



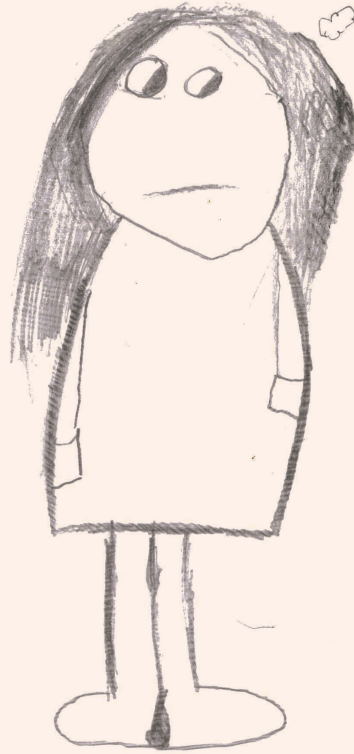
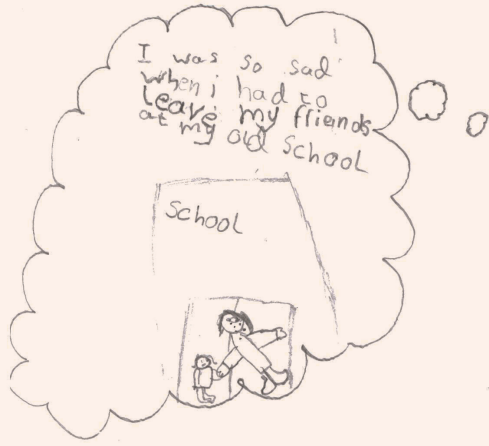
Bullied  
by a teacher



# NEITHER SEEN NOR HEARD

**Rights Based Review on the  
Use of Restraint and Seclusion  
in Educational Settings**

Main Report  
December 2021



Drawing by a sibling (aged 7) of a child who experienced restraint and seclusion in a mainstream school.

## Acknowledgements

We would like to thank the following people; without their support this report would not have been possible.

The Restrictive Practices in Educational Settings Advisory Group who provided important input at key points as the Review was undertaken, and whose advice and support has been invaluable.

The wide range of professionals and practitioners working with children in educational settings who engaged with NICCY through correspondence and focus groups including: Principals/Vice Principals, Educational Psychologists, SENCOs, Allied Health Professionals, Trade Unions, Academics and Voluntary and Community Sector Organisations.

We thank the advisory group who guided this work and supported the roll out of the surveys, focus groups and interviews, and we are grateful to the Department of Education who supported the Parent Engagement project.

We thank St Mary's University College and Stranmillis University College for providing information on their courses and the Education Authority for meeting with NICCY regarding our Review.

Thank you to all participants who engaged with our research including the regional survey on restrictive practices in all educational settings.

Last but certainly not least, the parents and carers across Northern Ireland who gave up their time to share their experiences and convey the impact that the use of restrictive practices in educational settings had on their children. A separate thank you must go to the organisations that facilitated and supported the parent engagement; International Coalition Against Restraint and Seclusion (ICARS), Mencap NI, Parent Action and Parenting NI.

## Artwork

### Front Cover:

The drawings have been provided by a boy aged 11, who experienced seclusion in a mainstream high school, the pictures convey his thoughts and feelings. The artist sketch was created for a boy aged 6, who experienced multiple instances of both restraint and seclusion in a mainstream primary school.

### Inside Front Cover:

The drawings came from a girl aged 7, who's sibling experienced multiple instances of both restraint and seclusion in a mainstream primary school. At the age of 4, she had to move school because of what her sibling experienced. The picture depicts her feelings drawn in the thought bubbles. She too suffered trauma in the aftermath as a result of having to move schools.

### Back Page:

The drawing is from a child aged 10 who moved school after experiencing multiple instances of restraint and seclusion. He says it reflects how happy he is in his new school, he laughs in this school and he loves to laugh. He feels safe there.

## Poems

**Hello, I am Harry**, was a poem written for a child who is non-speaking and had experienced multiple instances of mechanical and physical restraint in a Special School at the age of five.

### Inside Back Cover:

This poem was written by a parent of a child who experienced multiple instances of restraint and seclusion in mainstream primary, High School and Education Other Than At School (EOTAS) settings.

**'Hello, I am Harry'**

I am here,  
You might not see me,  
You might miss who I am,  
But,  
I am here.

I may not look at you,  
But I see you,  
I see all,  
And,  
Unlike you,  
I feel all that I see,  
I feel it with my mind.

I hear everything,  
You don't understand how,  
But,  
I hear it all,  
Even the faintest sound,  
I hear you when you talk,  
I hear you louder when you ignore who I am.

If you hurt me I will feel pain,  
If you restrain me I will feel imprisoned,  
If you shout at me I will feel fear,  
If you ignore me I will feel loneliness.

I am here,  
Within myself,  
Look carefully,  
You will see me,  
You will feel me,  
Only when you do this,  
Will you start to understand me,  
You will notice me.

I am here,  
I am real,  
I hear all,  
I feel all,  
I'm alive,  
I am a person,  
I am Harry

*Gerry Dunne, 2018*

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## Foreword



*“But if you give her a chance you will soon see her soar”*

I know that people choose a career in education to support all children to learn and reach their potential. Educational staff are part of the vanguard of children’s rights and defend them every day.

Yet here we are with heart-breaking examples of where this has gone wrong and where the education system has let down children, families, and their own staff. I do believe it is the system that is at fault, not individual professionals, and schools.

There are too many examples in this report that challenge the assertion that inappropriate use of restraint and any use of seclusion are “isolated” incidents. However, without proper monitoring we will never know the extent of such behaviours or what type of training and support educational settings require. Children, particularly those with additional needs, may manifest their distress in aggressive and violent behaviours that put them and others at immediate risk and of course this needs to be prevented and stopped, sometimes physically.

What we discovered is that schools and education settings are operating in a vacuum and reported that they frequently found themselves alone when implementing such methods which has allowed disturbing practices to continue. Additionally, parents were left in the dark about what was happening to their child and often unable to understand why they were so distressed.

I am genuinely lost for words that the guidance, training, reporting, recording and communication with parents and carers is not clearly laid out in a mandatory framework. I am struggling to understand why in the last two decades this situation has not been remedied. Doing it will keep children and young people safe but will also protect education staff. Surely to goodness everyone will benefit.



As you read the report and particularly the testimonies of parents you will find examples of where we have stopped seeing the child and only see problem behaviours that must be controlled. By doing this, children find themselves in a never-ending cycle. All education settings must be able to promote the best interests of all children in their care and this can only be achieved by seeing the child and their behaviours as distress rather than a problem.

The report clearly lays out the trauma that children experience when inappropriately restrained, or placed in isolation - a practice which should never happen. But also, it outlines the effect on the adults, not only school staff, but parents are particularly impacted. As parents, the number one thing that we know we have to do is keep our children safe. We have heard from so many parents who were unaware of what their child was experiencing on a regular, if not daily, basis. They feel that they have let their child down and they have, in some cases, been reliving their children's experience every day since. I hope that this Review sends a clear message to those parents – it is not your fault and we will work with you to make sure that you and your children recover and that other children do not have the same experience. Never again will parents be unaware of what is happening to their children in school or anywhere else.

As you would expect from a rights-based review we have articulated the rights standards that we are using to assess the system and identify reform. I have chosen one article from the UNCRC to highlight:

Article 23 (1) States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

Every educational setting must ensure that each and every one of their actions ensures a full and decent life and promotes the dignity of children who have additional needs.

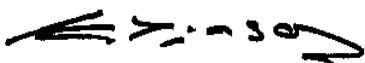
I do not under-estimate the enormous challenges of ensuring that every child in a class or school receives the educational experience that they have a right to, when some children display distressed behaviours that impact on others. The broader education system has a responsibility to support schools and all education settings to ensure that they meet the rights of all the children in their care and hold them to account when they fail to do so.

It is only by ensuring that there is an effective partnership between the education system, schools, parents, carers, and children that this will be achieved. Nothing less will do.

This Review has been a long time coming. I do not want to rehearse a range of reasons why (and there are many) but I do want to say we were determined that this work would complement and not duplicate that of others. Also, that we had the time and resources needed to do it properly. I believe that 'Neither Seen Nor Heard' does that. It lays out a clear roadmap as to what needs to happen to ensure that our education system is rights compliant when it comes to restrictive practices.

I want to thank the Advisory Group who guided this work and supported the roll out of the surveys, focus groups and interviews. We are grateful to the Department of Education who supported the Parent Engagement project. NICCY staff showed enormous dedication and commitment during the most challenging of times as a result of this Pandemic. I am so thankful to be working with each and every one of you.

This Review would not have been possible without the parents who have relentlessly fought to have this issue properly addressed as well as those who have shared their experiences with us. We are mindful of the trust that you have placed in NICCY and we will mirror your resilience not to let you down.



**Koulla Yiasouma**  
**Northern Ireland Commissioner for Children and Young People**

## **Executive Summary and Recommendations**

The Northern Ireland Commissioner for Children and Young People (NICCY) is the Independent Human Rights Institution established in 2003 under the 'Commissioner for Children and Young People (Northern Ireland) Order 2003'. NICCY's mission is to 'safeguard and promote the rights and best interests of children and young people'. NICCY has a range of statutory duties and powers in carrying out these functions. NICCY's vision is a society where the rights of all children and young people are respected and realised.

The work of the Office is guided by the United Nations Convention on the Rights of the Child (UNCRC) as well as relevant domestic, national and international legislation and conventions. The UNCRC General Principles underpin NICCY's work and these relate to non-discrimination (Article 2), best interests (Article 3), survival and development (Article 6) and the voice of the child (Article 12).

This report presents the findings of a Rights Based Review of the use of Restraint and Seclusion in Educational Settings in Northern Ireland.

### **Aims of the Review**

The use of restraint and seclusion (collectively known as restrictive practices) on children and young people in educational settings is an extremely grave matter, engaging children and young people's human rights. Recording of incidents of restrictive practices is recognised internationally as a critical means of ensuring that practice is rights-compliant and appropriately monitored and scrutinised. Currently, without regional policy that includes guidelines and a rights-based training framework, restrictive practices risk being misapplied, resulting in traumatic impacts on the children experiencing it.

