

Review of the Use of Restraint and Seclusion in Educational Settings in Northern Ireland

March 2022

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1. INTRODUCTION

This report outlines the findings and recommendations from the Department's review of the use of restraint and seclusion in educational settings. The recommendations for change are intended to ensure a consistent child centred approach is taken across all educational settings.

The Minister and officials do not underestimate the complexities of this area and the impact it has had on everyone involved. We have taken time to listen to the views of stakeholders, including those who support our most vulnerable children and young people. We recognise that while restraint should only be used as a last resort and may not ever need to be used in some educational settings, change is required to ensure that children and young people and the education staff who work with them are protected and that clear and transparent processes are accessible to those involved, including parents/carers.

Background

The Department of Education (DE) last issued guidance on the use of reasonable force in 2004. Officials had begun to revisit this guidance and were commissioned by the then Education Minister in 2020 to work with relevant partners to review the wider use of restrictive practices, including the use of restraint and seclusion, in educational settings in Northern Ireland with a view to developing new guidance.

An Inter-Departmental Working Group was established to take forward the review as well as a Reference Group which acted as a critical friend. Membership details are attached at Appendix 1.

The Terms of Reference for the Working Group were to consider:

- current legislation, policies, guidance and training;
- current practices, including local audits or reports, work-in-progress in this area across other similar jurisdictions, research reports and evidence of best practice;
- current recording, monitoring and follow-up processes; and
- complaints in the area and issues arising to identify weaknesses in existing guidance and areas for action.

Engagement has been a key theme during the course of this review including and not limited to:-

- parents/carers who shared their lived experiences and those of their children
- children's advocates;
- the NI Assembly's Education Committee;
- the NI Public Services Ombudsman;
- the Departments of Health and Justice;
- the Education Authority including experiences of staff who work with vulnerable children and young people;
- teaching and non-teaching unions;
- school principals (indirectly through Northern Ireland Commissioner for Children and Young People report "Neither Seen Nor Heard")
- the Middletown Centre for Autism;
- other jurisdictions;
- Team Teach; and
- the Departmental Solicitors Office.

Engagement will continue as the 6 recommendations contained in this report are implemented, including with staff in educational settings when the revised guidance is being developed.

2. EXECUTIVE SUMMARY

An internal decision had already been taken by the Department in 2019 to review the existing DE Circular 1999/9 'Pastoral Care: Guidance on the Use of Reasonable Force to Restrain or Control Pupils' which was set, at that time, in the context of school discipline policies and promoting positive behaviour.

This review was broadened, at the former Education Minister's request, in February 2020, following correspondence from parents with lived experience of the use of restraint and seclusion in educational settings; Members of the Northern Ireland Assembly (MLAs) including the NI Assembly's Committee for Education; and the Northern Ireland Public Services Ombudsman (NIPSO) on the use of restrictive practices relating to pupils with special educational needs (SEN).

The purpose of this report is to provide the Education Minister with the findings and recommendations for change from the Department's review of the use of restrictive practices, including restraint and seclusion, in educational settings in Northern Ireland.

The overarching aim of the report's 6 recommendations, outlined below, is to ensure that education legislation and guidance on the use of restrictive practices in educational settings protects children and young people from harm and complies with the United Nations Convention on the Rights of the Child (UNCRC).

RECOMMENDATIONS

Recommendation 1

The Department should, at the earliest legislative opportunity, repeal Article 4 (1)(c) of the Education (NI) Order 1998, which enables such force as is reasonable in the circumstances for the purpose of preventing a pupil from: "engaging in any behaviour prejudicial to the maintenance of good order and discipline at the school or among any of its pupils, whether that behaviour occurs during a teaching session or otherwise."

Recommendation 2

The Department should, in the 2022/23 school year, issue statutory guidance on the use of restrictive and support practices for educational settings under Article 18 1(c) of the Education and Libraries (Northern Ireland) Order 2003 which places a duty on the Board of Governors of a grant-aided school to have regard to the guidance when determining the measures to be taken at the school (by the Board of Governors, the staff of the school or other persons) to protect pupils from physical or mental abuse (whether at school or elsewhere).

Recommendation 3

The Department should ensure the statutory guidance:-

- is based on the underlying principles in Section 5 of this report;
- details the legislative and policy context, provides clear definitions of restrictive practices and supportive practices aligned as far as possible with those of the Departments of Health and Justice;
- outlines the roles, responsibilities and accountabilities of school staff, health professionals, Principals, Board of Governors, the Education Authority, parents/carers, children and young people and the Department itself;
- provides for the mandatory recording and reporting of all incidents of physical restraint/reasonable force by educational settings;
- includes exemplars of positive, preventative and early intervention practices identified by the Education and Training Inspectorate;
- includes details of training and resources available for educational settings, from the Education Authority, in relation to handling behaviours of concern;
- outlines the requirement for educational settings to immediately inform parents/carers of any incident followed up with a formal report which should include measures to support the child and staff and prevent further incidents;
- outlines the complaints process and links to the Department's Safeguarding and Child Protection Guidance which includes advice on the escalation of safeguarding and child protection concerns;
- outlines whistleblowing procedures; and
- is developed in consultation with schools, professional bodies, children and young people and parents/carers.

