf-articles/restraintseclusionnews.html>



ways. Some staff discussed the ‘stigma’ attached to showing feelings and being unwilling to discuss their experiences with colleagues. Others described how they had become ‘hardened’ to the use of restraint.<sup>72</sup>

A further study carried out among mental health nurses suggests that staff are uncomfortable with physical restraint despite it being taken-for-granted as an integral part of their role. The nurses experienced conflict and fear associated with the procedure and would prefer to utilise other de-escalation skills if it was possible.<sup>73</sup>

This was further evidenced in a recent study on the views of nurses who use restrictive practices on young people in psychiatric wards:

‘I had to, on occasions, use restraint to keep kids from hurting themselves or other people seriously. I would love to see the day where we could work with young people safely without ever needing to use restraints, because it’s not only traumatic for the young people, but I hated doing it as a member of staff. I found it distressing and traumatic to be having to hold a young person against their will until they calmed down.’<sup>74</sup>

Research also indicates that staff looking after patients with behaviours who challenge often face a dilemma when using restrictive interventions knowing it could have a detrimental effect on the therapeutic relationship with the patient and their family.<sup>75</sup>

Several studies have indicated that teaching and support staff are facing increasing levels of violence in the classroom. The ICTU study found that 1 in 5 school staff report being assaulted weekly. The survey also found that:

- 83% have been verbally abused in the classroom;
- 45% have been verbally abused by parents;
- 88% of special education teachers have received verbal or physical abuse; and
- 95% of support staff, such as classroom assistants, have been assaulted.<sup>76</sup>

<sup>72</sup> Sequeira, H and Halstead, S (2004) *The psychological effects on nursing staff of administering physical restraint in a secure psychiatric hospital: ‘When I go home, it’s then that I think about it’* The British Journal of Forensic Practice Volume 6 Issue 1 February 2004

<sup>73</sup> Bigwood, S and Crowe, M (2008) *‘It’s part of the job, but it spoils the job’: a phenomenological study of physical restraint* Int J Ment Health Nurs. 2008 Jun; 17(3):215-22.

<sup>74</sup> Connolly G et al (2019) Reducing restrictive interventions in people with ‘challenging’ behaviours. *Nursing Times* [115: 12, 42-46 online] Available at: <https://www.nursingtimes.net/roles/learning-disability-nurses/reducing-restrictive-interventions-in-people-with-challenging-behaviours-11-11-2019/>

<sup>75</sup> Bigwood, S and Crowe, M (2008) *‘It’s part of the job, but it spoils the job’: a phenomenological study of physical restraint* Int J Ment Health Nurs. 2008 Jun; 17(3):215-22.

<sup>76</sup> NIC-ICTU (2019) *An Acceptable level of violence?* [online] Available at: <https://www.ictuni.org/news/2019/03/20/survey-of-education-workers-reveals-scale-of-violence/>

Respondents to the survey also report feeling unsupported by senior management and that being exposed to violence and verbal abuse as a result of challenging behaviour is increasingly being seen as just part of the job.

‘Incidents of spitting, kicking, punching and throwing items by younger pupils are not expected to be reported by staff to senior management and are largely ignored by them’<sup>77</sup>

In an earlier review on the use of restrictive practices, the Children’s Rights Bureau highlighted that guidelines often give explicit direction on what staff can’t do in relation to the use of restraint and seclusion but limited support with regard to the use of alternatives.<sup>78</sup> This often results in staff being given an inappropriate level of responsibility when making decisions about using restrictive interventions, increases the risk of incidents being pushed underground or results in staff not wanting to use restrictive interventions even when it is warranted.<sup>79</sup>

The Enable Scotland report ‘In Safe hands’ highlights that education staff need as much support as children and their families stating that:

‘Education staff, particularly those in mainstream settings, are faced with a difficult task in relation to supporting children to achieve in their classroom. We believe that they too are unsupported by lack of guidance, lack of access to specialist practice support and guidance, and access to training in positive support strategies.’<sup>80</sup>

## 10 Positive Behaviour Support – a therapeutic approach to challenging behaviour

In recent years there has been an increasing focus on the use of PBS to manage challenging behaviour across education, health and social care sectors. It has been recommended in several government policy documents and professional guidelines throughout the UK.<sup>81</sup>

<sup>77</sup> NIC-ICTU (2019) *An Acceptable level of violence?* [online] Available at: <https://www.ictuni.org/news/2019/03/20/survey-of-education-workers-reveals-scale-of-violence/>

<sup>78</sup> Hart, D and Howell S (2004) Report on the use of Physical Intervention across Children’s Services [https://www.ncb.org.uk/sites/default/files/field/attachment/physical\\_intervention\\_across\\_childrens\\_services.pdf](https://www.ncb.org.uk/sites/default/files/field/attachment/physical_intervention_across_childrens_services.pdf)

<sup>79</sup> Report on the use of Physical Intervention across Children’s Services [https://www.ncb.org.uk/sites/default/files/field/attachment/physical\\_intervention\\_across\\_childrens\\_services.pdf](https://www.ncb.org.uk/sites/default/files/field/attachment/physical_intervention_across_childrens_services.pdf)

