



Northern Ireland
Public Services
Ombudsman

Overview Report

the use of Restrictive Practices
in Northern Ireland Schools.

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The Role of the Ombudsman

The role of the Ombudsman is set out in the Public Services Ombudsman Act (Northern Ireland) 2016 (the 2016 Act). From 1 April 2018 the Ombudsman's role includes a discretionary power to undertake investigations on her Own Initiative, with or without a prior complaint(s) being made.

Under Section 8 of the 2016 Act the Ombudsman may launch an investigation where she has reasonable suspicion that there is systemic maladministration or that systemic injustice has been sustained (injustice as a result of the exercise of professional judgement in health and social care).

In order to make a determination on reasonable suspicion, the Ombudsman initially gathers information relating to an issue of concern. This may include desktop research, contact with the body concerned, the use of a strategic enquiry, consultation with Section 51 bodies, etc. The Ombudsman assesses this information against her published Own Initiative Criteria in order to decide whether or not to proceed with an Investigation Proposal.

Where the Ombudsman determines that an issue has not met her published criteria, but she considers that an overview of her actions in considering an investigation could provide learning, she may determine it appropriate to provide any relevant organisations with an overview report.

What is Maladministration and Systemic Maladministration?

Maladministration is not defined in the legislation, but is generally taken to include decisions made following improper consideration, action or inaction; delay; failure to follow procedures or the law; misleading or inaccurate statements; bias; or inadequate record keeping.

Systemic maladministration is maladministration which has occurred repeatedly in an area or particular part of the public service. Systemic maladministration does not have to be an establishment that the same failing has occurred in the 'majority of cases', instead it is an identification that an issue/failing has repeatedly occurred and is likely to occur again if left unremedied; or alternatively, an identification that a combination or series of failings have occurred throughout a process which are likely to occur again if left unremedied.

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KEY POINTS

- NIPSO maladministration investigations (resulting from complaints made by members of the public) have identified several recurring themes in relation to Restrictive Practices in schools, including:
 - Lack of appropriate records;
 - Lack of consultation/informing parents;
 - Lack of appropriate, up-to-date, policies and procedures; and
 - Lack of appropriate complaint investigations by Board of Governors.
- NIPSO's Own Initiative team has met with the Department of Education (the Department) and welcomes its current review of Restrictive Practices in schools, alongside its public commitment to engaging with schools and parents as part of this review. NIPSO also acknowledges the Department's recent publication of interim guidance.
- NIPSO acknowledges that recent reviews/policy statements of Restrictive Practices in Schools have been undertaken by other organisations, including British Association of Social Workers NI (BASW NI) and the Northern Ireland Human Rights Commission (NIHRC). NIPSO also recognises the continued work of Parent and Advocacy bodies, including the International Coalition against Restraint and Seclusion (ICARS). NIPSO concurs with both the findings and the effective recommendations being suggested.

In addition to the recommendations already made, NIPSO considers that:

- I. The Department should include a standard 'Incident proforma' within its revised/new Restrictive Practice Policies and Procedures, to be used by all schools;
 - II. The Department should establish set review periods of any revised/new Policies and Procedures;
 - III. The Department should include consideration of the publication of a standardised Quiet/Sensory room policy within its review of Restrictive Practices; and
 - IV. The Department should consider the introduction of a school summary notification to the Department/Education Authority where a complaint about the use of Restrictive Practice(s) is received by a school. This should contain a summary of the complaint, the outcome and any learning.
- NIPSO and the Northern Ireland Children's Commissioner (NICCY) initially agreed to consider working jointly to review Restrictive Practices in schools. However, the Department's ongoing review and the significant contributions and recommendations already made by other organisations, has meant that this issue has not met NIPSO's published Own Initiative criteria. Therefore NIPSO will not be undertaking an Own Initiative Investigation into Restrictive Practices at this time. NIPSO will however continue to monitor the Department's review and anticipated improvements, alongside any continuation of Restrictive Practice complaints received by the office. NIPSO also supports NICCY's continued research, and aim to provide any assistance or information required through participation on the reference panel.

BACKGROUND

In April 2019 the former Ombudsman, Marie Anderson, undertook a strategic enquiry into the use of Restrictive Practices¹ in Northern Ireland schools in light of:

- A pattern of Restrictive Practice complaints received by the office since education came within NIPSO's jurisdiction in April 2017 (see Appendix 1);
- Media interest and reviews (see Appendix 2) of the issue across the UK;
- Public concerns raised by other organisations, including the United Nations (UN) committee on the rights of the child² and Northern Ireland's Commissioner for Children and Young Person's (NICCY)³.