The aims of this Review were to:

1. Gather the experiences of children and young people (through their parents and carers) on the use of restraint and seclusion within educational settings and the impact it has on them;
2. Highlight shortcomings in regional policy, monitoring, reporting/recording, decision making and training on the use of restraint and seclusion;

3. Identify good practice and produce a range of recommendations directed at key government departments and agencies for improving policy guidance and legislation; and
4. Identify guidance on the use of deprivation of liberty (DoL) within an educational setting.

### **Committee on the Rights of the Child Concluding Observations**

In 2016, the Committee on the Rights of the Child, in reviewing the UK periodic report on its implementation of the UNCRC, made the following Concluding Observations concerning the use of restraint and seclusion on children in schools:<sup>1</sup>

- Abolish all methods of restraint against children for disciplinary purposes in all institutional settings, both residential and non-residential, and ban the use of any technique designed to inflict pain on children.<sup>2</sup>
- Ensure that restraint is used against children exclusively to prevent harm to the child or others and only as a last resort.
- 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.
- Ensure that corporal punishment is explicitly prohibited in all schools and educational institutions and all other institutions and forms of alternative care.
- Abolish the use of isolation rooms.

The 2016 concluding observations from the UN Committee on the Rights of the Child included concerns about the use of restraint and seclusion on children with psycho-social disabilities, including children with autism, in schools.<sup>3</sup> Therefore, the report has a particular focus on those children and young people with additional needs and/or special educational needs (with or without a statement) in all educational settings.

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<sup>1</sup> CRC/C/GBR/CO/5 (2016)

<sup>2</sup> *Ibid.* Para. 40. With reference to the Committee's General Comment No. 13 (2011) on the right of the child to freedom from all forms of violence, and to target 16.2 of the Sustainable Development Goals.

<sup>3</sup> *Ibid.* Paragraph 38 (d)

## Definitions of Restraint, Seclusion and Restrictive Practices

In the absence of definitions and for the purposes of this review, we have used the definitions outlined below.

### Restrictive Practices

Restrictive practices (also known as restrictive interventions) are those that intentionally limit a person's freedom of movement or function. This can be through restraint (mechanical, physical or chemical – with or without the use of force), or seclusion.

### Restraint

The elements of restraint being considered within this Review are mechanical, and physical, as chemical restraint is not used in educational settings.<sup>4</sup>

- **Mechanical restraint** is the use of a device, equipment, or other tool for compelling, controlling, or subduing the bodily movements of the person to whom such mechanical restraint is administered.
- **Physical restraint** is the use of direct physical contact by one or more persons for the purpose of compelling, controlling, preventing, or subduing the bodily movements of the person being restrained.
- **Chemical restraint** is the use of substances as ingested, inhaled, or injected for the purpose of compelling, controlling, or subduing the behaviour of the person to whom the medication is administered, regardless of whether such substance has been medically prescribed for the treatment of formally diagnosed physical or mental illness.

### Seclusion

Seclusion is the placing and keeping of a person (alone) in a room or other space from which they are unable to leave. Inability to leave can arise from exits being locked or being otherwise obstructed; inference, instruction, or threat to the secluded person not to leave; belief on the part of the secluded person that they are being stopped from or are otherwise not allowed to leave, reluctance or refusal to leave because of fear of consequences of doing so.

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<sup>4</sup> Please note, Chemical Restraint will not feature in this Review, as educational staff should not administer substances. However, it has been noted that some parents and carers explained that their child had been excluded from extra-curricular activities due to medication needs, or told that their child cannot return to school until they take certain medication.

## Current Northern Ireland Legal and Policy Context

At present there is no statutory obligation on schools to record incidents involving restraint or seclusion. Similarly, there is no statutory requirement to inform parents when restraint or seclusion is used on their child, although the Department of Education (DE) guidance notes that informing parents of incidents involving their children is always advisable.<sup>5</sup> Current guidance summarises the use of reasonable force where a pupil is in danger of harming themselves, someone else or damaging property, which is consistent with section 4(1)(a) and (b) of the Education (NI) Order 1998.<sup>6</sup> However, the guidance does not cover the use of reasonable force in circumstances to maintain order and discipline as identified by section 4(1)(c) of the Order.

In May 2021, DE produced, Interim guidelines on the Use of Restraint and Seclusion in Educational Settings. The interim guidance states:

*“The issue of seclusion, including Deprivation of Liberty, is being considered as part of the Department’s review and, subject to Ministerial approval, guidance will follow once that process has been completed. Children should never be locked in a room or left unaccompanied and must be able to leave when they want to.”<sup>7</sup>*

## Methodology

NICCY engaged with a total of 282 participants through a mixed methods research process including:

- An online survey to Principals (or senior school officials) in all schools regarding the use of restrictive practices in an educational setting n=234;
- Focus groups and semi-structured interviews with n=20 parents/carers who had direct lived experience and n=19 with no direct experience of restrictive practices in educational settings;<sup>8</sup> and
- A Professional Focus Group with nine health and social care professionals, educationalists, and academics regarding the use of restrictive practices in an educational setting.

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<sup>5</sup> DE(2021) Circ/2021/13 [Interim Guidance on the Use of Restraint and Seclusion in Educational Settings. \(Accessed August 2021\)](#)

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.*

<sup>8</sup> Engagement with parents and carers was facilitated by four key partner organisations; ICARS, Mencap NI, Parent Action and Parenting NI who supported the participants throughout NICCY’s research.

### **Advisory Group**

NICCY established an advisory group to inform and advise NICCY during all stages of the Review. Membership included professionals from education, academia, Northern Ireland Public Services Ombudsmen (NIPSO), the Community and Voluntary Sector (CVS) and parents and carers with lived experience of restrictive practices. Its purpose was to:

- Support the development of the Terms of Reference for the Review;
- Advise NICCY on the methodology and research design; and
- Support the interpretation of data collected and the development of recommendations.

## Report Findings

The information in the report was thematically analysed into the following areas:

1. Policy guidance and legislation;
2. Understanding and knowledge of restrictive practices in educational settings;
3. Experiences and perspectives of restrictive practices in educational settings; and
4. Educational culture and accountability.

### 1. Policy Guidance and Legislation

Throughout the Review there was clear evidence of the need for urgent changes in policy, guidance, and legislation on restraint and seclusion. Currently 72% (n=157) of schools who responded to NICCY's survey on restrictive practices in educational settings stated they had never received guidance on creating a policy on physical interventions. Furthermore, while 51% (n=102) of schools stated they had a policy on physical interventions that included the use of restraint, only 10% (n=17) had a similar policy on seclusion. This report has identified legislative gaps in the 'use of reasonable force'; unclear guidance to schools on initial reporting and recording/monitoring of incidents of restrictive practices; and deficiencies in the current policy regarding the complex support needs of some pupils and collaboration with other professionals, such as Allied Health Professionals and Social Workers.

NICCY welcomes the upcoming DE Review of Restraint and Practices in Educational Settings as a real opportunity to affect positive change and support some of the most vulnerable children in Northern Ireland. Moving forward, any new policy and guidance which DE produces must ensure regional standards are established, minimising the use of restrictive practices across all educational settings. They must incorporate a child-centred focus approach that ensures that all children are protected regardless of their background, status, additional needs or disability.

The new guidance must also be accompanied by a supporting training framework, to ensure protection of children in all settings and systemised cooperation across all relevant Departments, including DE, Department of Health (DoH), Department of Justice (DoJ) and the Department for Communities (DfC).



For this reason, it is imperative that the training includes information on the Children's Services Cooperation Act (NI) 2015, human rights standards under the UNCRC, United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) and Articles 3 and 5 of the European Convention on Human Rights (ECHR).

## **Complaints**

This report has highlighted several deficiencies in the current complaints process in educational settings, most notably in relation to the role of the Board of Governors. Whilst some are very effective, the Board of Governors for several schools appear to have little understanding and knowledge of the appropriate use of restrictive practices, and there is a lack of accountability in relation to their decisions on complaints concerning these practices.

Parents have described a power imbalance in the complaints process, feeling like their concerns are not taken seriously regarding the use of restrictive practices on their child. DE and the Education Authority (EA) must provide more guidance to schools about communicating with parents in relation to complaints and how these should be undertaken. Furthermore, educational and health staff in schools must be given support to raise public interest concerns in relation to matters such as the inappropriate use of restraint and seclusion.

Parents and carers reported that the complaints process was often stressful, lengthy, and had limited outcomes. They reported a lack of available information and communication in relation to the process, including how to make a complaint in the first place, and felt in many cases the BoG demonstrated their own lack of knowledge and understanding of restrictive practices.

Parents and carers explained their difficulty regarding their complaint concerning restrictive practices being used on their child to the BoG; if they were not content with the outcome, their only option was to raise a legal complaint, a safeguarding complaint or go to the Northern Ireland Public Service Ombudsman (NIPSO), all of which were difficult to undertake without any formal support. While some parents were aware of NICCY's Legal support role, others were unaware of this at the time they were going through the complaints process. A number reported trying to notify the EA but were disappointed when they were told the EA had no authority or legal duty over the decision-making processes of Boards of Governors.

## **2. Understanding and Knowledge of Restrictive Practices in Educational Settings**

There is a need for a clearer and more consistent understanding of restrictive practices, their use in educational settings and the policy and legislative context. Practical guidance and training is required around the appropriate use of these practices and alternative therapeutic approaches to ensure seclusion is never used and that any form of restraint is only used as a measure of last resort.

Parents and carers were asked about their knowledge and understanding of the varied terms of restraint and seclusion in educational settings prior to their own child's experience. Consistently they told us they had no or little prior knowledge of restraint and seclusion occurring in an educational setting. Conversely, however, they had significant knowledge and understanding of restrictive practices applied in health and social care, albeit mostly within adult social care settings.

A number of issues were raised regarding the terminology and language used regarding restrictive practices in educational settings. Statements such as 'positive handling' and 'safe handling' were examples of where parents and carers felt the positive terminology masked difficult instances of restrictive practices. Often 'jargon terminology' was used and therefore the parent was unaware that restrictive practices were being used on their child.

### **Training**

The survey of school principals included the question: "*Have relevant staff been provided training in relation to physical intervention?*" From the responses, there were apparent differences between mainstream and Special Schools. Only 31% (n=45) of respondents identified that staff in their school had received training in physical intervention.

Eighty-eight percent (n=14) of responses from Special Schools stated that staff had received training, compared to only 23% (n=28) of the schools who identified as being 'mainstream'.<sup>9</sup>

Children with additional needs often communicate distress through behaviours that may be considered disruptive in educational settings. Training is essential to support education professionals to understand children's needs and minimise the use of restrictive practices in response to a child's expression of distress.