Recommendation 4

The Department should continue to work with Health colleagues to develop regional guidance on pupils' medication and healthcare needs including the use of equipment in educational settings recommended by health and social care staff alongside prescribed therapies.

Recommendation 5

The Department should secure agreement that the Education and Training Inspectorate will examine if the use of supportive and restrictive practices, by educational settings, follows any related statutory guidance issued by the Department.

Recommendation 6

The Department should commission a periodic review and publish a report on the use of restrictive and supportive practices in educational settings.

3. REVIEW FINDINGS

LEGISLATION, CURRENT GUIDANCE AND TRAINING

The current education specific legislation and guidance relevant to this review are outlined below.

LEGISLATION

- Articles 3 & 4 of the Education (Northern Ireland) Order 1998 - Responsibility of Board of Governors and Principal for discipline; and Power of member of staff to restrain pupils - <https://www.legislation.gov.uk/nisi/1998/1759/part/II>
- The Education (Corporal Punishment) (Northern Ireland) Order 1987 and Article 36 paragraph 4 of the Education and Libraries (Northern Ireland) Order 2003- Abolition of corporal punishment - <https://www.legislation.gov.uk/nisi/1987/461/contents/made>
<https://www.legislation.gov.uk/nisi/2003/424/article/36>
- Articles 17 & 18 of the Education and Libraries (Northern Ireland) Order 2003 - welfare and protection of pupils - <https://www.legislation.gov.uk/nisi/2003/424/part/IV/crossheading/welfare-and-protection-of-pupils>

GUIDANCE

DE Circular 1999/9 'Pastoral Care: Guidance on the Use of Reasonable Force to Restrain or Control Pupils' - <https://www.education-ni.gov.uk/publications/circular-199909-use-reasonable-force>

Pastoral Care in Schools: Promoting Positive Behaviour (2001) - <https://www.education-ni.gov.uk/publications/pastoral-care-schools-promoting-positive-behaviour>

Towards a Model Policy in Schools on the Use of Reasonable Force (August 2002) - <https://www.education-ni.gov.uk/publications/towards-model-policy-schools-use-reasonable-force>

The 'Regional Policy Framework on the use of Reasonable Force/Safe Handling – May 2004' - <https://www.education-ni.gov.uk/publications/regional-policy-framework-use-reasonable-forcesafehandling>

Safeguarding and Child Protection – A Guide for Schools; <https://www.education-ni.gov.uk/publications/safeguarding-and-child-protection-schools-guide-schools>

Code of practice on the identification and assessment of special educational needs; <https://www.education-ni.gov.uk/publications/code-practice-identification-and-assessment-special-educational-needs>

Special Educational Needs and Disability Act (Northern Ireland) 2016; <https://www.education-ni.gov.uk/articles/review-special-educational-needs-and-inclusion>

FINDINGS

The review of existing legislation and guidance confirmed the need to update legislation and provide new guidance on the use of restrictive and supportive practices used in mainstream schools, special schools, EOTAS and Exceptional Teaching Arrangements (ETA) settings. At this stage the recommendation is to repeal Article 4 (1)(c) of the Education (Northern Ireland) Order 1998, and to continue to consider other legislation whilst developing the guidance.

The broader review identified the need to update the Department's guidance on positive behaviour approaches including specifically in relation to pupils with SEN in terms of supportive practices and any linked healthcare support, and in relation to safeguarding and child protection to ensure any instances of emotional and/or physical harm to pupils is identified and addressed.

Engagement with Education Otherwise Than At School (EOTAS) staff, input from the Special Schools Strategic Leadership Group (SSSLG) as well as the findings of the Northern Ireland Commissioner for Children and Young People (NICCY) report 'Neither seen Nor Heard' identified that staff who are trained in de-escalation and safe handling techniques feel under pressure as they are perceived as experts in this area and are called upon to deal with any incidents, which in their view places them at the forefront of any legal challenge to how the educational setting has responded. Responses to the NICCY survey of Principals also indicated that safe handling training is not widely available for staff in mainstream schools.

Current practice has confirmed safe handling training is provided to some staff in mainstream schools where a classroom assistant has responsibility, in accordance with a SEN statement, for a pupil with behaviours of concern identified. Teaching staff highlighted the need for policy makers to engage with educators who have 'first-hand experience' of working with children and young people to ensure any future policy and guidance is fit for purpose; a lack of peer-to-peer support was also highlighted.

Responses from some schools also confirmed no clear understanding of access to guidance on the use of restrictive practices and confusion for staff in terms of what represents best practice. Other responses confirmed some good practice in working with children to make them feel safe and secure as well as relaxation techniques such as Theraputty.