The strategic enquiry initially focused on the use of seclusion/isolation, following receipt of a complaint which identified a Primary School's practice of using what they termed to be a 'Quiet' room for disciplinary purposes. This is in opposition to the Special Educational Needs (SEN) Resource File⁴ which provides guidance in relation to the use of Quiet areas in a classroom, as opposed to a separate room, in particular for those pupils with Autism Spectrum

Disorder (ASD). The guidance states: *"The quiet corner is used as a 'chill out' area for those occasions when anxiety, frustration or anger becomes unmanageable... Many pupils with ASD lose their ability to communicate clearly when they are anxious or upset; the quiet corner is therefore an invaluable resource – they soon understand that **it is a safe place not a punishment...(my emphasis)"**.*

Queries were raised with the Department of Education (the Department), the Education Authority (EA), the Council for Catholic Maintained Schools (CCMS), the Controlled Schools Support Council (CSSCNI) and the Education Training Inspectorate (ETi) in order to identify if the practice of withdrawal, or use of a room for isolation/discipline was widespread. The responses to the enquiry identified that little to no regulation is undertaken in regard to the use of seclusion and/or restraint.

In respect of seclusion, the contacted bodies advised that, although they were aware of the use of 'Quiet' rooms as a measure to provide children with additional needs with a quiet/calm space, they were not aware of the practice of using rooms or areas for the purposes of seclusion/discipline. This is not the case in Great Britain, where The Department for Education (DfE) and the Schools Inspectorate, Ofsted⁵, have guidance for isolation and seclusion in schools. DfE's *'Behaviour and discipline in schools'*⁶ states:

1 Restrictive practices within this report refers to the use of restraint, seclusion, withdrawal and reduced hours.

2 [UK-CRC-Concluding-observations-2016-2.pdf](https://www.unicef.org/uk/press-releases/2016/02/2016-02-20-uk-crc-concluding-observations-2016-2.pdf) (unicef.org.uk)

3 <https://www.belfasttelegraph.co.uk/news/northern-ireland/schools-operating-secret-discipline-system-which-isnt-recorded-by-education-department-claims-childrens-commissioner-36001112.html>

4 Department of Education [Resource File - part 1](https://www.education-ni.gov.uk/Resource-File-part-1) ([education-ni.gov.uk](https://www.education-ni.gov.uk)) Pages 209 and 218.

5 [Environments where children can flourish: Ofsted guidance](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/421212/environments-where-children-can-flourish-ofsted-guidance.pdf) ([publishing.service.gov.uk](https://www.publishing.service.gov.uk))

6 [Behaviour and Discipline in Schools - A guide for headteachers and school staff final draft.docx](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/421212/behaviour-and-discipline-in-schools-a-guide-for-headteachers-and-school-staff-final-draft.docx) ([publishing.service.gov.uk](https://www.publishing.service.gov.uk))

'Seclusion/isolation rooms

42. Schools can adopt a policy which allows disruptive pupils to be placed in an area away from other pupils for a limited period, in what are often referred to as seclusion or isolation rooms. If a school uses seclusion or isolation rooms as a disciplinary penalty, this should be made clear in their behaviour policy. As with all other disciplinary penalties, schools must act reasonably in all the circumstances when using such rooms (see paragraphs 14 and 15). Any use of isolation that prevents a child from leaving a room of their own free will should only be considered in exceptional circumstances. The school must also ensure the health and safety of pupils and any requirements in relation to safeguarding and pupil welfare.

I am extremely concerned by the lack of acknowledgement and standardised policy in regard to the use of seclusion in schools in Northern Ireland, particularly as I have reviewed the apparent use of this practice within a number of complaints to my office. I recognise the desire to take a position that seclusion does not take place in our school settings, and that it does not have a place in the management of behaviour of children. I also welcome the statement in the Department's recent Interim Guidance that '*Children should never be locked in a room or left unaccompanied and must be able to leave when they want to.*'⁷ However in the absence of defining seclusion, and having a clear policy outlining what is and what is not permitted, the risk to the child is elevated further.

⁷ [DE Circular 13 of 2021 - Restraint and Seclusion.pdf \(education-ni.gov.uk\)](#)

In respect of restraint, the Department and the EA in their response, referred to significantly outdated policies, including a brief circular which was published in 1999⁸, alongside a subsequent 'model' policy developed in 2002. I am extremely concerned by the apparent lack of review and updates to these documents, and the Department's emphasis on the schools' ability in legislation to draw up their own disciplinary/restraint policies. A lack of monitoring or 'sign off' on individual school restraint policies, raises a significant risk that wide variation exists in how restraint is used, and recorded. This is further compounded by the lack of legislative obligation to record and/or report the use of restraint or seclusion.

Following consideration of the evidence gathered through the strategic enquiry, the former Ombudsman consulted with a number of investigatory/regulatory bodies, listed within Section 51 the 2016 Act⁹, including NICCY. The purpose of this consultation was to establish whether there were any planned investigations in this area or whether co-operation between NIPSO and any of the listed bodies would be beneficial. NIPSO and NICCY subsequently agreed to explore the possibility of working jointly to review the practice of Restraint and Seclusion. The intent was to initially gather further information in order to consider whether or not the issue met the criteria to propose an Own Initiative Investigation.

⁸ DE Circular 1999/09, "Pastoral Care:Guidance on the Use of Reasonable Force to Restrain or Control Pupils"

⁹ Section 51 lists a number of bodies which the Ombudsman may wish to consult and/or co-operate with.