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<sup>9</sup> NICCY (2021) Regional School Survey on the use of restrictive practices in educational settings

The training must not simply provide information on correct use of restrictive practices, but should be rights-based, child-centred, trauma-informed, and provide guidance on therapeutic interventions and de-escalation techniques. It must focus on increasing the capacity of staff to identify each child's communication and learning needs, and understand when, and how to, intervene. Finally, it must outline the importance of child and family-based approaches, involving the child's parents and carers in developing action plans in advance where there are any risks of physical interventions being required.

Training must be provided to all relevant staff, specifically teaching and classroom assistants, in all educational settings, and be incorporated into Initial Teaching Education (ITE) and Post Graduate Certificate of Education (PGCE) courses as well as early professional development and continuing professional development.

### **3. Experiences and Perspectives of Restrictive Practices in Educational Settings**

From the personal experiences shared by parents/carers and teaching staff, the use of restrictive practices often results in extremely negative, long lasting traumatic experiences for all involved, most particularly for the child who experienced it first-hand. Evidence suggests there is a distinct lack of pastoral support available to help individuals who have experienced restrictive practice, with no consistent direction on how schools should communicate with parents regarding these incidents.

Parents and carers talked about their experiences of restraint and seclusion being used on their children, describing these as some of the most harrowing and upsetting experiences their children had experienced, causing long lasting trauma for the whole family and detrimentally affecting their children's mental wellbeing, self-efficacy and ability to learn.

These experiences are subject to the caveat that without systematic, regional reporting and monitoring, there is no way of knowing if these personal accounts are representative of the use of restrictive practices throughout educational settings across Northern Ireland.

Throughout all the qualitative research, every account of the use of restraint and seclusion was negative, with some parents and carers describing severe and detrimental impacts experienced by their children and all their family. Comments in relation to the impact on behaviour, mental health and withdrawal from family life were consistent throughout parents' accounts. Self-harm, suicide attempts and ideation and eating disorders were some of the more extreme manifestations of the adverse impacts on children.

For children who are non verbal, in describing the impact on their child, parents and carers consistently highlighted negative changes in their child's behaviour including night terrors. The research identified the need for more support to schools in relation to changing their approach to the use of restrictive practices including de-escalation methods, therapeutic interventions and the practical application of guidance. There was agreement on the need to identify systemic issues in addressing and alleviating pressures that cause distressing behaviours amongst children with additional needs.

#### **4. Educational Culture and Accountability**

Disability discrimination is not an issue particular to education, but is a societal issue that needs addressed, requiring cooperation from all relevant authorities. Furthermore, restrictive practices in educational settings cannot be resolved in isolation but need to be incorporated into a systematic review of how we support pupils with additional needs within our education system.

Parents and carers whose children had experienced restrictive practices in mainstream settings identified a lack of understanding of the environmental, social and/or emotional support required by children with additional needs, with schools focusing instead on 'bad behaviour', discipline and control.

It is critical that reasonable adjustments are understood and embedded in educational practice. A statement of special educational need should not be required to make reasonable adjustments for children with additional needs, and distressed behaviours should be acknowledged as communication requiring a therapeutic response, rather than 'bad behaviour' requiring punishment.

Unfortunately, many parents and carers reported that schools did not apply reasonable adjustments, particularly where the child did not have a statement in place and consequently the child did not receive the additional support they required.

Parents and carers whose children attend Special Schools felt that restrictive practices had become common interventions rather than a method of last resort and that the school's reputation was sometimes prioritised by Principals and BoG over the best interests of the pupils who had been subjected to restrictive practices.

## Recommendations

A system-wide approach is required to address the challenges identified in this Review. It must involve evidence-based solutions and a joint commitment from all relevant departments and agencies to address existing gaps and weaknesses. Ultimately, all those working with vulnerable children must see them as children first and foremost, ensuring their best interests are the primary concern, their rights are protected, and they are provided with every opportunity to reach their full potential.

This Review has concluded that the current policy, guidance and legislative frameworks around the use of restrictive practice in educational settings are not fit for purpose and need immediate reform.

### Policy, Guidance and Legislation

1. The Department of Education must create legislation which should include:
  - A provision to ban the use of seclusion in educational settings;
  - A provision to ban the use of any techniques which inflict pain on children;
  - A definition of restraint and clarity that this should only be used as a last resort;
  - Requirement for mandatory recording of all incidents of restrictive practices by educational settings; and that
  - The Education Authority undertakes an annual review on the use of restrictive practices across all settings which should include: the number of children who experienced restrictive interventions; the number of times each pupil experienced a restrictive practice; the type of de-escalation techniques and restrictive interventions used; how children and parents were involved and what support/training may be required.
2. The Department of Education must ensure that the legislative framework explicitly limits the use of restraint or force on a child so that it is only permitted to protect that child or others from immediate and serious harm.

The Department must review The Education (NI) Order, 1998 repealing Article 4 (1)(c) *'To prevent a pupil engaging in any behaviour prejudicial to the maintenance of good order and discipline at the school or among any of its pupils'*.

3. The Department of Education should issue mandatory guidance on the use of restrictive practices in educational settings detailing the legislative and policy context, and outlining the roles, responsibilities and accountabilities of school staff, external professionals, Principals, Board of Governors, the Education Authority, (or other Governing Bodies) and the Department itself. This Guidance should be developed in consultation with schools, professional bodies, parents/carers, and children. They should:
  - o Provide further clarity on the legal definitions of 'restrictive practices' which should align to those of the Departments of Health and Justice;
  - o Change the use of terminology from 'challenging behaviours' to 'distressed behaviours';
  - o Ensure the provision of training; and
  - o Outline the requirement to immediately inform parents/carers of the incident following up with a formal report which should include measures to support the child and staff and prevent further incidents.
4. The Department of Education must establish regional standards on restrictive practices in schools including how to minimise their use and eliminate the use of seclusion. The policy must incorporate a rights-based, child-centred focus, ensuring that all children are protected, regardless of their background, status, additional needs, or disability.

## **Complaints**

5. Within the revised guidance document for schools, the Department of Education should outline standards for responding to complaints, in line with Complaints Standards set out by Northern Ireland Public Service Ombudsmen (NIPSO). The guidance should also provide direction on providing pathways for staff (including health staff visiting the school) to raise concerns.
6. Parents should be informed of independent advocacy and support services, including peer advocacy, to assist in their complaint.

## **Understanding and Knowledge of Restrictive Practices in Educational Settings**

7. Information regarding any policy, guidance and legislation on restrictive practices should be made publicly available and easy to understand, with alternative accessible formats available on request.

## **Training**

8. Teacher training institutions and the Education Authority (EA) should provide mandatory training on restrictive practices to be used as a last resort by all educational staff, including classroom assistants and non-teaching staff (where relevant).

This should be accredited and/or subject to external independent training standards and should begin at Initial Teacher Education (ITE), at Post-Graduate Certificate Education (PGCE) levels and continue into Early Professional Development (EPD) and Continuous Professional Development (CPD).

9. Any new policy should be accompanied by an accredited training framework and supportive infrastructure to ensure schools have appropriate resources in place to support their pupils and staff in minimising the use of restrictive practices in educational settings.
10. Additional training should be made available on areas complementary to reducing restrictive practices including on:
  - Effective communication;
  - Mental health;
  - Trauma;
  - Disability awareness training (particularly focusing on Autism Spectrum Disorder (ASD) and learning disability);
  - Managing distressed behaviours;
  - Supporting children with additional needs with or without a Statement; and
  - Children's rights.

### **Experiences and Perspectives of Restrictive Practices**

11. Parents and carers should have an opportunity to receive support and training, to understand the use of de-escalation and therapeutic interventions, as well as restrictive practices. They should have the opportunity to develop capacity to ensure they and their children can contribute to the development of personalised learning plans and be provided with information on the complaints process.
12. Learning support plans or ‘communication passports’ should be in place for all children with additional needs, with a particular focus on children who are at risk of exhibiting behaviours that are distressing.
13. Social, emotional and practical support should be provided for all individuals who experience, witness or apply restrictive practices in educational settings, especially children, siblings, parents/carers, and classmates, as well as the staff member involved.

### **Educational Culture and Accountability**

14. All educational settings should be informed by a UNCRC child’s rights framework and embed a culture of school values underpinned by the principles of inclusion, the best interests of children and respect for their human rights.
15. The Department Education and Education Authority should provide support to school leaders in school-based transformation work, as required, including changing culture and attitudes towards pupils with additional needs. Resources, training and sharing of good practice should be provided to ensure this happens.

**The Northern Ireland Commissioner for Children and Young People (NICCY) commits to monitoring the implementation of these recommendations and will engage all relevant agencies to ensure improved outcomes for children and young people.**



## Main Report

### Section One: Introduction

The Commissioner for Children and Young People (NICCY) was established in accordance with 'The Commissioner for Children and Young People (Northern Ireland) Order' (2003) to safeguard and promote the rights and best interests of children and young people in Northern Ireland (The Order).<sup>10</sup>

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; and to advise government and relevant authorities on matters concerning the rights and 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; and 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 covers children and young people up to 18 years of age or up to 21 years where they have a disability or are care experienced. NICCY seeks to ensure that all its 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 Commissioner must also have due regard to any relevant provisions of the United Nations Convention on the Rights of the Child (UNCRC) when carrying out work.

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<sup>10</sup> [The Commissioner for Children and Young People \(Northern Ireland\) Order 2003 \(legislation.gov.uk\)](#)

## **Aims of the Review**

Restraint and seclusion are extremely important issues which engage children and young people's human rights. Recording of incidents of restraint and seclusion is recognised internationally as a critical means of ensuring that practice is rights-compliant and appropriately monitored and scrutinised.

The aims of this Review were to:

- Gather the experiences of children and young people (through their parents and carers) on the use of restraint and seclusion within educational settings and the impact it has on them;
- Highlight shortcomings in regional policy, monitoring, reporting/recording, decision making and training on the use of restraint and seclusion;
- Identify good practice and produce a range of recommendations directed at key government departments and agencies for improving policy guidance and legislation; and
- Identify guidance on the use of deprivation of liberty (DoL) within an educational setting.