Examination of existing legislation relating to the welfare and protection of pupils identified that Article 18 1(c) of the Education and Libraries (Northern Ireland) Order 2003) could be used as a means to issue statutory guidance on the use of restrictive and supportive practices in educational settings, thereby giving it appropriate standing to ensure educational settings have a duty to follow the guidance. This was supported by legal opinion provided to the Department.

OTHER JURISDICTIONS

The use of restraint and seclusion in educational settings is also an area of public interest in other jurisdictions. The review has confirmed the need for the Department

to collaborate with government officials in other jurisdictions to explore how they intend to address any issues and to share policy developments in this area, with a particular emphasis on UK regions, to ensure compliance with UNCRC commitments. Engagement has also taken place with officials in the Republic of Ireland and, with prior approval of the Minister for Education, a 5 nations meeting is scheduled to take place in early April 2022.

CHILDREN'S ADVOCATES

Engagement with a range of children's advocates, including the Restraint and Seclusion Reference Group member organisations, identified areas of concern brought to the fore in their work.

Correspondence from the Northern Ireland Public Services Ombudsman, advised that her office had also been investigating claims of maladministration from parents. The Ombudsman also shared a report with DE and confirmed she would await the outcome of DE's review and the review being undertaken by the NICCY.

NICCY further assisted in this review by agreeing to engage with parents, on DE's behalf, and to provide a report on their experiences and those of their children on the use of restraint and seclusion in educational settings.

The Department's review also considered the NICCY report, 'Neither Seen Nor Heard', which was published in December 2021 which also included input from school principals.

[niccy-restraint-and-seclusion-main-report-final-16-dec-21.pdf](#)

The recommendations of 'Neither Seen Not Heard' and the Department's response to them are detailed in Appendix 2.

THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD (UNCRC)

The review also considered wider rights based and equality guidance in particular the United Kingdom's commitments and implementation of them in relation to the United Nations Convention on the Rights of the Child (UNCRC).

The findings have shown legislation for the abolishment of corporal punishment remains appropriate and accepted by UNCRC and the Northern Ireland Government continues to provide inputs to the periodic reviews undertaken by the Committee on the Rights of the Child on the implementation of UNCRC.

The Department has responded to the latest 2022 Universal Periodic Review and will seek to respond to any relevant points identified in the List of Issues Prior to Reporting (LIOPR) received in relation to education.

PARENTAL EXPERIENCES

The wider review of restraint and seclusion was instigated due to parents/carers and children's advocacy groups bringing lived experiences of concern to the Department and the former Minister's attention. DE officials and the current Minister of Education met with parents/carers and their children to listen to their lived experiences. As referred to above, NICCY also agreed to engage with parents, on DE's behalf, and to provide a report on their experiences and those of their children on the use of restraint and seclusion in educational settings. .

Parents/carers raised a number of issues of concern including:

- The complaints processes in schools are unequal and time consuming, with a lack of clarity from schools and a lack of understanding and knowledge of restrictive practices by the Board of Governors.
- No resolution with the school and no recourse to the Education Authority as it does not have legal authority over a Board of Governors' decision making process.

- The lack of some schools' understanding and capacity to support children with additional needs, with the focus often being on 'bad behaviour', discipline and control, rather than recognising the environmental, social and/or emotional and well-being needs of the pupils and making reasonable adjustments.
- Disbelief that restrictive practices could be administered to a child without consultation or consent of a parent/carer and without a statutory obligation to record and report on such incidents.
- The negative impact the use of restrictive practices could have on the pupil as well as their parents/carers and other family members.
- Ambiguity in understanding of restrictive practices leading to different interpretations and the lack of available information on policy and guidance on restrictive practices.
- The need for statutory guidance to make it enforceable and hold those involved to account.
- The need for training for school staff on reducing restrictive practices and the differences in levels of training required by staff in special schools and mainstream school settings.
- A lack of understanding on the needs of individual children and shortcomings in the care planning process in some mainstream schools was seen as a significant issue.
- The absence of a regional framework and/or statutory guidance means that even if schools were reporting restrictive practices there is no procedure to monitor and evaluate their usage, improve practices regionally and create support and training structures for schools to minimise the need for restrictive intervention.

The findings of this work helped inform the recommendations for change outlined in Section 4.

4. RECOMMENDATIONS FOR CHANGE

Recommendation 1

The Department should, at the earliest legislative opportunity, repeal Article 4 (1)(c) of the Education (NI) Order 1998, which enables the use of such force as is reasonable in the circumstances for the purpose of preventing a pupil from: “engaging in any behaviour prejudicial to the maintenance of good order and discipline at the school or among any of its pupils, whether that behaviour occurs during a teaching session or otherwise.”

Having reviewed legislation relating to the use of reasonable force, currently set out under the Education (NI) Order 1998, work should be progressed to repeal Article 4 (1)(c) ‘To prevent a pupil engaging in any behaviour prejudicial to the maintenance of good order and discipline at the school or among any of its pupils’. This will bring legislation into line with the UNCRC and with Article 36 (4) of the Education and Libraries (Northern Ireland) Order 2003, in relation to the “abolition of corporal punishment”, in that physical punishment should never be used as a form of discipline.