Unfortunately, the former Ombudsman's departure on 15 July 2019 meant that this could only be progressed on a developmental basis until the appointment of an Acting Ombudsman, Paul McFadden, on 2 March 2020. Efforts to move forward on this matter, were subsequently further impacted by the COVID-19 pandemic. The former Acting Ombudsman wrote to the Committee for Education on 19 June 2020 to advise that consideration of any investigation proposal into Restraint and Seclusion was being put on hold to ensure the Education Sector were not burdened (directly or indirectly) at a time when they were in the very early stages of responding to the pandemic.

Given that a significant period of time has lapsed, I have subsequently reassessed the issue, taking into consideration the significant action which has taken place since the initial strategic enquiry. My assessment is laid out within this Overview report.

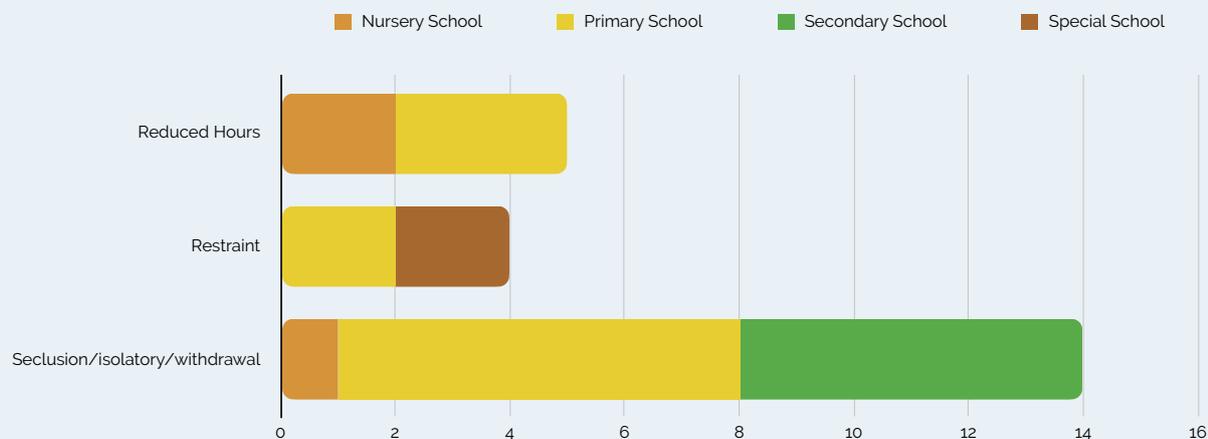
OMBUDSMAN CASES

Since education came within my jurisdiction in April 2017, four enquiries and 16¹⁰ complaints received by my office, included a concern, or multiple concerns regarding the use of Restrictive Practices in schools.

Although suggestive of an issue, these numbers should in no way be taken as indicative of the size of the issue. As seen in a number of complaints to my office (where the parent was inadvertently informed of incidents by the child, or a member of staff in an unofficial capacity), some parents may not always be aware of the use or extent of the use of Restrictive Practice(s) on their child. Others may initiate a complaint to the Board of Governors of the School, but may succumb to 'complaint fatigue' before bringing their complaint to my office, particularly if faced with a closed, defensive response to their concerns. As perseverance with a complaint to my office can often take stamina, forbearance and determination, the extent of an issue or concern is not always reflected in large volumes of complaints.

¹⁰ For the purposes of this report, where the incident(s) resulted in a complaint being opened against several bodies, for example the school, EA, CCMS, etc this has been counted as one complaint.

Restrictive Practice issues raised within NIPSO enquiries/complaints



The chart above provides a breakdown of the number of times Restrictive Practice concerns were contained within the 20 enquiries/complaints received by my office.

The concerns included:

- Reduction in school hours;
- Withdrawal from class;
- Isolation/seclusion to a separate area/room or through use of a privacy board¹¹; and
- Inappropriate use of restraint.

Not all enquiries or complaints brought to my office are progressed to investigation for a number of reasons:

- Some individuals may make enquiries and do not subsequently make a complaint;
- Some complaints do not meet jurisdictional requirements, for example, a complainant is required to first exhaust the bodies complaint procedure¹²; and

- Some complaints do not meet the procedural tests applied by my office, for example, consideration is given to the proportionality of undertaking an investigation (and the resources required), against the likely outcome.

Three of the Restrictive Practice complaints brought to my office resulted in an alternative resolution¹³, while four have resulted in an investigation. Repeat failings identified within these alternative resolutions/investigations include:

- Failure to appropriately record all instances of the use of a Restrictive Practice;
- Failure to appropriately inform and/or engage with the parent(s) in the use of Restrictive Practices;
- Failure to put in place review stages to monitor and adjust Restrictive Practices (reduction in hours/exclusion from trips);

¹¹ Typically a three-sided, free standing, collapsible structure which is placed on a child's desk to reduce distraction.

¹² Section 24 (1), however (2) allows for discretion to be exercised in special circumstances.

¹³ Section 10 of the 2016 Act allows NIPSO to use alternative methods to resolving complaints. Prior to, or during the early stages of, an investigation a body may agree/accept the issues raised and may offer an apology and/or other remedy, including improvements to processes and procedures. A full investigation is often deemed unnecessary in these cases.

- Failure to apply, or have in place, appropriate, up-to-date, Restrictive Practice policies;
- Failure to undertake an appropriate complaint investigation.