## **1.1 International Children's Rights Framework**

It is imperative that restrictive practices in educational settings comply with human rights legislation. There is a very clear international body of work which sets out children's rights and the role of Governments in ensuring that a child is not subjected to torture or cruel, inhuman, or degrading treatment or punishment. This section of the report sets out the human rights framework which should inform developments in legislation, policy and guidance surrounding restrictive practices in educational settings. It includes but is not limited to the United Nations Convention on the Rights of the Child (UNCRC), United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), European Convention on Human Rights (ECHR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), further details on the relevant sections of each of these treaties are outlined below with particular regard given to the UNCRC which NICCY is required to do as part of the legislation which established the Office.

## **United Nations Convention on the Rights of the Child (UNCRC)<sup>11</sup>**

The UNCRC is a set of legally binding minimum standards and obligations in respect of all aspects of children's lives which the Government has ratified and must comply with in the discharge of its functions. This includes all Northern Ireland Government Departments, including the Department of Education (DE) and its arm's length bodies.

### **Guiding Principals**

When developing and implementing policy, practice and services that affect the lives of children and young people a number of overarching general principles apply. These General Principles are:

- To protect the rights of all children not to be discriminated against (Article 2);
- To have their best interests upheld (Article 3);
- To be supported to develop to their maximum potential (Article 6); and
- To be enabled to meaningfully participate in all aspects of their lives (Article 12).

### **Articles Specific to Restrictive Practices in Educational Settings**

In addition to the general principles, there are a number of additional Articles of the UNCRC that are particularly relevant where restrictive practices are used on children and young people.

#### **Article 19**

**(1).** States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

**(2).** Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

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<sup>11</sup> [OHCHR | Convention on the Rights of the Child](#) (accessed Aug 2021.)

### **Article 23**

(1). States Parties recognise that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

### **Article 24**

(1). States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

(3). States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

### **Article 25**

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

### **Article 28**

(1). States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

(2). States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

**Article 37** sets out that States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment.
- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.
- (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner, which take account of the

needs of a person of his/her age. In particular every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances.

- (d) Every child deprived of his/her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

### **Committee on the Rights of the Child Concluding Observations<sup>12</sup>**

It is vitally important that the principles of human rights, social justice and equity are translated into all legislation, policy and practice. Every 6-8 years the UK and devolved Governments' (hereafter 'State Party') compliance with the UNCRC is examined by the Committee on the Rights of the Child.

The United Nations Committee on the Rights of the Child (Committee) through its periodic reporting to the UK State Party (including Northern Ireland as a devolved jurisdiction) has repeatedly outlined steps that should be taken in order to prevent use of restrictive practices infringing on children's rights. The Committee made the following Concluding Observations in its most recent periodic report in 2016, under paragraph 39 (b & d), outlined in full below<sup>13</sup>:

#### **Paragraph 39.**

The committee is concerned about:

- (b) The use of physical restraint on children to maintain good order and discipline in young offenders' institutions and of pain-inducing techniques on children in institutional settings in England, Wales and Scotland, and *the lack of a comprehensive review of the use of restraint in institutional settings in Northern Ireland.* (our emphasis).
- (d) The use of restraint and seclusion on children with psychosocial disabilities, including children with autism, in schools.

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<sup>12</sup> CRC/C/GBR/CO/5 (2016).

<sup>13</sup> *Ibid.* Para 39.

**Paragraph 40.**

With reference to the Committee's General Comment No. 13 (2011) on the right of the child to freedom from all forms of violence, and to Target 16.2 of the Sustainable Development Goals, the Committee urges the State party to:

- (b)** Abolish all methods of restraint against children for disciplinary purposes in all institutional settings, both residential and non-residential, and ban the use of any technique designed to inflict pain on children;
- (c)** Ensure that restraint is used against children exclusively to prevent harm to the child or others and only as a last resort;
- (d)** 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.

The Committee made reference to General Comment No. 8 (2006)<sup>14</sup> on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment in its previous recommendations in Paragraph 41 (a) (b) and (c). The Committee urges the State Party, in all devolved administrations, overseas territories and Crown dependencies, to:

- (a)** Prohibit as a matter of priority all corporal punishment in the family, including through the repeal of all legal defences, such as 'reasonable chastisement';
- (b)** Ensure that corporal punishment is explicitly prohibited in all schools and educational institutions and all other institutions and forms of alternative care; and
- (c)** Strengthen its efforts to promote positive and non-violent forms of discipline and respect for children's equal right to human dignity and physical integrity, with a view to eliminating the general acceptance of the use of corporal punishment in child-rearing.

The Committee also made comments about the exclusion of children from school, including use of isolation rooms as a form of disciplining children Paragraph 72 (d) and recommended that the State Party abolish the use of these Paragraph 73 (d).

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<sup>14</sup> CRC/GC/C/8 (2006) Cited in [CRC/GC/C/13\(2016\)](#)

The advice from the Committee was reflected in NICCY's most recent Statement on Children's Rights in Northern Ireland Report published in 2020. With respect to use of restraint and seclusion it made the following calls to Government:<sup>15</sup>

In order to protect children's rights, Governments must, as a matter of urgency:

1. Ban the use of restraint and seclusion for disciplinary purposes, and the use of any technique designed to inflict pain on children;
2. Ensure that restraint and seclusion are only used as a measure of last resort, to prevent harm to the child or others; and
3. Make reporting of the use of restraint and seclusion mandatory across all settings.

In May 2021, NICCY produced an advice paper on the use of restrictive practices, which recommended that the NI Government comply with all recommendations set out in CRC/B/GBR/CO/5, further specifying that seclusion should not be used in an educational setting.<sup>16</sup>

### **United Nations Convention on the Rights of Persons with Disabilities**<sup>17</sup>

The UN Convention on the Rights of Persons with Disabilities (CRPD) is an international human rights treaty of the United Nations intended to protect the rights and dignity of persons with disabilities and with respect to use of restrictive practices the following Articles are particularly relevant:

**Article 5** recognises the right to equality and non-discrimination, asserting that 'States Parties recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law'.

**Article 14** asserts that 'States Parties shall ensure that persons with disabilities... enjoy the right to liberty and security of person'. The disproportionate use of restrictive interventions on persons with disabilities was noted by the CRPD in General Comment No. 4 on the right to inclusive education, where they stated, "persons with disabilities ... can be disproportionately affected by violence and abuse, including physical and humiliating punishments by educational personnel, for example through the use of restraints and seclusion."<sup>18</sup>

<sup>15</sup> [NICCY \(2020\) State of Children's Rights in Northern Ireland \(2\)](#)

<sup>16</sup> NICCY's Advice & Recommendations on Restrictive Intervention & Seclusion of Children & Young People (May 2021)

<sup>17</sup> <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html> (accessed Aug 2021)

<sup>18</sup> CRPD/C/GC/4, UN CRPD Committee, 'General Comment No. 4 on the Right to Inclusive Education', November 2016, at para 13.

**Article 24(2)(c)** highlights the obligations on States Parties to “make reasonable accommodations to the individual’s requirements to ensure that persons with disabilities are not excluded from the general education system”. General Comment No. 4 to the CRPD states that, “The right to non-discrimination includes the right not to be segregated and to be provided with reasonable accommodation and must be understood in the context of the duty to provide accessible learning environments and reasonable accommodation”.<sup>19</sup>

### **Committee on the Rights of Persons with Disabilities<sup>20</sup>**

The Committee on the Rights of Persons with Disabilities identify ‘supported teachers’ as a key feature of an inclusive education. The Committee notes that this means “all teachers and other staff receive the education and training they need to give them the core values and competencies to accommodate inclusive learning environments.”

Furthermore, 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.”

### **The European Convention on Human Rights (ECHR)**

The ECHR is an international human rights treaty between the 47 states who are members of the Council of Europe.<sup>21</sup> The UK Government has signed up to this Treaty and by doing so has made a legal commitment to abide by certain standards of behaviour and to protect the basic rights and freedoms of ordinary people.

**Article 3** states that “No one shall be subjected to torture, inhuman or degrading treatment or punishment”. Article 3 is an absolute right, and should be no derogation from this right.

**Article 5** states that “Everyone has the right to liberty and security of person”. ECHR jurisprudence has identified three components to test the deprivation of liberty for the purposes of Article 5:

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<sup>19</sup> *Ibid.*

<sup>20</sup> CRPD/C/GC/4, UN Committee on the Rights of Persons with Disabilities, ‘General Comments No 4 on the Rights to Inclusive Education’ (CRPD, 2016), at para 12(d).

<sup>21</sup> [European Convention on Human Rights \(coe.int\)](https://www.coe.int/t/e/treaties/Convention_on_Human_Rights.aspx) (accessed Aug 2021)



- Confinement in a restricted place for a not negligible period of time;
- A lack of valid consent; and
- The confinement is attributable to the state.<sup>22</sup>

Valid consent extends to the consent of a person with parental responsibility, where a child is under the age of 16 or lacks capacity to consent. The UK Supreme Court has indicated that compliance should not be assumed to be consent.<sup>23</sup> Section 6 of the Human Rights Act 1998 (which incorporated the ECHR into domestic legislation) states "It is unlawful for a public authority to act in a way which is incompatible with a Convention right."<sup>24</sup> Finally, **Article 8** highlights the right to respect for private life, which includes respect for physical integrity.

### **Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)**

CAT is an international human rights treaty, under the review of the United Nations, that aims to prevent torture and other acts of cruel, inhuman, or degrading treatment or punishment around the world.

**Article 16** provides that "Acts committed by public officials which do not amount to torture as defined by **Article 1**, can amount to cruel, inhuman or degrading treatment". In a joint submission to CAT in March 2019, the Commissioners for Children and Young People from Northern Ireland, Scotland and Wales voiced their concern at the use of restrictive practices and seclusion within schools, noting it as a form of cruel, inhuman and degrading treatment, contravening Article 16.<sup>25</sup>

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<sup>22</sup> [Guide on Article 5 Dec 2020 - Right to liberty and security \(coe.int\)](#); *Storck v Germany* (2005) 43 EHRR 6, par 74-89.

<sup>23</sup> *P v Cheshire West and Chester Council* [2014] UKSC 19, at para 35.

<sup>24</sup> Human Rights Act (1998)

<sup>25</sup> NICCY, CYPCS and the Children's Commissioner for Wales, 'Joint submission to the United Nations Committee Against Torture 66th session on the sixth Periodic Report of the United Kingdom of Great Britain and Northern Ireland', at para 6 (2019)

## 1.2 Local Policy and Legislative Context

Within the UNCRC Concluding Observations (2016) a recommendation outlined that the UK, Scottish, Northern Ireland and Welsh governments should create national policy and statutory guidance on restraint and seclusion of children in all settings.<sup>26</sup> Furthermore, governments are required to, '*Ensure that restraint is used against children exclusively to prevent harm to the child or others and only as a last resort.*'

The Northern Ireland Government has a legal responsibility to ensure that restraint is only used where the child poses an imminent threat of injury to themselves or others, and only when all other means of addressing the situation have been exhausted. Only techniques proven to be safe for children should be considered and used, and pain should never be deliberately inflicted in order to restrain a child. Schools should be required to record and report on use of restraint and seclusion.