Further consideration should also be given to other legislative terms as part of engagement with Departmental legal advisors and other UK jurisdictions.

Recommendation 2

The Department should, in the 2022/23 school year, issue statutory guidance on the use of restrictive and support practices for educational settings under Article 18 1(c) of the Education and Libraries (Northern Ireland) Order 2003 which places a duty on the Board of Governors of a grant-aided school to have regard to the guidance when determining the measures to be taken at the school (by the Board of Governors, the staff of the school or other persons to protect pupils from physical or mental abuse (whether at school or elsewhere)).

Statutory guidance will be issued under Article 18 1(c) of the Education and Libraries (Northern Ireland) Order 2003, which relates to the welfare and protection of pupils. This places a statutory duty on the Board of Governors (BoG) to have regard to the guidance in relation to the measures to be taken at the school (whether by the Board

of Governors, the staff of the school or other persons) with a view to protecting pupils from abuse (whether at school or elsewhere). Abuse is defined, in a non-exhaustive way, at Article 18(3) as including sexual abuse and abuse causing physical or mental harm to a child.

In this legal context, any departure from the statutory guidance will be unlawful unless there is a compelling reason for such a departure. Therefore if any educational setting does not follow the guidance, this may be considered unlawful and amenable to judicial review.

Recommendation 3

The Department should ensure the statutory guidance:-

- **is based on the underlying principles in Section 5 of this report;**
- **details the legislative and policy context, provides clear definitions of restrictive practices and supportive practices, aligned as far as possible with those of the Departments of Health and Justice;**
- **outlines the roles, responsibilities and accountabilities of school staff, health professionals, Principals, Board of Governors, the Education Authority, parents/carers, children and young people and the Department itself;**
- **provides for the mandatory recording and reporting of all incidents of physical restraint/reasonable force by educational settings;**
- **includes exemplars of positive, preventative and early intervention practices identified by the Education and Training Inspectorate;**
- **includes details of training and resources available for educational settings, from the Education Authority, in relation to handling behaviours of concern;**
- **outlines the requirement for educational settings to immediately inform parents/carers of any incident followed up with a formal report which should include measures to support the child and staff and prevent further incidents;**
- **outlines the complaints process and links to the Department's Safeguarding and Child Protection Guidance which includes advice on the escalation of safeguarding and child protection concerns;**

- **outlines whistleblowing procedures; and**
- **is developed in consultation with schools, professional bodies, children and young people and parents/carers.**

The importance of clear definitions was recognised as part of the review to provide clarity to staff working in educational settings as well as parents/carers. The definitions provided at Section 6 are aligned to those of other UK jurisdictions and agreed with the Department's Working Group members and Health officials as appropriate.

The definitions allow for distinguishment between restrictive practices including restraint and seclusion and any circumstances in which these can be used as well as defining supportive practices and when these should be used.

Given the guidance will be issued under Article 18 1(c) of the Education and Libraries (Northern Ireland) Order 2003, this places a duty on Boards of Governors to have regard to the guidance in relation to the welfare and protection of pupils.

The statutory guidance will be explicit in the requirement on educational settings to record and report instances of physical restraint/reasonable force and any other requirements set out in it. It will also reiterate that should any educational setting not follow the guidance this may be considered unlawful and amenable to judicial review.

The Working Group will continue to consider what mechanism should be used by educational settings to record such instances as part of the development of the guidance.

The Education Training Inspectorate has provided exemplars of positive, preventative and early intervention practices for inclusion in the guidance to educational settings. The guidance will include the requirement for staff in educational settings to have access to appropriate training and de-escalation techniques to prevent behaviours of concern reaching a crisis situation that requires physical intervention.

Recommendation 4

The Department should continue to work with Health colleagues to develop regional guidance on pupils' medication and healthcare needs including the use of equipment in educational settings recommended by health and social care staff alongside prescribed therapies.

Current guidance covers only medication needs, revised guidance is being progressed to cover both medication and healthcare needs including the use of equipment and required therapies recommended by health and social care staff in the school setting to meet and manage the child and/or young person's needs.

It is anticipated this will ensure that individual care plans for healthcare provision to pupils, whilst in the care of educational settings, will provide the appropriate level of detail on the specific requirements regarding the use of equipment and prescribed therapies required to meet the child and young person's needs, including how, when and the frequency the equipment and prescribed therapy should be used during the school day.

The Department of Education (DE), the Department of Health (DoH), the Public Health Agency (PHA) and the Education Authority (EA) are working closely with Trusts and schools, alongside the parents/carers and children and young people, to develop and implement the Healthcare guidance.

Recommendation 5

The Department should secure agreement that the Education and Training Inspectorate will examine if the use of supportive and restrictive practices, by educational settings, follows any related statutory guidance issued by the Department.

The Education Training Inspectorate (ETI) provides inspection services and information to the Department of Education about the quality of education being offered within educational settings.