Subsequent recommendations from investigations generally included:

- Reviews and implementation of appropriate policies and practices – with a focus on record keeping and engagement with parents;
- Enhanced training to staff – with particular emphasis on record keeping and engagement with parents;
- A requirement for improved recording of decision making around the use and monitoring of Restrictive Practices.

These findings and recommendations highlight and support the need for the Department to introduce standardised Restrictive Practice policies, with an emphasis on positive behaviour support, alongside mandatory recording of all incidents. They further support the continued drive, from Parent Carer and Advocacy bodies, for improvement in parental involvement and communication, not only in the drafting of the new policies but also, on an individual level when Restrictive Practices are used. Several of the complaints I have received may have been avoided if the parents of the child had been informed and/or provided with an opportunity to engage with the schools from the outset.

The instances of complaints, across a number of different schools, and the repeated identification that the Board of Governors were often unable to adequately address the issues, also support recommendations that a monitoring role is required. Not only to ensure that schools have appropriate standardised policies in place, but also to ensure that they are consistently applied. It is of note that in response to my strategic enquiry, the Department and the EA advised they were unaware of any complaints relating to the use of seclusion.

I am concerned that these issues, alongside any subsequent learning, remain at school level. I consider that the Department should consider the notification of Restrictive Practice complaints further within its review.

Case Study 1 - Ombudsman criticises School's use of seclusion and restraint for six year old pupil.

Our report criticised a Primary School for the use of an 8 x 4 foot room for the purposes of seclusion for a six year old child. We found:

- A lack of records on how many incidents of restraint and seclusion had occurred;
- A failure to inform the child's parent of these incidents;
- No policy for staff on how the room should be used;
- A lack of training for staff looking after the child;
- Staff taking the child to the room failed to act in line with the school's Reasonable Force policy.

We further criticised the culture within the school that allowed an untrained classroom assistant, without challenge from any senior member of staff, to remove a child to a separate room, alone, away from their class, for not doing their work.

The Complaint

The child's parent contacted us as they were concerned about the way the school had dealt with their complaint.

The parent first learned about their child being secluded in a separate room when they went to collect the child from school. The parent was told by the child's classroom assistant that

the child's behaviour had been hard to manage that day, and that they had been taken to the room because they had refused to do their work. The parent asked more questions, and subsequently learned the room had also been used following an incident two months earlier.

The school caters for mainstream pupils, but also has a Learning Support Unit where children with special educational needs are taught. The room is within the Learning Support Unit. At the time, the child attended the main school.

The parent said there was no natural light in the room, and that the window in the door had been covered. Describing it as an 'empty storeroom', the parent said there was a lock on the door 'to stop children escaping'.

The parent was distressed to hear that their child had been secluded in the room, and believed that the school's use of the room was a serious child protection issue. The parent said that the way their child had been behaving in school was a 'cry for help', and that being sent to the room had left them traumatised. They stated they had to '*remove the doors from inside of my house...[the child] couldn't ever be alone, [the child] did not want to leave the house and stopped talking.*'

The parent explained that, at the time of the incidents, they were trying to arrange for an educational psychologist to see their child as they thought they should receive a special educational needs 'statement'. The parent complained that the school was not progressing this as quickly as it could.

The parent also claimed that the school took too long to deal with their complaint. The parent said the school told them the Acting Principal attempted to informally resolve their concerns. However, the parent claimed this was not discussed, and if it had been, they would not have agreed to informal resolution.

The parent said the school's response to their complaint showed that it had not taken the problem seriously, nor taken appropriate steps to rectify its mistakes.

The parent stated '*A child has a right to feel safe in school, I want school staff to be held to the same safeguarding standards as parents and health professionals.*'

The Investigation

Our investigation looked at the school's use of the room and incidents of restraint; the progression of the child's special educational needs assessment; and how it dealt with the parent's complaint.

We considered the school's policies and procedures, minutes from meetings of the Board of Governors, and its correspondence with the parent. We also contacted the Education Authority, and visited the school to interview staff and members of the Board of Governors.

We noted the Department of Education's guidance, and the school's policy on the use of reasonable force, which states that an appropriate risk assessment should be prepared when dealing with situations such as those faced by the school. This should include consultation with pupils' parents.

The school said that a risk assessment about the child's behaviour was carried out at some point, but could not find a copy of it in its records. It was also unable to provide any records of when the room may have been used for the child, or indeed any other pupil. The school also recalled incidents in which the child was restrained on the ground. However, due to the lack of any records, they were unable to identify when the incidents occurred.

The school said that it began to notice the child's behaviour worsen after they were given extra assistance in class. However, the two members of staff who helped the child told us that they had no previous experience with special educational needs (SEN) issues, nor were they given training on how to deal with the child and their needs.

The school denied that it failed to push for an assessment with an educational psychologist. It said that the assessment process was carried out in the normal manner, and the child's parent was kept informed of developments. It also said that it followed the correct complaint handling procedures, and denied that its investigation of the complaint was inadequate.

The Findings

Our report into the complaint was critical of the school's use of the room for seclusion; the lack of training for members of staff who looked after the child; and the school's poor record keeping.