As there is currently no requirement on schools to record and/or report on use of restraint and seclusion, there is little data to support an analysis of the frequency and impact of these practices. Through our legal and policy work NICCY have obtained information regarding restraint and seclusion being used with children with additional needs and special educational needs to address distressed behaviour, being masked as behavioural challenges. Furthermore, NICCY have identified issues with respect to seclusion in the form of 'in school' or 'informal' suspension for breaches of uniform rules.

### Legislation and Code of Practice

All schools have a statutory responsibility under Articles 3-6 of the Education (Northern Ireland) Order 1998, for developing their own good behaviour and discipline policies, including any sanctions that may be taken. Section 3(3) provides that the Board of Governors (BoG) and the Principal within grant-aided schools are responsible for promoting pupil self-discipline, encouraging good behaviour and respect for others, securing an acceptable standard of pupil behaviour, and regulating pupil conduct.<sup>27</sup> Section 4(1) explains the powers for staff members from grant-aided schools to restrain pupils. It notes:

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<sup>26</sup> 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.

<sup>27</sup> Education (Northern Ireland) Order 1998, section 3-6.

A member of the staff of a grant-aided school may use, in relation to any pupil at the school, such force as is reasonable in the circumstances for the purpose of preventing the pupil from doing (or continuing to do) any of the following, namely:

- a) Committing any offence;
- b) Causing personal injury to, or damage to the property of, any person (including the pupil himself); or
- c) Engaging in any behaviour prejudicial to the maintenance of good order and discipline at the school or among any of its pupils, whether that behaviour occurs during a teaching session or otherwise.<sup>28</sup>

*“...but it does not authorise anything to be done in relation to a pupil which constitutes the giving of corporal punishment...”*<sup>29</sup>

**Volume 5 of the Children (NI) Order 2005** regulations and guidance: states the need for effective participation and engagement with those with parental responsibility for the child, under the Children’s NI Order 1995.<sup>30</sup>

**Article 36** of the Education and Libraries (NI) Order 2003 confirms the abolition of corporal punishment in schools and is referenced in guidance on the use of any such physical contact to cause deliberate pain or injury or humiliation.<sup>31</sup>

**The Special Educational Needs and Disability (NI) Order 2005 (SENDO)** places duties on educational settings not to directly discriminate against a pupil because of their disability, or to treat disabled pupils less favourably (for a reason relating to their disability) than it treats, or would treat, a pupil to whom that reason does not or would not apply (unless justified) and to make ‘reasonable adjustments’ to all policies, procedures and practices to ensure that a disabled pupil is not placed at a substantial disadvantage compared to those who are not disabled.

The legislation outlines that it is the Special Educational Needs Co-Ordinator (SENCO) who should keep staff informed of pupils with special educational needs who may require individual support with regard to their physical management. DE further stated that this should include parental input.<sup>32</sup>

<sup>28</sup> Education (Northern Ireland) Order 1998, at section 4(1)

<sup>29</sup> *Ibid*

<sup>30</sup> [The Children \(Northern Ireland\) Order 1995 \(legislation.gov.uk\)](http://legislation.gov.uk)

<sup>31</sup> Education (Northern Ireland) Order 2003, Article 2003

<sup>32</sup> Special Educational Needs and Disability Order (NI) 2005

**Special Educational Needs Code of Practice and Supplemental** effective from 1 September 2005 - Guidance for Education Authority (EA) and schools in the form of a Code of Practice on the Identification and Assessment of Special Educational Needs and also a Supplement to the Code of Practice was produced as a result of SENDO. The Guidance states that Schools, Boards and Health and Social Services authorities must consider the advice given in the Code of Practice when deciding what they should do for children with special educational needs.

The Code of Practice addresses the identification, assessment and provision made for all children who may have special educational needs at some time in their school careers, or even earlier.<sup>33</sup>

**The Special Educational Needs and Disability (SEND) Act (Northern Ireland) 2016**<sup>34</sup>

The SEND Act places new duties on BOGs, the EA and Health and Social Services authorities, and provides new rights for parents and children over compulsory school age. This legislation places a duty on the EA to publish an annual plan regarding arrangements made for special educational provision. Importantly the legislation places an emphasis on seeking and having regard to the views of the child when making decisions on special educational provision.

Within schools, BOGs are required to ensure a Learning Support Co-ordinator is appointed to co-ordinate appropriate provision for children with Special Educational Needs (SEN), including ensuring the completion and review of each pupil with SEN support and learning plan. If a pupil were to transfer schools, their personal learning plan must be transferred and its reasonable adjustments applied within their new setting. The SEND Act provides increased co-operation between the EA and Health and Social Services authorities to provide services they have identified to be of benefit in addressing a child's SEN.<sup>35</sup>

The new Code of Practice translates the new draft SEND Act into clear and practical guidance for those involved in identifying and assessing children who have, or may have, SEN and for those who provide special educational provision for children with SEND. It will support them in ensuring the right provision is given to help each child fulfil their potential. Both SEND Act Code of Practice and Regulations have been consulted upon, both of which NICCY provided advice to DE on.<sup>36</sup>

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<sup>33</sup> [Special Educational Needs and Disability Act \(Northern Ireland\) 2016](#) - Consultation open from Sep-Dec 2020

<sup>34</sup> [Special Educational Needs and Disability Act \(Northern Ireland\) 2016 \(legislation.gov.uk\)](#)

<sup>35</sup> [New SEN Framework | Department of Education \(education-ni.gov.uk\)](#)

<sup>36</sup> NICCY (2019) Advice to DE [SEN Regulations and Code of Practice \(niccy.org\)](#)

## Guidance and Policy

The Department of Education 1999 Circular on Guidance on the Use of Reasonable Force to 'Restrain or Control Pupils' provides guidance on the use of reasonable force to restrain or control pupils. It identifies that the use of reasonable force to restrain pupils should be rare, emphasising that neither the circular nor Section 4 of the Education (NI) Order 1998 should be used to authorise the use of physical contact that is "deliberately intended to cause pain or injury or humiliation". Instead, the Circular notes, the purpose of Section 4 is to "make it clear that teachers and authorised staff are also entitled to intervene in other less extreme situations".<sup>37</sup>

With regards to monitoring and reporting, current guidance stated within the 1999 DE Circular on the use of restraint and seclusion in Northern Ireland, identifies the importance of keeping written reports on any instance where reasonable force is used to restrain or seclude a pupil.<sup>38</sup> The guidance states that the report should include:

- The name(s) of the pupil(s) involved, and when and where the incident took place;
- The names of any other staff or pupils who witnessed the incident;
- The reason that force was necessary (e.g., to prevent injury to the pupil, another pupil or a member of staff);
- Briefly, how the incident began and progressed, including details of the pupil's behaviour, what was said by each of the parties, the steps taken to defuse or calm the situation, the degree of force used, how that was applied, and for how long;
- The pupil's response, and the outcome of the incident;
- Details of any obvious or apparent injury suffered by the pupil, or any other person, and of any damage to property;<sup>39</sup> and
- The need to seek the pupil's view of the incident as it occurred, recording these views "as appropriate to sector, age, etc".<sup>40</sup>

In 2004 a draft policy framework for use of reasonable force and restrictive practices was published, containing a working definition of "reasonable force":

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<sup>37</sup> Circular No. 1999/9, Department of Education NI, 'Pastoral Care: Guidance on the Use of Reasonable Force to Restrain or Control Pupils', 8 March 1999, at para. 4.

<sup>38</sup> Circular No. 1999/9, Department of Education NI, 'Pastoral Care: Guidance on the Use of Reasonable Force to Restrain or Control Pupils', 8 March 1999, at para. 8.

<sup>39</sup> *Ibid at para. 8.*

<sup>40</sup> DE (2004):Regional Policy Framework on the Use of Reasonable Force/Safe Handling

*Based on this legal framework, the working definition of “reasonable force” is the minimum force necessary to prevent a pupil from physically harming him/herself or others or seriously damaging property but used in a manner which attempts to preserve the dignity of all concerned.<sup>41</sup>*

In October 2020, the Minister for Education, tasked departmental officials to work with relevant partners in relation to the use of restraint and seclusion practices on children and young people, including those with special educational needs. The overall aim is to help ensure that any seclusion and/or restraint is reasonable, proportionate and justifiable to the circumstances and that appropriate documentation is completed.<sup>42</sup>

The most recent direction issued by the DE with respect to use of restrictive practices in educational settings was in May 2021, when it issued a further Circular providing interim guidance in relation to the use of restraint and seclusion for staff in educational settings.<sup>43</sup> Its purpose was to both inform staff that they are undertaking a review of the use of restraint and seclusion in educational settings and that the proposals for change would be subject to Ministerial Approval. Secondly, it provided educational settings with the Department’s position in relation to the use of seclusion and reasonable force/restraint, including an overview of the existing support and training to schools from the Education Authority. DE stated that *“the overarching principle is that the best interest of the child should guide all decisions taken by staff in relation to children in their care.”*

As with previous Circulars, DE cited the Education (Northern Ireland) Order 1998, Article 4, regarding the powers a member of staff can use when restraining pupils and reiterated that it should only ever be used as a measure of last resort. It highlighted the current context in which staff of a grant-aided school may use reasonable force/restraint:

- To prevent a pupil from committing an offence;
- To prevent a pupil causing personal injury to, or damage to the property of, any person (including the pupil himself);
- To prevent a pupil engaging in any behaviour prejudicial to the maintenance of good order and discipline at the school or among any of its pupils; and
- Legislation extends to the premises of the school only when a member of school staff has lawful control or charge of the pupil concerned.

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<sup>41</sup> *Ibid par. 4.*

<sup>42</sup> DE Working Group Restraint and Seclusion TOR (2020)

<sup>43</sup> DE/CIRC/2021/13

The Circular referenced the policies previously cited; Towards a Model Policy in schools on the use of reasonable force (2002),<sup>44</sup> Regional Policy Framework on the use of reasonable force/safe-handling (2004)<sup>45</sup> and Pastoral Care in Schools: Promoting Positive Behaviour (2001).<sup>46</sup> Furthermore, it states that reasonable force/restraint should only be used as a measure of last resort; preserve the dignity and respect of all concerned; never be used as a form of punishment or to make a child behave; and never deliberately cause pain/injury to a pupil.

