

Scottish Government submission of 10 March 2022

PE1927/B - Install CCTV cameras in all additional support needs schools

1. Thank you for the opportunity to respond to the above petition. I note the petitioner lodged petition PE1709 on this matter in 2018 and that the Scottish Government provided a response at that time. I would like to respond on behalf of the Scottish Government to provide an update reflecting the range of policy interests in this important issue.

CCTV use in education authority schools

2. The Education (Scotland) Act 1980 places a statutory responsibility on all local authorities to manage and maintain their school estate and provide a safe school environment for all school users. They should make arrangements as they consider necessary for pupils residing at, or attending schools in their area. It would be for a local authority to decide whether or not to use CCTV cameras on their premises.
3. Where the use of CCTV is considered the rights of children and young people, as well as staff, must be a key consideration whilst striking a balance between privacy and protection.
4. There may be human rights implications as a result of the proposals within the petition. The right to private and family life contained in Article 8 of the European Convention on Human Rights (ECHR) is a qualified right, which means that reasonable restrictions or limitations can be placed on it in specified circumstances to achieve a legitimate aim. These are set out in Article 8(2):

“There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

5. Therefore, interference with the right to private life must be necessary and proportionate in order to achieve a legitimate public policy objective, within the overall context of a modern, democratic society. This would involve balancing potentially competing considerations, including both the rights of individuals and the wider public interest – in the considering of this petition relevant factors would include preventing harm and keeping children safe.
6. Due consideration would also need to be given to the United Nations Convention on the Rights of the Child (UNCRC) in particular Article 16 which covers the right to privacy and article 19 which covers the right to be kept safe from abuse, including physical abuse. Children's interests protected by these provisions would have to be balanced carefully.

Grant-aided Special Schools

7. Grant-aided special schools are managed by a Board of Governors who are responsible for managing the day to day business of the school, including services provided within

school. Grant-aided special schools receive annual grant funding from Scottish Ministers in exercise of their powers under the Special Schools (Scotland) Grant Regulations 1990. Such grants are subject to conditions determined by the Scottish Ministers and include a section on safeguarding and the protection of vulnerable groups. Conditions of grants to grant-aided special schools state that 'The Grantee must have robust safeguarding policies in place to protect vulnerable groups. The Grantee must also have in place clear processes which must be followed if it becomes aware of specific incidents, including referral to the relevant authorities where necessary' and 'The Grantee must report all and any cases of suspected abuse or malpractice relating to anyone involved in the delivery of the Project or any beneficiary of the Project to Scottish Ministers and the relevant authorities immediately'.

8. In addition, the Requirement for Teachers (Scotland) Regulations 2005 were amended in 2017 to require all teachers employed in grant-aided special schools to be GTCS-registered. The GTCS Standard for Full Registration applies to teachers employed and working in grant-aided special schools. Paragraph 7 above also refers.
9. Some grant aided special schools use CCTV within their schools. This maybe something that the Committee wishes to explore directly with the schools.

Independent Schools

10. A number of registered independent schools in Scotland are special schools. The legislative framework for the registration and regulation of independent schools is contained within sections 98 to 103B of the Education (Scotland) Act 1980 with specific requirements related to safeguarding and promoting the welfare of a pupil attending the school. Independent Schools' child protection training requirements are set out in [The Registration of Independent Schools \(Scotland\) Amendment Regulations 2021](#) ("the 2021 Regulations"). The 2021 Regulations, which came into force on 8 October 2021, amend The Registration of Independent Schools (Scotland) Regulations 2006. The 2021 Regulations insert into the 2006 Regulations a new requirement on the proprietors of independent schools to provide "*A statement confirming that all persons employed by or in the school have undertaken appropriate child protection training within the previous twelve month period*". The effect of this provision is, therefore, to mandate all persons employed in an independent school (be it a day or residential school) to undertake 'appropriate child protection training' each year. The statement is included in the proprietors' annual census returns to the Registrar.
11. The Scottish Council for Independent Schools (SCIS) provides the sector with support and professional learning on child protection.

The use of restraint in schools

12. Our school exclusions guidance 'Included, Engaged and Involved Part 2: A positive approach to preventing and managing school exclusions' (IEI2) provides current guidance to education authorities in relation to physical intervention. Any incident where a decision is made to physically intervene within a school must be recorded and monitored. The guidance asks that each education authority include details of how this should be undertaken in their policy on de-escalation, physical intervention.
13. In response to the Children and Young People Commissioner's 2018 No Safe Place

report, and Enable Scotland's In Safe Hands 2019 Campaign report, around the use of restraint in schools, the Scottish Government established the [physical intervention working group](#). Since 2020, its aim has been to develop new human rights-based non-statutory guidance to minimise the use of physical intervention, physical restraint and seclusion in schools. The scope of the new guidance includes all schools (education authority, independent, and grant-aided). New definitions and a standard dataset for recording and monitoring their use will be included in the guidance, which is currently being prepared for public consultation. Petition PE1548 – National Guidance on Restraint and Seclusion in Schools – is also relevant to this work. The aims of the guidance align to ongoing work to respond to The Promise Plan 21-24 and reflects the context of safeguarding children and young people within schools, which is outlined below.