The investigation found that at the time the incidents occurred, the school did not have a policy explaining to staff how and when the room should be used.

It also found that the staff involved failed to act in line with the school's Reasonable Force policy in relation to the room and incidents of restraint.

We criticised the school for failing to properly train the classroom assistants who assisted the child. Although we did not underestimate the staffing challenges the school faced, we believed that it should have provided the staff with a suitable training programme for the role they were being asked to carry out.

We further criticised the culture within the school that allowed an untrained classroom assistant, without challenge from any senior member of staff, to remove a child to a separate room, alone, away from their class, for not doing their work.

While we found that the child was taken to the room at least twice, we were prevented from finding out exactly how many other times they were secluded, or for how long on each occasion, due to the absence of any proper records.

Given the safeguarding and child welfare issues involved, we would have expected the school to have recorded when pupils were taken to the room and why, and when restraint was used and why. We found that this was a clear failure by the school. The lack of records does nothing to assuage the parent's distress that their child may have been taken to the room on other occasions, or the circumstances of any restraint.

We were also satisfied that the room had a lock on the door that the caretaker removed. Due to the conflicting evidence obtained, we were unable to conclude when the lock was removed, and if this was before the child was placed in the room. We were extremely concerned that one was present at all, and can see no clear explanation on what prompted the caretaker to remove the lock. We remained concerned that the removal of the lock was prompted by the complaint, and that the lock was present when the child was taken to the room.

We also concluded that the school did not carry out any risk assessments with either the child or their parent. This was contrary to Department of Education guidance and the school's policies. If the school had done so, it would have been able to better support the child's needs.

Significantly, we found that the parent was not informed about any of the incidents in which their child was taken to the room. We found this difficult to accept.

In considering the child's ability to understand what happened to them, especially given they were six years old and had additional needs, we found that the school did not have sufficient regard for their human rights, and in particular the principles of respect, dignity and autonomy.

In considering the complaint about how the school managed the child's educational needs, we were again hampered by a lack of records. Such records would have been invaluable to establish the patterns and escalation of the child's behaviour.

While we found the school failed in this regard, we also noted that it moved quickly in assessing the child's needs, with their 'statement' approved within roughly six months of the assessment. We therefore did not uphold this part of the complaint.

We criticised how the school dealt with the complaints about its actions. In particular, the failure to pass the first letter of complaint to the Chair of the Board of Governors. This meant the complaint took six months. We considered that it could have been dealt with more quickly.

We were also critical that the Board of Governors were not made aware of the complaint until after the Acting Principal had notified the Education Authority. As the complaint included allegations that concerned the Acting Principal, the Board of Governors should have been informed first to ensure independence. They should then have led the response to the complaint, including informing the Education Authority.

The Recommendations

Following our investigation, we recommended that the Board of Governors write to the parent apologising for the actions of the school and the impact its failures had on them and their child.

We also asked it to produce an action plan to carry out a number of changes. These included a commitment to training classroom assistants who looked after children with special educational needs, and to ensure staff were aware of the school's policies, as well as their record keeping responsibilities. We also asked the school to provide clearer information to parents and pupils on the school's policies and procedures, particularly in relation to its use of what it referred to as the 'Quiet Room'.

The school accepted the recommendations.

As a result of our investigation, we wrote to the Department of Education, the Education Authority, and other stakeholders in the education sector with our concerns about the issues raised by this investigation, and about the use of seclusion rooms throughout Northern Ireland.

Case Study 2 - Ombudsman criticises School's use of 'privacy board'

The Complaint

A parent raised a complaint with my office regarding a Primary School's use of a privacy board for their child. A privacy board is typically a three-sided, free standing, collapsible structure. The child described the one that they used as a cardboard box. The child told their parent that the teacher had told them it would help them stay focused. The child stated that it was used every day for some months and that they were not permitted to remove it during class.

The parent only became aware of the use of the privacy board when their child was no longer a pupil at the school. The parent believed that as a result of the experience the child has developed anxiety and mistrust of teachers, for which they now receive counselling.

The Findings

Our investigation found:

- There was no record in the notes of the parent/teacher consultations or in the pupil's end of year report of discussion about the use of the privacy board with the parents, or about the pupil having been kept behind at break or lunch times to complete work;
- There was no record of advice having been sought from the SENCO or the SENCO giving any advice, assisting with the assessment of the

pupil's needs, or recommending the use of the privacy board;

- There was no specific plan in place with regard to the use of the privacy board and the rationale for its use with the pupil was not documented. In addition there was no record to indicate how the use of the privacy board was monitored and evaluated.

The Recommendations

We identified that both the complainant and their child suffered an injustice as a result of the failings identified. We made a number of recommendations including an apology to the complainant and the child as well as a number of service improvement recommendations.

In particular we asked the Board of Governor's to:

- Review the information that is captured at parent/teacher consultations. Continuity between teachers and communication with parents might be better achieved if standardised documents were introduced;
- Review how decisions are made about classroom interventions such as the use of the privacy board and how the rationale for decisions is captured; and
- A review of how interaction between teachers and the SENCO is recorded and communicated to parents.