The updated DE Circular advised that current guidance does not seek to define seclusion or indicate what forms of seclusion, if any, are permissible, and in what circumstances. The issue of seclusion, including Deprivation of Liberty (DoL), is being considered as part of the Department's review. However, it did state that, "children should never be locked in a room or left unaccompanied and must be able to leave when they want to."<sup>47</sup>

**Therefore, currently there is no statutory obligation on schools to record incidents involving restraint or seclusion. Similarly, there is no statutory requirement to inform parents when restraint or seclusion is used on their child. Guidance in NI notes that informing parents of incidents involving their children is “*always advisable*.”<sup>48</sup>**

**The Mental Capacity Act (Northern Ireland) 2016 (MCA)** is a significant legislative development which fuses mental health and mental capacity law together for those aged 16 years and over. The MCA was partially commenced on 2 December 2019 and provides a number of important safeguards and protections for people who lack decision-making capacity. It also provides a clearer legal definition of 'DoL' and 'restraint' than is available in the Mental Health (NI) Order 1986 (MHO).<sup>49</sup>

The parts of the MCA that are currently in force provide a statutory framework to deprive anyone of the age of 16 and above of their liberty in Northern Ireland if certain conditions

<sup>44</sup> DE(2002) [Towards a Model Policy in schools on the use of reasonable force | Department of Education \(education-ni.gov.uk\)](#) accessed Aug 2021.

<sup>45</sup> DE (2004) [Regional Policy Framework on the use of reasonable force/safehandling | Department of Education \(education-ni.gov.uk\)](#) accessed Aug 2021.

<sup>46</sup> DE (2001) [Pastoral Care in Schools: Promoting Positive Behaviour | Department of Education. Accessed Aug. 2021](#)

<sup>47</sup> DE/CIRC/2021/13

<sup>48</sup> *Ibid.*

<sup>49</sup> NICCY has provided detailed advice on the MCA as it went through the Executive's scrutiny process. NICCY's position is that all ages should fall under the MCA and that the MHO should be repealed. [NICCY \(2019\) response on the Mental Capacity Act \(Northern Ireland\) 2016 Code of Practice](#)

apply. The MCA does not currently apply to any decisions made about the care or treatment of the person in the place to which the authorisation relates.

To ensure human rights are protected, the MCA defines a DoL as having the same meaning as under Article 5(1) of the European Convention on Human Rights (ECHR). In order for someone to be deprived of their liberty the following conditions apply: A DoL for the purposes of Article 5 of ECHR comprises three components:

- First, there must be confinement to a particular restricted place for a length of time which is not negligible;
- Second, there, must be a lack of valid consent; and
- Thirdly, the State must be responsible for the DoL.

A DoL must be in a place where Deprivation of Liberty Safeguards (DoLS) apply. The MCA provides for short and longer term authorisations depriving people of their liberty for the purposes of assessment and treatment. The person deprived of their liberty must meet DoLS criteria. These include the potential risk of causing serious harm to themselves or others, and where the person lacks capacity (which need to be assessed through a diagnostic and functional test) and it is in the person's best interests.

As it currently stands, even when the MCA does commence in all its parts, the MHO will remain the legislative framework for under 16s, however, the MHO does not reference restraint and seclusion. The Code of Practice, which accompanies the MHO, does however, provide limited guidance on the use of restraint and seclusion generally.

**Section 5.33** requires every Unit of Management (i.e. Health and Social Care Trust) to have a policy on the use of all forms of physical restraint (physical restraint in the context of this guidance includes locked ward doors, time out and seclusion).

**Sections 5.32 to 5.53** of the Code of Practice gives guidance on restraint, locked doors on open wards, time out and seclusion, however, no specific reference is made to children and young people<sup>50</sup>

### **The Children's Services Co-operation Act (Northern Ireland) 2015 (CSCA)<sup>51</sup>**

The CSCA places a statutory duty on Government Departments to co-operate in the provision of children's services in order to promote children's well-being. The CSCA

<sup>50</sup> [RQIA \(2005\) Restraint and Seclusion \(rqia.org.uk\)](#) para: 4.44

<sup>51</sup> [Children's Services Co-operation Act \(Northern Ireland\) 2015 \(legislation.gov.uk\)](#)



makes a commitment to children’s rights in line with the relevant provisions of the UNCRC in the delivery of children’s services to improve the well-being of children and young people in Northern Ireland, this obligation is particularly important within the context of this proposed framework. The CSCA requires the Northern Ireland Executive to adopt a Children and Young People’s Strategy. This cross-departmental Strategy has been published to provide a strategic framework for improving the well-being of children and young people.

### **The Children and Young People’s Strategy (CYPS) (2020-2030)<sup>52</sup>**

The CYPS provides a cross-departmental strategic framework for improving the well-being of children and young people. It identifies eight outcomes to be achieved for all children and young people in Northern Ireland which includes:

- A focus on physical and mental health;
- The enjoyment of play and leisure;
- Learning and achievement;
- Living in safety with stability;
- Economic and environmental well-being;
- The making by them of a positive contribution to society;
- Living in a society which respects their rights; and
- Living in a society in which equality of opportunity and good relations are promoted.

The Strategy identifies children and young people that who are care-experienced, or have been in contact with the youth justice system, as requiring particular focus to help them learn and achieve, and to live in safety and stability.

## **1.3 Definitions**

A part of this Review’s aims was to identify guidance on the use of DoL within an educational setting. However, in order to fully understand the concept of restrictive practices in an educational setting, it was important to understand exclusion, seclusion, restraint (both physical and mechanical) and how it can be applied.

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<sup>52</sup> [Children and Young People’s Strategy 2020-2030 | Department of Education \(education-ni.gov.uk\)](#)

## Exclusion

Exclusion is the formal sending home of a pupil from school for disciplinary reasons. An exclusion can be fixed term (temporary) or permanent. A pupil is not allowed in school while they are excluded.<sup>53</sup> NICCY's Review 'Too Little Too Late' (2020) addressed informal exclusions where children were sent home early, children were put on part-time timetables and/or where the exclusions were not being formally recorded. There are no formal appeal rights to challenge informal exclusion from school as the practice of informal exclusion is potentially unlawful. This problem is exacerbated further by a failure to commence an appeals mechanism against formal suspension.<sup>54</sup>

Internal exclusion is an internal process within the school and is used when the objective is to remove the pupil from class, not from the school site, for disciplinary reasons. It may be a formal process within the school, but it is not a legal exclusion.<sup>55</sup> Guidance for schools in England Children's Plan (2010) defines 'internal exclusion' as:

*"...part of a whole school approach to behaviour and attendance, and usually comprises immediate, short-term provision in order that learning and teaching for the majority of pupils can continue uninterrupted where the presenting behaviour does not involve the potential for serious harm, e.g. if it comprises non-compliance or verbal abuse restraint is not a proportionate response."<sup>56</sup>*

The child 'internally excluded' should be positively supported in an alternative learning environment but in a crisis (and allowing for dynamic risk assessment), alternative support strategies such as going for a walk with the child or going to the gym might be more appropriate. Whilst 'internal exclusion' would generally be for short periods only.<sup>57</sup>

## Restrictive Practices: Restraint and/or Seclusion in an Educational Setting

There is no statutory definition for restraint and seclusion in an educational setting in NI, DE guidance refers to use of 'reasonable force' to maintain order and discipline but does not clearly articulate how this should be interpreted in practice, or what constitutes 'an emergency'.<sup>58</sup>

<sup>53</sup> [Contact.org.uk: Definitions of Formal Exclusion](https://www.contact.org.uk/definitions-of-formal-exclusion)

<sup>54</sup> [The Education \(Northern Ireland\) Order 2006 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

<sup>55</sup> [Internal exclusion guidance - Social Care Online \(scie-socialcareonline.org.uk\)](https://www.scie-socialcareonline.org.uk)

<sup>56</sup> [Department for Children, School and Families \(2010\) A commitment from the Children's Plan: The Use of force to control or restrain pupils](#)

<sup>57</sup> HM Inspectorate of Education (2010) Out of site, out of mind, HM Inspectorate of Education, Livingston.

<sup>58</sup> DE CIRC/2021/13

In the absence of definitions and for the purposes of this Review, NICCY will be using the definitions outlined below.

### **Restrictive Practices**

Restrictive practices (also known as restrictive interventions) are those that intentionally limit or compel a person's freedom of movement or function. This can be through restraint (chemical, mechanical, or physical – with or without the use of force), or seclusion.

### **Restraint**

The elements of restraint being considered within this review are mechanical, and physical:

**Mechanical restraint** is the use of a device, equipment, or other tool for compelling, controlling, or subduing the bodily movements of the person to whom such mechanical restraint is administered.

**Physical restraint** is the use of direct physical contact by one or more persons for the purpose of compelling, controlling, preventing, or subduing the bodily movements of the person being restrained.

**Chemical restraint** is the use of substances as ingested, inhaled, or injected for the purpose of compelling, controlling, or subduing the behaviour of the person to whom the medication is administered, regardless of whether such substance has been medically prescribed for the treatment of formally diagnosed physical or mental illness, however, will not feature in this Review.<sup>59</sup>

### **Seclusion**

Seclusion is the placing and keeping of a person (alone) in a room or other space from which they are unable to leave. Inability to leave can arise from exits being locked or being otherwise obstructed; inference, instruction, or threat to the secluded person not to leave; belief on the part of the secluded person that they are being stopped from or are

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<sup>59</sup> Please note, Chemical Restraint will not feature in this review, as educational staff should not administer substances. However, it has been noted that some parents and carers explained that their child had been excluded from extra-curricular activities due to medication needs, or told that their child cannot return to school until they take certain medication.

otherwise not allowed to leave; reluctance or refusal to leave because of fear of consequences of doing so.<sup>60</sup>

As outlined in the European Committee for the Prevention of Torture and Inhuman Treatment (1998), seclusion should never be used as a form of discipline or punishment. The practice of seclusion in educational settings gives rise to a number of legal issues including whether the use of seclusion might be interpreted to constitute a DoL. Article 37B of the UNCRC states “*No child shall be deprived of his or her liberty unlawfully or arbitrarily.*” Article 5 of the ECHR outlines every adult and child “*has the right to liberty and security of the person...No one shall be deprived of his liberty save in accordance with a procedure prescribed by law*”. The latter right is however qualified in several respects and with reference to education specifically provides for the “*detention of a minor by lawful order*” for purpose of educational supervision.