The purpose of inspection is to promote the highest possible standards of learning, teaching, training and achievement throughout the education, training and youth sectors.

Safeguarding/child protection is already part of the inspection process, and we will be seeking to secure ETI's agreement to include any further detail, as provided for in the statutory guidance, in their inspection pro-forma to provide assurance that the guidance is being followed in educational settings.

Recommendation 6

The Department should commission a periodic review and publish a report on the use of restrictive and supportive practices in educational settings.

The Department acknowledges that the statutory guidance will need to be kept up to date and in order to assist with this, evidence will be required to provide an assurance that legislation and guidance are being adhered to by educational settings and to inform any policy changes required. In addition, the Department also acknowledges that it would be in the public interest to publish a report of the findings of a periodic review.

5. Underlying Principles for Statutory Guidance

PRINCIPLES		
Children's Rights Centred	Understanding Behaviours and what they are Communicating	Understand what restrictive practices should NEVER be used
Understand what supportive practices are and when these should be used	Understand behaviours of concern and the development of behaviour support plans	Understand the last resort circumstances when reasonable force can be used
Have measures in place that ensure the recording of supportive practices in pupils care plans	Planning and training that prevents escalation and addresses crisis situations if they arise	Have measures in place to ensure mandatory recording and reporting of restraint

The above principles aim to ensure that all staff in educational settings:

- have a clear and consistent understanding of the policy and legislative context of restrictive and supportive practices and their use in educational settings.
- understand that behaviour of children and young people is a form of communication and this should be listened to and understood to meet their needs.
- understand the underlying causes of behaviours of concern and the times and situations when behaviours of concern are more likely to occur and the steps that should be taken to support pupils who display these behaviours.

- understand the requirements of supportive practices necessary for health or emotional well-being reasons which should be included in a pupil's health care and/or special educational needs plan as appropriate.
- understand when physical restraint/reasonable force can be used as a last resort and/or in exceptional circumstances.
- reduce the need for one off/last resort use of physical restraint/reasonable force through the development of strategies that promote a human rights based supportive approach.
- work with other adults, including parents/carers to develop a plan that meets the individual needs of the child or young person, actively reduces restrictive practices and encourages good quality, safe supportive practices.
- ensure prior planning and training in place so that when situations arise where physical restraint/reasonable force are required in one-off crisis situations, harm is prevented to the individual or others and the safety of all concerned is secured.
- have measures in place to agree in advance and record incidents of physical restraint/reasonable force as part of an individual health care and/or education plan or occurring in one-off crisis situations.
- have measures in place that require parents/carers to be informed of any incidents of physical restraint/reasonable force used, and follow up action to assess reasons for this occurring and any impact on pupils and staff.

6. Definitions

RESTRICTIVE PRACTICES:

Restrictive practices are defined as any activity that restricts an individual's freedom of movement. This term covers a wide range of activities including:-

Physical restraint

Any procedure where one or more adults restrict a pupil's physical movement or normal access to his or her own body. It is an intervention to be used only in crisis situations as a method of last resort when all other de-escalation methods have been exhausted, and in line with current legislation and common law, e.g. when not to do so could result in any immediate physical harm or injury to the pupil or other pupils or staff.

Reasonable Force

Is the current legislative term* defined as such force as is reasonable in the circumstances for the purpose of preventing a pupil from:-

- (a) committing any offence;
- (b) causing personal injury to, or damage to the property of, any person (including the pupil himself); or
- (c) engaging in any behaviour prejudicial to the maintenance of good order and discipline at the school or among any of its pupils, whether that behaviour occurs during a teaching session or otherwise."

**This will change with implementation of Recommendation 1 to repeal (c) at the earliest legislative opportunity and to continue to consider other legislative wording such as committing an offence or damage to property.*

Chemical restraint*

The use of medication for the purpose of controlling or subduing disturbed/violent behaviour, where it is **not** prescribed by a Health Professional for the treatment of a

formally identified physical or mental illness. This form of restraint must **never** be used in educational settings in Northern Ireland.

Mechanical restraint*

The enforced use of mechanical aids such as belts, cuffs and restraints forcibly to control a pupil's movement to control behaviour, where they are **not** prescribed by a Health Professional. This form of restraint, specifically to control behaviour or as a punitive measure, must **never** be used in educational settings in Northern Ireland.

Enforced Seclusion

Placing a child or young person involuntarily in any environment in which they are alone and/or physically prevented from leaving. Physical prevention from leaving can be through the use of a locked door, a blocked door, or an exit held closed by a staff member. Enforced seclusion is also a situation where a pupil believes they cannot leave a space although no physical block is evident. Enforced seclusion, specifically to control behaviour, must **never** be used in educational settings in Northern Ireland.

SUPPORTIVE PRACTICES:

Supportive practices are those used for safety, health and well-being purposes and are defined as follows:

Physical support*

Direct physical contact to assist in movement, emotional well-being, feeding and personal care needs such as changing etc.