Case Study 3 – Nursery school failed to communicate with parent over restricted hours for pupil

The Complaint

A parent raised a complaint with my office regarding a Nursery School. The parent explained that their child's attendance was restricted to one hour per day over an extended period of time. The parent complained that they frequently asked for an extension, however, the school did not organise a meeting, and provided no formal reason for the restriction.

The Findings

My investigation established that there was no identified maladministration to lead to the questioning of the discretionary decision to restrict the child's restricted hours.

However, my investigation established that the school failed to communicate to the parent how it planned to assess their child's response to strategies set in place to extend their hours of attendance.

It also identified that the school failed to keep records of its decision-making in relation to the continued restriction of hours during a three month period.

I considered that the failures identified maladministration, causing the complainant to experience the injustice of uncertainty as to the school's decision making process; the progress their child was making; and in understanding the steps being taken so that their hours could be extended.

The Recommendations

I recommended that the Board of Governor's issued the parent and their child with an apology, and:

- provide training to relevant staff on the Code of Practice, specifically the importance of maintaining a partnership with the child's parent(s), and good record keeping;and
- introduce guidance on the restriction of hours within the Schools SEN policy to include, ensuring that there is scheduled monitoring and reviewing of restrictions, and ensuring that adequate records of decisions are kept.

REVIEWS AND PUBLICATIONS

Restrictive Practices first came to the attention of the former Ombudsman following receipt of a number of significant complaints, which referred to the inappropriate use of restraint and/or seclusion. At that time, the Children and Young People's Commissioner Scotland (CYPCS), Bruce Adamson, had recently published his investigation report 'No safe Place: Restraint and Seclusion in Scotland's Schools'. This report mirrored the concerns initially raised by the responses to the strategic enquiry.

Similar to Northern Ireland, the report identified that concerns about restraint and seclusion were raised with the Scottish Government by the UN, by civil society and by parents and carers of children with disabilities and/or additional support needs. As a result, a revised version of the Scottish Guidance was issued in 2017. The policy states:

"Any incident where a decision is made to physically intervene must be recorded and monitored. Details on how this should be undertaken should be included in an education authority's policy on de-escalation, physical intervention".

However, like Northern Ireland, the CYPCS report highlights concerns that the Scottish Government does not currently undertake a monitoring role. The report states that it is therefore 'not clear whether policies are in place; whether they reflect children's rights; and whether they provide clearly that restraint and seclusion should be a last resort. Furthermore, there is no way to know with any certainty how

many children are being restrained or secluded in our schools, how frequently this is happening or whether children are being injured or distressed as a result.'

In light of these considerations, the report makes several recommendations, including the publication of national guidance and policy on restraint and seclusion, with the involvement of children and young people. Further recommendations included the recording and reporting of all incidents of restraint and seclusion, alongside a requirement for the Scottish Government to analyse and publish data on the same.

Following on from the CYPCS report, recent reviews and policy statements in Northern Ireland have made similar recommendations. BASW NI released a Policy statement supporting the introduction of Departmental Guidance and mandatory recording and reporting of all incidents of Restrictive Practice and seclusion, with records shared with parents/guardians of the children or young people involved, as well as the School Board, EA, the Department, and NICCY.

The Policy statement also called for mandatory training for all staff working directly with children and young people with additional needs, recommending a focus on positive behaviour strategies, with restraint and seclusion used only as a last resort.

The NIHRC also submitted a report to the Committee in February of this year, highlighting concerns with the use of Restrictive Practices, again suggesting similar recommendations to that of CYPCS and BASW NI, including:

- Mandatory recording of every incident of restraint and seclusion, with the Department collecting and publishing data so that its frequency and impact can be monitored;
- The introduction of comprehensive guidance on the application of Restrictive Practices, including seclusion, in an education setting;
- The introduction of specialised guidance on alternative approaches and interventions for children and young people with special educational needs and disabilities in school settings, developed in consultation with relevant stakeholders;
- Statutory training for staff, with emphasis that restrictive practices should be used as a last resort.

NICCY's recent rights based review of Special Educational Needs provision on Mainstream Schools *'Too little, too late'*¹⁴ also included a recommendation that the Department:

...should undertake an urgent review regarding potentially unlawful informal or unregulated exclusions and issue comprehensive guidance to schools and the EA. This guidance should include formal recording of practices such as:

- a. sending children home early from school;*
- b. placing children on reduced school hours outside the statutory framework and guidelines for school exclusion;*
- c. informally excluding children from participation in school activities such as classroom based-activities, school trips, school plays and school photos;*
- d. placing children in isolation or*

segregating them from peers; and

- e. where children are 'managed out of school' (told to find another school to avoid expulsion).*

ETI must include the reviewing of these records as part of the school inspection process.'

Parent and Advocacy groups, including ICARS, Positive and Active Behaviour Support Scotland (PABBS) and Parent Action, have also called upon the Northern Ireland Assembly to make legislative change, with the chair of the Committee for Education, Chris Lyttle, putting forward a motion in July 2020.

ICARS have also recently published a call for evidence on the use of restraint and seclusion in schools¹⁵. They advise that details, reports and evidence provided by families will be collated into a report that can then be shared to inform the lived experience of children and young people around the use of restraint and seclusion in Northern Ireland.

