NICCY Right’s Based Review on The Use of Restraint and Seclusion in Educational Settings

Advisory Group

April 2021

Background to NICCY

The Northern Ireland Commissioner for Children and Young People (NICCY) was established under the Commissioner for Children and Young People (Northern Ireland) Order 2003 (hereafter ‘the Order’).

Article 6(1) of the Order establishes the Commissioner’s principal aim as: “to safeguard and promote the rights and best interests of children and young persons”. Article 7 of the 2003 Order outlines the duties of the Commissioner, including:

* To keep under review the adequacy and effectiveness of law, services and practice relating to the rights and welfare of children and young persons.
* To advise government and relevant authorities on matters concerning the rights or best interests of children and young persons.

Articles 8-15 outline the Commissioner’s general powers, and these include her powers to:

* Undertake, commission or provide financial or other assistance for, research or educational activities concerning the rights or best interests of children and young persons or the exercise of her functions.
* Issue guidance in relation to any matter concerning the rights or best interests of children or young persons.
* Compile information, provide advice and publish any matter (including research, educational activities, investigations and advice) concerning the rights and best interests of children and young persons.

NICCY’s remit is children and young people up to 18 years or up to 21 years where they have a disability or are care experienced. NICCY seeks to ensure that all work, including commissioned research, incorporates the views and experiences of children and young people and strengthens their voice in debates about matters affecting them, including by capturing the views of their parents/carers. The United Nations Convention on the Rights of the Child (UNCRC) informs the work of NICCY.

**Background to The Use of Restraint and Seclusion within Educational Settings**

Every 6-8 years the UK and devolved governments’ compliance with the UN Convention on the Rights of the Child is examined by the Committee on the Rights of the Child In its fifth periodic review of the UK, the Committee on the Rights of the Child urged the State to “ensure that restraint is used against children exclusively to prevent harm to the child or others and only as a last resort.[[1]](#footnote-1)

In its 2016 Concluding Observations on the fifth periodic report of the UK, the UN Committee on the Rights of the Child expressed its concern about, “The use of restraint and seclusion on children with psycho-social disabilities, including children with autism, in schools.”

The Committee recommended the UK to abolish restraint for disciplinary purposes and ensure that it is used against children exclusively to prevent harm to the child or others and only as a last resort. Furthermore, it urged the abolition of “isolation rooms” and also recommended that the State should “Systematically and regularly collect and publish disaggregated data on the use of restraint and other restrictive interventions on children in order to monitor the appropriateness of discipline and behaviour management for children in all settings, including in education, custody, mental health, welfare and immigration settings.”

In its Concluding Observations (published in August 2017), the UN Committee on the Rights of People with Disabilities urged the UK to: “Adopt appropriate measures to eradicate the use of restraint for reasons related to disability within all settings”, and “set up strategies, in collaboration with monitoring authorities and national human rights institutions, in order to identify and prevent the use of restraint for children and young persons with disabilities.”[[2]](#footnote-2)

It is in the context of these critical recommendations that NICCY plans to carry out a Children’s Rights Based Review of the use of Restraint and Seclusion in Educational Settings. We are interested in gathering evidence about the extent of use of restraint and seclusion in educational settings and the impact it has on children and young people. We also intend to review current reporting and recording mechanisms to ensure that the appropriate policies are in place to record and monitor all instances of restraint and seclusion in educational settings, ensuring that the child and/or young person’s best interests are always realised and achieved. The aim of the review is to ensure that there is a framework by which restraint is only used as a last resort and only when the child or others are at risk and that isolation is never used.

**NICCY is establishing an Advisory Group to inform its Review on the Use of Restraint and Seclusion within educational settings.**

**The Role of the Advisory Group**

The role of the group is essentially advisory in nature. Specifically, it will:

* Review and finalise the Terms of Reference for the Review.
* Provide information and advice on the use of restraint and seclusion in educational settings to inform research instruments and review findings.
* Assist in the interpretation of data collated and the emergent report recommendations.
* Review and provide feedback on draft reports.

Ultimate responsibility for the right based review of the use of restraint and seclusion in educational settings will be with NICCY. However, the Advisory Group will play a valuable and important role in supporting NICCY in relation to this work.

It is the expectation of NICCY that all Advisory Group members will, to the best of their ability and in a spirit of co-operation, contribute to the tasks outlined above.

Discussions, decisions and preliminary findings will be kept confidential unless prior agreement has been given to share with appropriate agencies.

Membership of the advisory group will be via invite only and will be restricted to one person per organisation unless otherwise agreed by the Chair.

**Frequency of Meetings**

NICCY is mindful that Advisory Group members are giving their time and advice on a voluntary basis, and so will limit the number of meetings of the Group.

The Advisory Group will meet on two/three occasions during the lifespan of the project, noting that the deadline for the work is November 2021. The first Advisory Group meeting is to be held on the **5th May 2021**. Future dates will be agreed at the first Advisory Group meeting.

Members may receive additional communications for their consideration via email between meetings.

**Liaison Person**

The liaison person for this project is Fiona Cole. Her contact details are: Fionac@niccy.org.uk

1. CRC/C/GBR/CO/5, ‘UN CRC Committee Concluding Observations on the Fifth Periodic Report of the UK of Great Britain and NI’, 12 July 2016, at para 40. [↑](#footnote-ref-1)
2. CRPD/2017/CO [↑](#footnote-ref-2)