Medication and healthcare support*

The use of medication (whether orally or intravenously) and relevant healthcare interventions, including the use of equipment, that are prescribed by a registered and trained Health professional and administered for the treatment of a medical, healthcare and/or mental health condition.

Therapeutic support*

The use of aids and treatment interventions to help support physical, emotional well-being or developmental need that is used to enhance a pupil's safety and functional needs and that is used in line with an assessed need and, where appropriate, under the direction of relevant trained Health Care professionals. This guidance does not include the use of seatbelts or other mechanical supports required in common law.

Supportive Space

Quieter areas or rooms of a building, or an outdoor space away from noise or other people that pupils can normally access of their own free will when needed to refocus and regulate their emotions and can return from when they choose, or in some instances for pupils with severe learning difficulties, for whom access is timetabled as part of a multi-disciplinary approach. Pupils are not left unattended in these spaces.

The statutory guidance will include more information on the use of supportive spaces.

Seclusion for Health Reasons*

This should be in line with a plan signed off by health and social care professionals and agreed with the school and parents and would be considered supportive practice in meeting the needs of an individual pupil.

Behaviours of concern

Behaviours of concern is defined as 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.

** Health related definitions may be subject to further change when the Regional Policy on the Use of Restrictive Practices in Health and Social Care Settings is published by the Department of Health.*

Membership of Restraint & Seclusion Working Group (RSWG)

Chair - Director of Inclusion & Wellbeing, Department of Education (DE)

Representatives from:-

Additional Educational Needs Team (DE)

Pupil Support Team (DE)

Special Educational Needs Team (DE)

The Education & Training Inspectorate (ETI)

The Departments of Health and Justice

The Education Authority

The Public Health Agency

MEMBERSHIP OF RESTRAINT & SECLUSION REVIEW REFERENCE GROUP

Organisation

Barnardo's

British Association of Social
Workers (NI)

Chief Allied Health Professions
Office (CAPHO)

Children with Disabilities
Strategic Alliance (CDSA)

Children's Law Centre (CLC)

Equality Commission for
Northern Ireland (ECNI)

NI Commissioner for Children
& Young People (NICCY)

British Red Cross (until April
2021)

NICCY Recommendations from Neither Seen Nor Heard Report	DE Response
Policy, Guidance and Legislation	
<p>1.The Department of Education must create legislation which should include:</p> <ul style="list-style-type: none">• A provision to ban the use of seclusion in educational settings;• A provision to ban the use of any techniques which inflict pain on children;	<p>Statutory guidance issued by the Department will provide clarity on the definition of seclusion and its use in educational settings.</p> <p>The Education (Corporal Punishment) (Northern Ireland) Order 1987 and Article 36 paragraph 4 of the Education and Libraries (Northern Ireland) Order 2003 abolished the use of corporal punishment in educational settings. Statutory guidance issued by the Department will provide further clarity that the use of any restraint techniques must not inflict pain on children and young people.</p>

<ul style="list-style-type: none"> • A definition of restraint and clarity that this should only be used as a last resort; • Requirement for mandatory recording of all incidents of restrictive practices by educational settings; and that <p>The Education Authority undertakes an annual review on the use of restrictive practices across all settings which should include: the number of children who experienced restrictive interventions; the number of times each pupil experienced a restrictive practice; the type of de-escalation techniques and restrictive interventions used; how children and parents were involved and what support/training may be required.</p>	<p>Statutory guidance issued by the Department will provide a definition of restraint and clarify that this should only be used as a last resort and not as a means of maintaining good order and discipline.</p> <p>Statutory guidance issued by the Department will provide for the mandatory recording and reporting of all incidents of restrictive practices by educational settings.</p> <p>The Department will commission a periodic review and publish a report on the use of restrictive practices in educational settings.</p> <p>The Department will secure agreement that the Education and Training Inspectorate will examine if the use of supportive and restrictive practices, by educational settings, follows any related statutory guidance issued by the Department.</p>
<p>2. The Department of Education must ensure that the legislative framework explicitly limits the use of restraint or force on a child so that it is only permitted to protect that child or others from immediate and serious harm.</p>	<p>The Department of Education will ensure that, at the next earliest legislative opportunity, the legislative framework will explicitly limit the use of restraint or force on a child so that it is only permitted to protect that child or others from immediate and serious harm. The</p>

