



PE1548/E

CONSIDERATION OF PETITION [PE01548](#) calling for National Guidance on Restraint and Seclusion in Schools.

The Care Inspectorate is the independent scrutiny and improvement body established under the Public Services Reform (Scotland) Act 2010 (the Act), which brings together the scrutiny work previously undertaken by the Care Commission, HMIE child protection team and the Social Work Inspection Agency. Our role is to regulate and inspect care and support services and carry out scrutiny of social work services. We provide independent assurance and protection for people who use services, their families and carers and the wider public. In addition, we play a significant role in supporting improvements in the quality of services for people in Scotland.

The Care Inspectorate welcomes the opportunity to respond to the petition raised by Mrs Morrison. The issues raised, while linked to the practice of safe care in day schools, the respect for children's rights and the promotion of positive behaviour, have importance for registered care services for children, including child minders, day care or residential care.

We recognise and agree that children with special needs have a higher level of vulnerability and everything should be done to minimise harm and promote children's rights and human rights.

The Care Inspectorate works within the Act to a [set of principles](#) when exercising our functions. Our corporate values and aims and objectives have set these principles at the heart of our work.

Registered providers of care services have under specified Regulations responsibility to comply with certain statutory requirements.

The questions raised in the petition allow us to reflect and report upon the delivery of these principles in relation to the question of restraint and seclusion of children, and consider if the Care Inspectorate should have an extended role in relation to non education day school provision.

Responsibilities of Providers of Registered Care Services

Care service providers' responsibilities are set out in the [Social Care and Social Work Improvement Scotland \(Requirements for Care Services\) Regulations 2011](#). These regulations cover health and welfare and staffing requirements. A number of the Regulations are very specific including setting out when restraint can or cannot be used.

In addition to the Regulations, care services must also take into account the National Care Standards, and other good practice guidance that supports national policy drivers around GIRFEC and Child Protection. Guidance for all residential care services for children would include 'Holding Safely', guidance issued through the Scottish Government on the physical restraint of children and young people, and National Guidance for Child Protection in Scotland 2014, including where appropriate, the toolkit for disability.

Where the Care Inspectorate finds that services are not meeting their responsibilities under these Regulations and in particular where the outcomes for service users are or are potentially adversely affected we will take action to ensure improvement. In serious breaches this action could be taken through our enforcement powers under the Act.

These requirements only extend to our statutory functions in regulating registered care services. They do not extend for example to day provision of residential schools where the boarding facility only would be registered with the Care Inspectorate. Care staff working in registered residential units must be registered with the Scottish Social Services Council (SSSC). The care service also needs to ensure staff are fit and suitably trained and supported in their work. Non teaching staff in classrooms or non educational school provision, such as classroom or playground assistants, are not subject to the same requirements of registration with a professional body, despite these being the staff that are likely to be called upon to support a child who is experiencing difficulties and who may need physical intervention to safeguard them or others.

Care Inspectorate information gathering, regulation and reporting

From a Care Inspectorate perspective the important factors in considering restraint of children is to ensure that the principles of being in the child's best interests and child protection are at the forefront. Where it has been identified that a child or young person may require restraint or time out of a group setting, as part of an agreed plan of care, this would be clearly set out in a care plan and be regularly reviewed. The child and parents should be party to such a plan and ongoing review. The records of and staff accounts of physical restraint of a child and young person should evidence it to be an intervention of last resort where de-escalation techniques were not successful and it was necessary to prevent harm.

At inspection we interview or discuss with external managers of services, and where necessary placing social workers or commissioners of services, about their responsibility to monitor and review practices including use of restraint. This external accountability is critical in securing a safe care environment.

Residential care services for children also provide details of the practice methods of de-escalation and physical restraint in which staff are trained. In our experience the majority of these practice methods are ones that have been accredited through the British Institute for Learning Disability (BILD). BILD'S voluntary accreditation system is regarded as one which promotes good practice standards and is human rights based. There are approximately 40 different providers of methods of restraint accredited by BILD. Recent information on children's care homes identified that there

were 15 different types of restraint interventions in use and in which care staff were trained.

In our inspections of out of school services and holiday schemes, which may be specifically for children with a range of disabilities, we ensure that positive behaviour is promoted and that staff are trained to ensure potential triggers are avoided. We also check premises to ensure that the physical environment promotes the most positive outcomes for children.

In care services children and young people might be removed from a group activity to support behaviour – in our opinion this should never be punitive and must be supported by supervision and observation of the child or young person. It must be recorded and overseen by a senior member of staff.

In a secure unit a young person may be removed into their room and the room door is locked. Such an intervention must be with the agreement of senior staff and observation protocols must be in place and adhered to. The Care Inspectorate is an active member of the National Preventative Mechanism and we will be reporting this year on the separation and restraint practices in secure care settings for children and young people. A number of young people in secure care settings have additional support needs.

Care Inspectorate working with Education Scotland, HM Inspectors and other agencies

The Care Inspectorate works in collaboration with a number of agencies, which include Education Scotland, HM Inspectors and the Mental Welfare Commission.

With HM Inspectors we may carry out shared inspections of day care of children services, residential schools and secure care services. Together we consider the safe care practices in the establishment. We are developing our methodology for residential schools and secure care, including how we can take into account the day school experience of the child when inspecting the residencies and vice versa. We have also been closely examining the principles and issues around safeguarding and restraint to ensure we are fully aware of, and addressing the issues about care of children with disability in particular, when inspecting together or singularly.

The Care Inspectorate and the Mental Welfare Commission completed a programme of joint work in secure care settings in 2014/15 and [reported](#) on practices in relation to vulnerable young people with mental illness and mental health issues in these settings. The Care Inspectorate also takes cognisance in our work of the Mental Welfare Commission's reports and guidance on [restraint](#) and [seclusion](#).

Conclusion

It is recognised there are a high number of physical restraint methods all of which carry risk of injury if not implemented properly – the responsibility on providers to ensure staff have the necessary skills and ongoing training is a key issue. This necessity of training, reporting, monitoring and external manager accountability applies to services and care staff that are registered with the Care Inspectorate and

SSSC. It is important to ensure that this also applies to schools and other services where children and young people by virtue of vulnerability, including age and/or disability, receive a service.

The numbers of actual and potential methods of restraint are numerous and accreditation itself is only one possible safeguard. We would support the development of national guidelines on supporting children where behaviours prompt the need for an expanded understanding on safeguarding and considerations of de-escalation and safe holding/restraint of children. We believe this is the right thing to do to create clear expectations on all services that provide for children. We believe this will further support the implementation of GIRFEC and other policy drivers.

The Care Inspectorate and Education Scotland are committed to shared working and learning. However, the Care Inspectorate has no legal locus in day schools whether in the non educational areas or the classroom. To extend our responsibilities would require both a change in legislation and an increase in resources. The Care Inspectorate would be supportive on the introduction of national guidance and would be willing to offer our knowledge and expertise in developing such guidance.