

PE1548/II

British Institute of Learning Disabilities submission of 18 August 2017

The British Institute of Learning Disabilities (BILD) has been supporting Beth Morrison's campaign for national guidance on the use of restraint and seclusion in schools for children with disabilities in Scotland. Last year we accompanied Beth to meet John Swinney, Cabinet Secretary for Education and Skills to discuss the inclusion of the human rights principles that are applicable in this area into the new guidance for schools.

You will of course be aware that the new guidance [Included and Engaged part 2](#) has now been published. It is a good step forward and we are pleased that some of the principles we have been championing alongside Beth have been included. However it does not include the key components we think are needed to protect those most vulnerable children from unnecessary restrictive practices.

It is important to understand that there are systemic processes that reinforce vulnerability – so that children who are disabled are not only more likely to be subjected to transgression of their human rights but also have the minimum opportunity to report any transgressions. Currently in Scotland local authorities are advised to write their own policy on the use of restraint and seclusion with very limited guidance at their disposal.

The important areas that we feel are missing from new guidance are:

- Clear definitions of restraint and seclusion which would support robust reporting and guard against unintentional transgressions of human rights
- Requirements for robust recording systems for physical interventions and other forms of restrictions of liberty. This is a recommendation 39(d) in the Fifth Periodic Report from the UN Committee of the Rights of the Child (2016)
- Safety standards for the training and use of physical intervention some of which can cause injury or present a risk to life in some circumstances
- The use of Positive Behaviour Support as an evidence based and ethical framework in which to support children with disabilities to get their needs met so the likelihood of the use of any restrictive intervention is much reduced
- Lastly we would like to impress on the committee that any use of seclusion not only risks physical harm but is also likely to be traumatising vulnerable children. Unfortunately this latest guidance ratifies the use of seclusion albeit as a last resort. The use of seclusion on children with disabilities and autism is an area of concern in the Fifth Periodic Report from the UN Committee of the Rights of the Child (2016) We note that this guidance does not make the difference clear between seclusion and the provision of a quiet area that children can access out of choice if they need a space to feel calm and safe in. Seclusion is a restriction of a person's liberty.

If the Scottish Government does not feel Included and Engaged Part 2 is the appropriate place for this guidance to be situated we would like to propose an

alternative. We are sure you are aware of the good practice guidance *Holding Safely* (2007, 2013). This guidance has been and continues to be very influential in supporting safe and ethical practice standards for residential child care services. This document is due for review and would be a reasonable place to include specific guidance for children with disabilities. This would also support wider inclusion principles.

BILD are happy to offer expert advice or collaborate with Scottish Government, to develop good practice guidance that will have a positive impact on these children's experiences.