<p>The Department must review The Education (NI) Order, 1998 repealing Article 4 (1)(c) <i>‘To prevent a pupil engaging in any behaviour prejudicial to the maintenance of good order and discipline at the school or among any of its pupils’.</i></p>	<p>legislative framework will be reflected in statutory guidance issued by the Department.</p> <p>The Department will, at the next earliest legislative opportunity, repeal Article 4 (1)(c) of The Education (NI) Order 1998, which enables the use of reasonable force to “prevent a pupil engaging in any behaviour prejudicial to the maintenance of good order and discipline at the school or among any of its pupils.”</p>
<p>3. The Department of Education should issue mandatory guidance on the use of restrictive practices in educational settings detailing the legislative and policy context, and outlining the roles, responsibilities and accountabilities of school staff, external professionals, Principals, Board of Governors, the Education Authority, (or other Governing Bodies) and the Department itself. This Guidance should be developed in consultation with schools, professional bodies, parents/carers, and children. They should:</p>	<p>The Department will issue statutory guidance on the use of restraint and seclusion in educational settings under Article 18 of the Education and Libraries (Northern Ireland) Order 2003 which places a duty on the Board of Governors of a grant-aided school to determine the measures to be taken at the school (by the Board of Governors, the staff of the school or other persons) to protect pupils from abuse (whether at school or elsewhere).</p> <p>The statutory guidance will:-</p> <ul style="list-style-type: none"> • be based on the underlying principles outlined in Section 5 of the Department’s report.

- Provide further clarity on the legal definitions of 'restrictive practices' which should align to those of the Departments of Health and Justice;
- Change the use of terminology from 'challenging behaviours' to 'distressed behaviours';
- Ensure the provision of training; and
- Outline the requirement to immediately inform parents/carers of the incident following up with a formal report which should include measures to support the child and staff and prevent further incidents.

- detail the legislative and policy context, provide clear definitions of restrictive practices aligned as far as possible with those of the Departments of Health and Justice;
- outline the roles, responsibilities and accountabilities of school staff, health professionals, Principals, Board of Governors, the Education Authority, parents/carers, children and young people and the Department itself;
- will provide for the mandatory recording and reporting of all incidents of restrictive practices by educational settings;
- include exemplars of positive, preventative and early intervention practices identified by the Education and Training Inspectorate;
- include details of training and resources available for educational settings, from the Education Authority, in relation to handling behaviours of concern;
- outline the requirement for educational settings to immediately inform parents/carers of any incident followed up with a formal report which should include measures to support the child and staff and prevent further incidents;
- outline whistleblowing procedures; and

	<ul style="list-style-type: none"> • be developed in consultation with schools, professional bodies, children and young people and parents/carers.
<p>4. The Department of Education must establish regional standards on restrictive practices in schools including how to minimise their use and eliminate the use of seclusion. The policy must incorporate a rights-based, child-centred focus, ensuring that all children are protected, regardless of their background, status, additional needs, or disability.</p>	<p>The statutory guidance issued by the Department will have a rights-based, child-centred focus, with an overarching aim that all children and young people in educational settings are protected from harm.</p>
<p>Complaints</p>	
<p>5. Within the revised guidance document for schools, the Department of Education should outline standards for responding to complaints, in line with Complaints Standards set out by Northern Ireland Public Service Ombudsmen (NIPSO). The guidance should also provide direction on providing pathways for staff (including health staff visiting the school) to raise concerns.</p>	<p>The statutory guidance issued by the Department will outline the complaints process and link to the Department's Safeguarding and Child Protection Guidance which includes advice on the escalation of safeguarding and child protection concerns.</p> <p>The Department's Guide for Governors is currently subject to a separate review including on how a schools complaint process should be operated.</p>
<p>6. Parents should be informed of independent advocacy and support services, including peer advocacy, to assist in their complaint.</p>	<p>The statutory guidance issued by the Department will outline the complaints process and link to the Department's Safeguarding and</p>

	<p>Child Protection Guidance including support available from the Education Authority.</p> <p>Signposting parents to independent advocacy and support services, including peer advocacy, is outside the scope of the Department's review of the use of restraint and seclusion in educational settings. However, the Department will consider this issue further as work to develop guidance is progressed.</p>
<p>Understanding and Knowledge of Restrictive Practices in Educational Settings</p>	
<p>7. Information regarding any policy, guidance and legislation on restrictive practices should be made publicly available and easy to understand, with alternative accessible formats available on request.</p>	<p>The statutory guidance issued by the Department will be published and made available in alternative accessible formats available on request.</p>
<p>Training</p>	
<p>8. Teacher training institutions and the Education Authority (EA) should provide mandatory training on restrictive practices to be used as a last resort by all educational staff, including classroom assistants and non-teaching staff (where relevant).</p>	<p>The statutory guidance issued by the Department will include details of training and resources available for educational settings, from the Education Authority, in relation to handling behaviours of concern.</p> <p>The statutory guidance issued by the Department will include exemplars of positive, preventative and early intervention practices, identified by the Education and Training Inspectorate.</p>

<p>This should be accredited and/or subject to external independent training standards and should begin at Initial Teacher Education (ITE), at Post-Graduate Certificate Education (PGCE) levels and continue into Early Professional Development (EPD) and Continuous Professional Development (CPD).</p>	<p>The Department will commission the Education Authority to undertake a training needs analysis to ensure that teaching and non-teaching staff in educational settings are able to comply with the statutory guidance.</p> <p>The Department will continue to engage with teacher training institutions on how/if training on restrictive practices might be embedded within initial teacher education courses.</p> <p>The Department will consider how/if training on restrictive practices could be embedded into Early Professional Development (EPD) and Continual Professional Development (CPD) within its strategy for teacher professional learning - Learning Leaders.</p>
<p>9. Any new policy should be accompanied by an accredited training framework and supportive infrastructure to ensure schools have appropriate resources in place to support their pupils and staff in minimising the use of restrictive practices in educational settings.</p>	<p>The statutory guidance issued by the Department will include details of training and resources available for educational settings, from the Education Authority, in relation to handling behaviours of concern.</p>