<sup>80</sup> Enable Scotland (2019) *In Safe Hands?* [Online] Available at: <https://www.enable.org.uk/wp-content/uploads/2019/11/In-Safe-Hands-CampaignReport2019-20-FINAL.pdf>

<sup>81</sup> National Institute for Health and Care Excellence (2015) *Challenging behaviour and learning disabilities: prevention and interventions for people with learning disabilities whose behaviour challenges* NICE guideline [NG11] <https://www.nice.org.uk/guidance/ng11>

The BASW NI have recommended that the DE should adopt guidelines that support therapeutic and evidenced based approaches to managing challenging behaviour in educational settings including use of PBS strategies.<sup>82</sup>

The primary focus of PBS is to improve quality of life through an understanding of the reasons why an individual may use their behaviour to communicate and get their needs met; and then to use this understanding to develop supports and interventions to help the person achieve what they want or need without the need for challenging behaviour.<sup>83</sup>

The process of developing a PBS plan for an individual includes the collection and analysis of data from a variety of sources relating to the behaviour concerned. This includes an examination of what happens before, during and after the behaviour, how intense it is, how often it happens and how long it lasts. Once there is a full detailed understanding of a the behaviour and why it is happening, staff can design and put in place a number of strategies to reduce the person's behaviours.<sup>84</sup>

It could include changing elements of a child's environment such as reducing noise levels for someone with heightened sensory awareness or by changing the environment so that a child that needs to run around a lot is taken outdoors regularly, reducing the need for them to run away.<sup>85</sup> If the assessment finds that health or mental health needs are the reason for behaviours that challenge (for example a child banging their head against a wall due to ear ache), these can then be addressed appropriately with input from the right professionals.<sup>86</sup>

By reducing behaviours that challenge education staff this can in turn lead to a reduction in the use of restrictive practices.<sup>87</sup> By contrast, an aversive or restrictive response to these behaviours will fail to address the underlying cause of behaviour and likely increase that behaviour as well as increasing the risks for both the children and staff involved in the incident.<sup>88</sup>

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<sup>82</sup>British Association of Social Workers Northern Ireland (2020) *Restraint and seclusion of children and young people in schools and educational facilities - policy statement* [online] Available at:

<https://www.basw.co.uk/system/files/resources/Restraint%20and%20seclusion%20of%20children%20and%20young%20people%20in%20schools%20and%20educational%20facilities%E2%80%9494BASW%20NI%20Policy%20Statement.pdf>

<sup>83</sup> Welsh Government (2018) *Consultation Document. Reducing Restrictive Practices Framework* [online] Available at:

<https://gov.wales/sites/default/files/consultations/2019-10/consultation-document-reducing-restrictive-practices-framework.pdf>

<sup>84</sup>Centre for the Advancement of Positive Behaviour Support *The Seven Key Questions about Positive Behaviour*

*Support* [online] available at <https://www.england.nhs.uk/6cs/wp-content/uploads/sites/25/2016/07/bild-key-questions.pdf>

<sup>85</sup> HM Government (2019) *Reducing the Need for Restraint and Restrictive Intervention* Department of Education and Department of Health

<sup>86</sup> The Challenging Behaviour Foundation (2019) *Reducing Restrictive Intervention of Children and Young People Case study and survey results* January 2019

<sup>87</sup> Kelly, R, Hanna, H, Boyd, A Et. Al (2017) *Three Steps to Positive Practice. A rights based approach when considering and reviewing the use of restrictive interventions* Royal College of Nursing

<sup>88</sup> The Challenging Behaviour Foundation (2019) *Reducing Restrictive Intervention of Children and Young People Case study and survey results* January 2019

## 11. Conclusion

Recent guidelines on the use of restrictive interventions acknowledge that the use of such interventions in schools carry risks and can be damaging to children, families and education staff. Undoubtedly there will be situations where the use of restrictive practices are necessary to prevent harm and injury but wherever possible, they should be avoided; and proactive, preventative, non-restrictive approaches should be adopted in respect of behaviour that challenges. While England, Scotland and Wales move toward introducing guidelines underpinned by preventative approaches, Northern Ireland has not taken similar steps. The BASW NI has expressed their concern at the lack of action on the part of the NI government and has identified a number of steps that the government need to take to ensure that any use of restrictive interventions are appropriate and rights compliant as well as steps needed to reduce overall reliance on the practices:

- Mandatory training for all staff working directly with children and young people with additional needs;
- The training should focus on interventions that are therapeutic in outcome and focus on positive behaviour support strategies, with restraint and seclusion used only as a last resort option;
- Guidance should be distributed to all staff working directly with children and young people with additional needs as part of their mandatory training;
- Mandatory recording and reporting of all incidents of restrictive practice and seclusion should be introduced and the data should be shared with relevant stakeholders and
- Where an incident occurs, a debrief should take place for the child, family and staff.