Keeping children and young people safe in school

14. All children have the right to be cared for, protected from harm and grow up in a safe environment in which their rights are respected and their needs met. Getting it right for every child ([GIRFEC values and principles](#), the [National Practice Model](#) and the [SHANARRI wellbeing indicators](#)) provide the framework that enables the delivery of safe, positive nurturing learning environments where all pupils are included, engaged and involved. The Scottish Government is committed to developing new policy and practice guidance to provide confidence, clarity and practical support to deliver GIRFEC. Work has begun to deliver refreshed GIRFEC policy and practice guidance in partnership with key delivery partners across all sectors. This will be published in 2022.
15. The GIRFEC framework enables the joined up needs-based assessment, planning, implementation and review of support for pupils and helps prioritise early and staged interventions to support pupils' wellbeing. This framework is complemented by the provisions of the Additional Support for Learning Act (2004) and the accompanying statutory Code of Practice, which further enables pupils to receive the support they need to flourish in their learning.
16. Education authorities, the managers of grant-aided special schools and the proprietors of independent schools also have duties to make reasonable adjustments for their pupils under the Equality Act 2010. The reasonable adjustments duty under the 2010 Act is anticipatory in nature, requiring forward planning based on what may be needed for the child or young person. The Education (Disability Strategies and Pupils' Educational Records) (Scotland) Act 2002 also includes duties to develop and publish accessibility strategies to increase children and young people's access to the curriculum, access to the physical environment of schools and improving communication with pupils with disabilities.
17. The principles of safeguarding are also embedded throughout Curriculum for Excellence. This supports the development of children and young people's knowledge, skills and resilience to keep themselves safe, protect themselves and respond to a range of issues and potential risky situations arising throughout their lives. As such, safeguarding features strongly in children and young people's learning experience including leadership, values, vision, the curriculum, learning and teaching, positive relationships and building resilience.
18. The General Teaching Council for Scotland's Professional Standards aim to ensure and enhance public trust and confidence in the teaching profession. Teachers are expected

to hold professional values that promote the health and wellbeing of children and young people in their care and highlight the importance of positive and purposeful relationships to provide and ensure a safe and secure environment for all learners respecting individual difference. The Standard for Full Registration expects teachers to demonstrate professional skills that value all learners and ensure every learner feels welcome and included, teachers should also demonstrate an understanding of wellbeing indicators, childhood development and the impact of additional support needs.

19. Following the commitment in the 2020/21 Programme for Government, the Scottish Government published the revised [National Guidance for Child Protection in Scotland](#) on 2 September 2021. The guidance replaces the 2014 National Child Protection Guidance, and reflects current practice, policy and legislative developments. The guidance is “for all practitioners who support children and families whether they work in health, police, third sector, local authority or education settings¹. ” It describes the responsibilities and expectations of everyone who works with children, young people and their families in Scotland. All agencies and organisations working with children and young people are expected to have child protection procedures in line with local multi-agency protocols, based upon the National Guidance for Child Protection in Scotland.
20. The guidance strengthens and reaffirms the key role that the education workforce has in ensuring the safety and wellbeing of children. It highlights the additional and appropriate support that may be required by children and young people with disabilities as well as setting out the key messages and considerations for practice. The guidance emphasises that disabled children are children first and foremost, and that “their needs must be considered in the context of a holistic assessment of the child and the intersecting strengths and risks in their world.”
21. Following publication of the guidance, local area multi-agency partnerships have begun to consider how to adapt and change local processes, procedures and practice and then subsequently implement those adaptations and changes. A National Child Protection Guidance Implementation Group has been established for a period of 2 years to undertake detailed planning as a fuller picture of support needs for practitioners, managers and leaders emerges. It is expected that implementation of the Guidance will take 1.5 - 2 years. Membership of the group has been drawn from a range of statutory and third sector partners and national organisations. Education Scotland, the Association of Directors of Education in Scotland, and the Children with Disabilities Child Protection Network are represented.
22. The Scottish Government currently provides support for the Disabled Children Child Protection Network. This is an independent network for practitioners who work with and for disabled children and their families, and/or have responsibilities or special interest in child protection. The Network aims to provide practical peer support for members to access advice and acts to support local and national practice improvement in safeguarding disabled children and supporting their families.
23. I hope that the committee and petitioner find the information above helpful.