Everyone who is deprived of their liberty by detention is however entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and their release ordered if the detention is not lawful. This raises a number of interesting legal issues with reference to the use of seclusion in an educational context and may in certain circumstances represent a DoL under the MCA.

In interpreting whether local practice with individual children might amount to a DoL in schools, Peterson (2011) highlighted educational settings should be mindful of the broad criteria that a court might use in making such a judgement. “*The objective element of a person’s confinement to a certain limited place for a not negligible length of time including*”: the “*additional subjective element [that] they have not validly consented to the confinement in question,*” and the confinement must be “*imputable to the State.*” In other words, the government must be responsible directly or indirectly, any decision would however ultimately be that of the relevant court.<sup>61</sup>

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<sup>60</sup> Haugom, et al (2019) Ethical challenges of seclusion in psychiatric inpatient wards: BMC Health Services Research.

<sup>61</sup> Paterson B., Martin A., Nisbett I. and Leadbetter D. (2011) The use of time-out and seclusion in Scottish schools: A matter for concern? Report Arising from a Workshop © CALM Training

## 1.4 Regional Policies on Restraint and Seclusion in Educational Settings

The following section provides a brief overview of the different policies on use of restraint and seclusion across the four UK jurisdictions, England, Wales, Scotland and Northern Ireland. A comparison of the guidance and how it has been interpreted and viewed is incredibly useful learning for Northern Ireland.

### England

#### **Reducing the Need for Restraint and Restrictive Intervention (2019)**<sup>62</sup>

The English Government produced non-statutory guidelines, which outlined a framework for children and young people with learning disabilities, autistic spectrum conditions and mental health difficulties in Health and Social Care services and special education settings.

While stakeholders have welcomed the move towards a standardised framework there have also been several criticisms of the new guidelines:

- The guidance is non-statutory.
- It does not cover mainstream schools (where a significant amount of restrictive practices take place) or children who without a diagnoses or statement of educational need;
- It does not require schools to inform parents if a restrictive intervention has occurred;
- It defends the use of restrictive practices such as seclusion rooms “*as a disciplinary penalty;*”
- It fails to prohibit use of prone restraint (already prohibited for the use in adult care); and <sup>63</sup>.
- There was no accompanying training programme where alternative methods are provided.

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<sup>62</sup> [Reducing-the-need-for-restraint-and-restrictive-intervention \(2019\)](#). Accessed Aug 2021.

<sup>63</sup> Prone restraint is defined as “Prone restraint is the extended restraint (either physical or mechanical) of a person include holding an individual past the time of immediate struggle”. [Diisabilityrightsca.org \(2008\)](#). Accessed Aug 2021.

### **Office for Standards in Education (OFSTED): Positive Environments Where Children Can Flourish (2019)<sup>64</sup>**

OFSTED guidance sets out an approach to the use of physical intervention, restraint and restriction of liberty that is centred on children having a positive environment to live and learn in, and one where staff interact positively with children.

### **Equality and Human Rights Commission: Restraint in schools' inquiry: using meaningful data to protect children's rights (2021) <sup>65</sup>**

The Equality Human Rights inquiry sought to understand the answers to the following questions:

- To what extent are primary, secondary and special needs schools collecting data on their use of restraint?
- If they are, what data do they collect and what do they do with the information once they have it? and
- How can schools use the information they collect to improve outcomes for their pupils, in line with human rights principles?

Recommendations included: Mandatory recording and national guidance; National minimum standards should be used for recording the use of restraint in schools; and The development of national training standards, utilising the Restraint Reduction Network training Standards.

The inquiry outlined training should ensure a human rights approach to minimising the use of restrictive interventions, and that each incident of restraint should be recorded based on the definition in the Equality and Human Rights Framework for Restraint to help reduce the use of restraint.

Restraint data from schools should be collated, published and analysed, including compliance with recommendations from the UN Committee on the Rights of the Child. It must ensure that disaggregated data is available for England and Wales and finally Local Authorities and schools in England and Wales should be required to analyse restraint in post-incident reviews and use that analysis in behaviour management planning with the aim of minimising its future use.

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<sup>64</sup>[OFSTED \(2019\) Positive Environments Where Children Can Flourish - Accessed Aug 2021.](#)

<sup>65</sup>[EHRC \(2021\) Restraint in schools' inquiry: using meaningful data to protect children's rights](#)

The report recommended annual reviews should include monitoring national and school-level restraint data as part of inspections and use the data to develop any new inspection frameworks, to increase transparency and oversight, and support human rights protections for children.

## **Wales**

### **Reducing Restrictive Practices Framework (2019)<sup>66</sup>**

In Wales a recent consultation on a proposed framework to promote measures and practices took place that aims to reduction of restrictive practices in childcare, education, Health and Social Care settings. Once implemented it will replace the Framework for Restrictive Physical Intervention, Policy and Practice (2005). The framework seeks to ensure that where restrictive practices are used, it is as a last resort, to prevent harm to the individual or others. It outlines interventions should be informed by person centred planning within the context of the service settings, and in a way which safeguards the individual, those whom they interact with, and those who provide services to them.

In order to achieve its aims, the framework recommends that relevant organisations should have a threefold focus:

1. Preventing the necessity for restrictive practice through the development of reduction strategies and through the promotion of a human rights approach;
2. Working with individuals through person centred planning to meet individual needs in a way that actively reduces the likelihood of situations arising where restrictive practices are used as a last resort; and
3. Having measures in place so that when situations arise where restrictive practice are used as a last resort, to prevent harm to the individual or others, there is prior planning and training in place to secure the safety of all concerned.

Although the framework has been commended, its main criticism is that it is not statutory, therefore the governments' ability of achieving the frameworks objectives is somewhat stifled.

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<sup>66</sup> Gov,Wales (2019) [consultation-document-reducing-restrictive-practices-framework.pdf \(gov.wales\)](#)

## Scotland

### **Commissioner for Children and Young People Scotland (CYPCS): No Safe Place: Restraint and Seclusion in Scotland's Schools (2018)<sup>67</sup>**

The report was the CYPCS office's first investigation, which focused on Local Authority guidance around restraint and seclusion. The report includes a number of key recommendations which include the need for a rights-based national policy and guidance on restraint and seclusion in schools.

Following engagement with Scottish Ministers, CYPCS and EHRC in 2019, the Scottish Government pledged to introduce a comprehensive framework to guide the use of restraint and seclusion in schools.<sup>68</sup> In 2020, a Physical Intervention Working Group Terms of Reference was established to:

1. Produce human rights-based guidance on restraint and seclusion and review the effectiveness of that guidance;
2. Involve children and their families in the drafting and review of the guidance;
3. Consider statutory action should the guidance prove to be ineffective; and
4. Develop and introduce a standard dataset to be implemented across Scotland to ensure consistent recording and monitoring of incidents.

## Northern Ireland

Northern Ireland does not have a regional policy on the use, monitoring or reporting of restrictive practices in educational settings. The recent introduction of what is seen as progressive mental capacity legislation which provides legal clarity around definitions and operating frameworks for use of DoL, does not include educational settings or under 16s.<sup>69</sup>

In October 2021, the DoH consulted on a Regional Policy on the Use of Restrictive Practices in Health and Social Care Settings. In NICCY's advice to the Department, it welcomed the overarching aim of the draft policy which is to embed best practice into the system with respect to the management of restrictive interventions, restraint and seclusion across all areas where health and social care is delivered in Northern Ireland.

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<sup>67</sup>CYPCS (2018) [No Safe Place: Restraint and Seclusion in Scotland's Schools | Restraint and Seclusion in Scotland's schools \(cypcs.org.uk\)](#)

<sup>68</sup> [Physical Intervention Working Group: terms of reference - gov.scot \(www.gov.scot\)](#)

<sup>69</sup> Mental Capacity Act (Northern Ireland) 2016



NICCY raised a number of concerns about the current draft, in particular the fact that it was general guidance for adults and children, without a section focusing on age specific considerations for under 18s, and for children with complex needs, such as physical or neurodevelopmental disabilities.<sup>70</sup> It is also NICCY's view that similar guidance specific to educational settings should be developed without delay.

### **Northern Ireland Publics Services Ombudsmen (NIPSO) Overview Report: the use of Restrictive Practices in Northern Ireland Schools (2021)**<sup>71</sup>

In April 2019, NIPSO undertook a strategic inquiry into the use of restrictive practices 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;
- Media interest and reviews of the issue across the UK<sup>72</sup>; and
- Public concerns raised by other organisations, including the UNCRC and Northern Ireland's Commissioner for Children and Young People<sup>73</sup>.

NIPSO carried out a review of 20 separate enquires/complaints received and 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 BoG. NIPSO considers that:

- The Department of Education should include a standard 'Incident proforma' within its revised/new Restrictive Practice Policies and Procedures, to be used by all schools;
- The Department of Education should establish set review periods of any revised/new Policies and Procedures;
- The Department of Education should include consideration of the publication of a standardised Quiet/Sensory room policy within its Review of Restrictive Practices; and

<sup>70</sup> [Use of restrictive practices and seclusion in HSC settings \(niccy.org\)](#)

<sup>71</sup> NIPSO (2021) [Overview-Report-the-use-of-restrictive-practices-in-schools.pdf \(nipso.org.uk\)](#). Accessed August 2021

<sup>72</sup> <https://www.belfasttelegraph.co.uk/news/northern-ireland/schools-operating-secret-discipline-system-which-isnt-recorded-by-education-department-claims-childrens-commissioner-36001112.html> Accessed Aug 2021.

<sup>73</sup> [UK-CRC-Concluding-observations-2016-2.pdf \(unicef.org.uk\)](#) Accessed Aug 2021.

- The Department of Education 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.

### **NICCY: Too Little Too Late (2019)**

In 2019, NICCY produced “Too Little, Too Late” (TLTL)’, the aim of the Review was to explore the extent of SEN in mainstream schools; whether needs were being met; the barriers that prevent children and young people from fully realising their rights to an effective education in the context of SEN provision in mainstream schools; and the impact this has had. The Review also set out to examine whether the current system is fit for purpose and ensures equality of educational opportunity regardless of circumstance; and whether it is responsive to the current and future needs of the diverse population of children in schools in Northern Ireland.