I fully support and concur with the work undertaken by these organisations and the clear and consistent push for the Department to introduce standardised policies covering the use of Restrictive Practices; mandatory recording and reporting of all incidents; and increased parental involvement/communication.

In addition to the recommendations already made, I consider that:

- I. The Department should include a standard 'Incident Pro forma' within

¹⁴ [niccy-too-little-too-late-report-march-2020-web-final.pdf](#)

¹⁵ [Northern Ireland / Ireland call for evidence on the use of restraint and seclusion in schools Survey \(surveymonkey.com\)](#)

its revised/new Restrictive Practice Policies and Procedures, to be used by all schools to record incidents where Restrictive Practices are used/considered. The Pro forma should include sections for de-escalation techniques to ensure an emphasis on interventions that are therapeutic in outcome, and sections for parental/guardian and child views. The use of a pro forma will aid a standardised approach to mandatory recording and reporting, allowing for the recommended monitoring of the frequency and impact of these practices.

- II. The Department should establish set review periods of any revised/new Policies and Procedures, in order to ensure that an unacceptable 20 year period does not again lapse before consideration is given to any required adjustments.
- III. The Department should include consideration of the use of Quiet/Sensory rooms within their review of Restrictive practices. Consideration should be given to the introduction of a standard policy on the use of these rooms to ensure they are not used inappropriately.
- IV. The Department should consider the introduction of a school summary notification to the Department/EA where a complaint about the use of Restrictive Practice is received by a school. This should contain a summary of the complaint, the outcome and any learning. The aim of this notification is to not only alert governing bodies to arising issues, but also to use the information as an opportunity to gather and disseminate learning and/or best practice across all schools, where appropriate.

I welcome the Department's announcement that it is considering the issues of restraint and seclusion, in partnership with stakeholders. My Own Initiative team met with the Department on 9 February 2021 to discuss the review in further detail.

The Department advised that it has set up a Working Group with Departmental policy officials, ETi, EA, and officials from the Departments of Health and Justice. The Working Group will examine:

- 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.

The Department will also establish a Reference Group, with membership drawn from a range of statutory, advocacy and professional bodies to work alongside the Working Group. A commitment has also been made to engage with parents/carers, children and young people, school staff and their representatives, Governors and other organisations with an interest in this area.

I acknowledge the steps already taken by the Department, aiming to make improvements in the use of Restrictive Practice in schools. I consider it vital that the Department takes real account of the publications and recommendations already available, both within Northern Ireland and Great Britain.

CONSIDERATION OF AN OWN INITIATIVE INVESTIGATION

I have given extensive consideration to the concerning issue of the use of Restrictive Practices in Northern Ireland Schools, and I remain acutely aware that significant improvements are required.

However in order to propose and commence an Own initiative Investigation I must have regard to my published Own Initiative criteria, which states I must meet the fourth criteria, and one or more of the following:

1. The issue of concern has been identified by the Ombudsman to be one of public interest.
2. The issue of concern affects a number of individuals or a particular group of people.
3. *The investigation has the potential to improve public services.*

AND

4. *The Ombudsman considers the investigation of the chosen issue is the best and most proportionate use of investigative resources.*

Taking into account the actions completed, commenced, and planned to date, including:

- The Department's review of restraint and seclusion, and its public commitment to making improvements;
- The Department's recent publication of interim guidance to schools while the review is ongoing;
- The reviews of other organisations, including BASW NI and NIHRC which provide significant insight into the current issues with Restrictive Practices

- in NI Schools, and suggest positive and effective recommendations;
- The considerable work and ongoing input of Parent and Advocacy groups, including ICARS and their recent call for evidence;
- NICCY's continued research, with my Office's inclusion as a reference partner; and
- The continued support for legislative change by the Committee for Education.

I consider it likely that an Own Initiative investigation into this issue would duplicate the work and recommendations already underway, and would therefore not be the best and most proportionate use of investigative resources. As a result, I am unable to meet the criteria to propose and/or commence an Own Initiative Investigation.

I will however continue to monitor the Department's progress and improvements alongside any continuation of Restrictive Practice complaints being received by my office. If required, I may choose to reassess the issue in the future.

While I have determined that an investigation by my Office would not be an effective use of my resources at this time, I fully support NICCY's decision to continue its review, and aim to provide any assistance or information should it be required.