	<p>The Department will continue to engage with teacher training institutions on how/if training on restrictive practices might be embedded within initial teacher education courses.</p> <p>The Department will consider how training on restrictive practices could be embedded into Early Professional Development (EPD) and Continual Professional Development (CPD) within its strategy for teacher professional learning - Learning Leaders.</p>
<p>10. Additional training should be made available on areas complementary to reducing restrictive practices including on:</p> <ul style="list-style-type: none"> • Effective communication; • Mental health; • Trauma; • Disability awareness training (particularly focusing on Autism Spectrum Disorder (ASD) and learning disability); • Managing distressed behaviours; 	<p>The statutory guidance issued by the Department will include exemplars of positive, preventative and early intervention practices, identified by the Education and Training Inspectorate.</p> <p>The Department will commission the Education Authority to undertake a training needs analysis to ensure that teaching and non-teaching staff in educational settings are able to comply with the statutory guidance.</p> <p>Child protection training and resources, which are updated annually are available to all schools, and Boards of Governors. Specific training is provided to members of the School Safeguarding Team. In addition, Trauma Informed Practice training is available to all schools and Attachment training provided to primary schools by the EA's Children Looked After Service</p>

- Supporting children with additional needs with or without a Statement; and on Children's rights.

The joint Department of Education and Health 'Children & Young People's Emotional Health and Wellbeing in Education Framework' recognises our collective responsibility in supporting the emotional health and wellbeing of our children and young people as well as those who work with them. Implementation of this Framework covers a number of these complementary areas including resilience; creation of a positive school culture; coaching for school leaders; wellbeing resources; school nurses placed in pilot post primary schools; expansion of existing RISE NI provision to Key Stage 2; trauma and attachment informed practice; mental health awareness support and a whole school approach to wellbeing.

The Education Authority and the Middletown Centre for Autism have developed an enhanced framework for Tier 1 and Tier 2 autism training for teaching and non-teaching staff (including specific courses for classroom assistants); parents/carers and children and young people. The training is accessible online; a hybrid model including face to face training, will be in place when public health guidelines permit.

Experiences and Perspectives of Restrictive Practices

11. Parents and carers should have an opportunity to receive support and training, to understand the use of de-escalation and therapeutic interventions, as well as restrictive practices. They should have the opportunity to develop capacity to ensure they and their children can contribute to the development of personalised learning plans and be provided with information on the complaints process.

The statutory guidance issued by the Department will include details of training and resources available for educational settings, from the Education Authority, in relation to handling behaviours of concern. The guidance will include the need for schools to work with parents to understand how the school will be promoting positive behaviour.

Support and training for parents to understand the use of de-escalation and therapeutic interventions, as well as restrictive practices is outside the scope of the Department's review. However, the Department will consider how this might be addressed during development of its guidance on the use of restraint and seclusion in educational settings including through the Middletown Centre for Autism which provides parental training in relation to techniques to support children with autism.

12. Learning support plans or 'communication passports' should be in place for all children with additional needs, with a particular focus on children who are at risk of exhibiting behaviours that are distressing.

The statutory guidance issued by the Department will include appropriate links to healthcare which is also currently being reviewed. It is envisaged this will include documentation, training and support to schools including the use of equipment and any required therapies recommended by health and social care staff in the school setting to meet and manage children's needs.

<p>13. Social, emotional and practical support should be provided for all individuals who experience, witness or apply restrictive practices in educational settings, especially children, siblings, parents/carers, and classmates, as well as the staff member involved.</p>	<p>The statutory guidance issued by the Department will outline the requirements for schools in relation to follow up actions after an incident to both pupils and staff.</p>
<p>Educational Culture and Accountability</p>	
<p>14. All educational settings should be informed by a UNCRC child's rights framework and embed a culture of school values underpinned by the principles of inclusion, the best interests of children and respect for their human rights.</p>	<p>The statutory guidance will be based on the underlying principles detailed in Section 5 of this report.</p>
<p>15. The Department Education and Education Authority should provide support to school leaders in school-based transformation work, as required, including changing culture and attitudes towards pupils with additional needs. Resources, training and sharing of good practice should be provided to ensure this happens.</p>	<p>The statutory guidance issued by the Department will include exemplars of positive, preventative and early intervention practices, identified by the Education and Training Inspectorate. The Department will commission the Education Authority to undertake a training needs analysis to ensure that teaching and non-teaching staff in educational settings are able to comply with the statutory guidance.</p>