MARGARET KELLY

Ombudsman

May 2021

Appendix 1

Summary of the content of Restrictive Practice Enquiries/ Complaints received by NIPSO

Case	Complaint Detail	School
1	Child was repeatedly restrained. Parent was not appropriately consulted. Lack of records.	Special school
2	Child placed in Quiet/seclusion room and restraint used on a number of occasions. Parent was not appropriately consulted.	Primary School
3	A 'privacy board' was used for a child during class. Parent was not appropriately consulted. Child also kept behind at break and lunch.	Primary School
4	Child was locked within a store cupboard.	Secondary School
5	Child locked in a room. (Parent did not want to complain directly to school).	Primary School
6	Child was restrained, had reduction in hours and had been placed in isolation. Inappropriate records were kept and Parent was not appropriately consulted.	Primary School
7	Complaint in regard to teacher treatment of child including use of restraint.	Special School
8	Child taken out of class to 'isolation room'. Parent was not appropriately consulted.	Secondary School
9	Child withdrawn from class which involved being excluded to a store room.	Secondary school
10	Child put in isolation. Lack of records and failure to apply Positive Behaviour Management policy.	Primary School
11	Child excluded from school activities.	Primary School
12	Child kept in over break and lunch.	Primary School
13	Child was withdrew from classes, and excluded from trips.	Secondary School
14	Child was excluded from school activities.	Secondary School
15	Child excluded & withdrawn from class.	Secondary School
16	Child withdrawn from playtime. Parent not appropriately consulted.	Nursery School
17	Child was not permitted to start at the same time as peers missing out on 15 minutes of school every day. Also picked up 15 mins early, potentially missing out on 30 minutes a day.	Nursey School
18	Child had classroom time reduced by 15-20 minutes.	Nursery School
19	Child's school day was reduced to 1 hour per day in school.	Primary School
20	Child's school day was reduced.	Primary School

Appendix 2

Publications (UK Wide) considered by NIPSO

Submission to the Northern Ireland Committee for Education on the Human Rights implications of Current Guidance relating to the Use of Restrictive Practices in Schools, NIHRC February 2021

[NIHRC Restrictive Practices and Seclusion.pdf](#)

'Too little, Too late' A Rights based review of Special Educational Needs Provision in Mainstream Schools, NICCY March 2020

[Review of SEN Provision - 'Too Little, Too Late' \(niccy.org\)](#)

Foundation 'Reducing Restrictive Intervention of Children and Young People – Case Study and Survey results' The Challenging Behaviour foundation and PABBS, January 2019, follow report February 2020

[reducingrestrictiveinterventionofchildrenandyoungpeoplereport.pdf \(challengingbehaviour.org.uk\)](#)

[rreportfinal.pdf \(challengingbehaviour.org.uk\)](#)

Restraint and seclusion of children and young people in schools and educational facilities – BASW NI 28 November 2019

[Restraint and seclusion of children and young people in schools and educational facilities—BASW NI Policy Statement.pdf](#)

'Review of school exclusion' Edward Timpson CBE 7 May 2019

[Timpson Review of School Exclusion \(publishing.service.gov.uk\)](#)

'No safe place: Restraint and Seclusion in Scotland's Schools' The Children's and Young Persons Commissioner Scotland, 13 December 2018

[No-Safe-Place.pdf \(cypcs.org.uk\)](#)

'The Use of seclusion, isolation and time out' BILD Centre for the Advancement of Positive Behaviour Support, December 2015

[CAPBS-Information-on-use-of-seclusion-isolation-and-time-out.pdf \(kelsi.org.uk\)](#)

'Positive and Proactive Care: reducing the need for restrictive interventions' Department of Health, April 2014

[Positive and Proactive Care: reducing the need for restrictive interventions \(publishing.service.gov.uk\)](#)

'*Children's Views on Restraint*' Dr Roger Morgan OBE, Children's Rights Director for England, Ofsted (2004 and follow up report 2012)
[Childrens-views-on-restraint-2012.pdf \(crisisprevention.com\)](#)

Special Inspection – implementation of Safeguarding Arrangements Pembrokeshire County Council – Wales Audit Office December 2012

Care and Social Services Inspectorate Wales Joint investigation into the handling and management of allegations of professional abuse and the arrangements for safeguarding and protecting children in education services in Pembrokeshire County Council.
[Microsoft Word - 572A2012_PembCC_Special_Inspection_Safeguarding_Arrangements_Final \(audit.wales\)](#)

Appendix 3

Current Department Guidance referring to Restrictive Practices, reviewed by NIPSO

- 'A discipline strategy for Schools' published in **1998**
[six-pack-promoting-gd-behaviour-a-discip-strat-for-schs.pdf \(education-ni.gov.uk\)](#).
- 'Pastoral care in Schools: Promoting positive behaviour' published in **2001**
[Pastoral care in schools \(education-ni.gov.uk\)](#);
- DENI Circular 1999/9 'Pastoral Care: Guidance on the Use of Reasonable Force to Restrain or Control Pupils.' published in **1999**
[Circular 1999/09 - Use of reasonable force \(education-ni.gov.uk\)](#);
- 'Towards a Model Policy in Schools on the Use of Reasonable Force' published in **2002** as a result of the 1999 circular ([model policy for schools drawn up by the inter-board/CCMS/CCEA](#))
[Reasonable Force Document \(education-ni.gov.uk\)](#)
- 'Resource File for Special Educational Needs The Autistic Spectrum'
[Resource File for schools to support children with special educational needs | Department of Education \(education-ni.gov.uk\)](#)
- 'Regional Policy Framework on the use of Reasonable Force/ Safe Handling' May **2004**
Regional policy framework on use of reasonable force (education-ni.gov.uk)
- Department Interim Guidance published in May **2021**
DE Circular 13 of 2021 - Restraint and Seclusion.pdf (education-ni.gov.uk)



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