There are distinct areas of crossover in regards to issues and findings highlighted in TLTL and the Review of restraint and seclusion in educational settings. Specifically, TLTL sets out recommendations in Suspensions, Expulsions and Informal Exclusions:

- Robust data is required to identify the causes of the variance in rates of suspension and expulsion between children with and without SEN.
- DE 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:
  - Sending children home early from school;
  - Placing children on reduced school hours outside the statutory framework and guidelines for school exclusion;
  - Informally excluding children from participation in school activities such as classroom based-activities, school trips, school plays and school photos;
  - Placing children in isolation or segregating them from peers; and
  - Where children are ‘managed out of school’ (told to find another school to avoid expulsion).
- Education Training Inspectorate (ETI) must include the reviewing of these records as part of the school inspection process.

- Boards of Governors must be satisfied that schools have evidenced that all appropriate pastoral measures have been employed before suspension, expulsion or informal exclusion has been considered.
- The EA should work constructively with parents/carers to ensure that any children with SEN being educated outside of school, whether statemented or not, are provided with the specialist SEN services required. This should include additional support to parents/carers home educating children with SEN.

### **ML v Special Educational Needs and Disability Tribunal (SENDIST) and Education Authority (2021) NI Fam 15<sup>74</sup>**

The recent case of ‘ML v SENDIST and EA [2021] NI Fam15,’ reports a young person aged 17 who, it was proposed, would be educated in a modular unit at school with a locked door and keypad and a surrounding fence whilst under intense individual supervision. It was noted that in 2019 the DE had identified a need to update its Guidance “*on the use of reasonable force or control of pupils in schools*”. DE advised the court that it was “*engaging with a range of stakeholders to inform development of the revised guidance concerning the use of restraint and seclusion*”<sup>75</sup>.

Consideration was being given as to whether there would be consolidated guidance for DoL and restraint and seclusion. The court found that “*It is obviously imperative that priority is given to this multi-disciplinary work to support and protect children in the special educational field.*”

Prior to this case the Mental Capacity Act (NI) 2016 and related guidance made no overt reference to education settings, therefore made a grey area of its practical application in education settings.<sup>76</sup> As a result, the Court held that in order to be lawful, a DoL of a young person in an education setting (in this case a Special School), must be authorised by the Review Tribunal or by the High Court by way of declaratory order, referencing Article 5 ECHR, in addition to any other domestic provisions and that public authorities are aware of this fact.

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<sup>74</sup> [ML and Special Needs and Disability Tribunal and Others \(2021\).pdf \(judiciaryni.uk\)](#) Accessed Sep. 2021.

<sup>75</sup> DE/CIRC/21/13 (2021)

<sup>76</sup> [ML and Special Needs and Disability Tribunal and Others \(2021\).pdf \(judiciaryni.uk\)](#) Accessed Sep. 2021.

It is important to recognise the concept of emerging capacity in children and young people, it is also important to assess the child's understanding on an individual basis (also considering any disabilities or additional needs), and to remember that the severity of the consequences of the decision should be taken into account.<sup>77</sup> The judgment in the case of **Re D (a Child) [2019] UKSC 42** where the United Kingdom Supreme Court (UKSC) has held that it is not possible for those with parental responsibility to consent to the DoL of a person aged 16 or 17.<sup>78</sup> The judgment has further implications for under 16s, to whom DoL safeguards do not currently apply, but where parental consent is being relied upon to restrict a child's liberty.

### **UK Wide: Parents' and Carers' Voices on Restrictive Practices**

In 2019, The Challenging Behaviour Foundation and Positive Behaviour Support Scotland created a joint report, 'Reducing Restrictive Intervention of Children and Young People' to assess the use of restrictive practices on children with additional needs in schools across the UK including Northern Ireland.

The joint research included a survey with 204 parents whose children have additional needs as well as analysis of 566 case studies of families gathered over a 12-month period. The survey revealed that:

- 88% of parents reported that their child had been restrained in school with 35% stating this happened on a regular basis;
- 71% of families reported that their child had been secluded in school, with 21% stating this was happening on a daily basis; and
- 50% of respondents' children had been prescribed medication specifically to manage challenging behaviour.

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<sup>77</sup> Paterson B., Martin A., Nisbett I. and Leadbetter D. (2011) The use of time-out and seclusion in Scottish schools: A matter for concern? Report Arising from a Workshop © CALM Training

<sup>78</sup> <https://www.supremecourt.uk/cases/uksc-2018-0064.html> Accessed Aug. 2021.

Most of the restrictive interventions reported were taking place in schools; for example, 68% of the physical interventions. Over half of the cases of physical intervention or seclusion reported were of children between the ages of five and ten. The youngest case involved a 2-year-old child. Analysis of case studies revealed 1,058 reports of restraint and 544 reports of seclusion. Families who submitted their experiences stated that recording and reporting of restrictive intervention and associated injuries is very rare. From the 566 case studies collected, only 19% of families reported that injuries were recorded and only 17% reported that the restrictive intervention was recorded.<sup>79</sup>

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<sup>79</sup> The Challenging Behaviour Foundation (2019) Reducing Restrictive Intervention of Children and Young People Case Study and Survey Results

## Section Two: Research Methodology

### 2.1 A Rights Based Research Review

As a rights-based review a central aim of this piece of work will be to explore the use of restraint and seclusion within educational settings and the impact it has on children and young people.

In compliance with international obligations, the Review will endeavour to hear from children and young people directly, or where appropriate from a trusted adult for example a parent, guardian or advocate. It will also seek the views of a range of professionals who work within the education sector.

The information gathered through this Review will be used to develop a set of recommendations for all those responsible for the monitoring of pupils and the creation and implementation of policy within DE and EA. This is so they can use it to deliver on its obligations as set out by the UNCRC and to positively address issues raised by the Committee on the Rights of the Child in relation to Northern Ireland's compliance with the Convention.

#### **The UN Committee on the Rights of the Child's General Comment No. 15 (2013)<sup>80</sup>**

The committee recognises the rights of the child to the enjoyment of the highest attainable standard of health (Article. 24). General Comment No.15 of the UNCRC, in particular **Section 6** sets out a framework for implementation and accountability and these have informed the key standards applied to this Review on restrictive practices in educational settings are:

1. **Availability:** Whether there are adequate facilities and services in place to meet the needs of children and young people.
2. **Accessibility:** There are a number of aspects by which accessibility will be considered:

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<sup>80</sup>CRC/C/GC/15 (2013)

*Non-discrimination:* Whether there is equal access to educational services for all children without discrimination of any kind, and irrespective of where they live, who they live with, age, gender, ethnic background, or circumstances.

*Physical accessibility:* Whether educational facilities are within accessible distance for all children and young people and that additional measures are taken to ensure the needs of children with disabilities are met and those living in under-served areas.

*Information accessibility:* Whether information on the use of restraint, seclusion and restrictive practices provided to children and their care givers is provided in a way that is accessible and understandable.

3. **Acceptability:** Whether the policies developed and the use of restraint, seclusion and/or restrictive practices are designed and delivered in a child-centred way, i.e. respectful of children's needs, expectations, views, cultures and languages and executed within their best interests.
4. **Adaptability:** The educational environment must be adaptable for children and young people with disabilities. Children and young people with disabilities should be able to attend primary and post primary schools in the communities where they live and include accessible transportation. Children and young people with disabilities must be provided with reasonable accommodation so they can have access to education on an equal basis with others.
5. **Quality/Impact:** Whether children and young people are offered a quality of education which adequately meets need, is appropriate and which allows them to meet their full potential.
6. **Participation:** Whether the views of children and young people are gathered, and when appropriate the views of their parents, guardians and carers and other audiences are seriously considered and taken into account in their own education and in the development of policy and services.

7. **Co-operation:** whether there is timely and appropriate co-operation and integration of services to ensure a holistic approach is taken. This includes seeking the co-operation of allied health professionals and other professionals within health and education and between the Non Governmental Organisation (NGO) and Statutory Sector to ensure best practice on where the appropriate use of restrictive practices is implemented, monitored and reviewed.

## 2.2 Research Overview

A mixed methods approach was taken to this Review, which included various strands of work which are set out below:

### Quantitative – Open Questionnaire

1. Open survey to all schools to produce a baseline of understanding of the use of restrictive practices in educational settings.

### Qualitative – Semi Structured Interviews

2. Engagement with Parents/Carers:
  - a. Focus groups with parents and carers who either have lived experience of an individual/family member experiencing the use of restrictive practices in an educational setting, or no had lived experience of restrictive practices in an educational setting at all;
  - b. One to one interviews with parents and carers who have lived experience of an individual/family member experiencing the use of restrictive practices in an educational setting.
3. A Professional Focus Group was held with Health and Social Care professionals, educationalists, and academics to gain an understanding of how restrictive practices are applied within an educational setting.



## 2.3 Advisory Groups

NICCY established an Advisory group to inform and advise NICCY during all stages of the Review. Its membership included professionals from education, health, academia, NIPSO, the Community and Voluntary Sector, and parents and carers of children with lived experience of restrictive practices. ([Appendix 1](#)).

The purpose of the Professional Advisory Group was to:

1. Support the development of the Terms Of Reference for the Review;
2. Advise NICCY on the methodology and research design;
3. Support the interpretation of data collected and the development of recommendations for key government departments and agencies; and
4. Review draft findings and provide feedback.

## 2.4 Ethical Review Process

The proposed methodology for the Review applied NICCY's ethical procedures and guidelines for research. This involved completing an Ethical Approval Form ([Appendix 2](#)), which was reviewed internally by senior staff within the Policy and Participation and Legal Teams, the Head of Policy and Participation and the Chief Executive.

There are a range of technical terms and definitions used within this Review, referenced in section 1.3 'Definitions'.

## 2.5 Quantitative Research

### **School Principal Survey on the Use of Restrictive Practices in Educational Settings**

An online survey was created to give all educational providers an opportunity to comment on current procedures and practices on restrictive practices including understanding current policy and practice, training, recording and reporting procedures and recommendations for future guidance. It was considered that a higher and more uninhibited response could be achieved if schools were not identifiable, therefore respondents were not asked for their name or contact details.

### **Structure of the Survey**

The survey aimed at School Principals or authorised staff members (such as Vice Principal or SENCO) had 16 questions, with a mix of open and closed questions. There were a number of key sections that covered current guidance, school policy on interventions, incident recording, training and governance and recommendations ([Appendix 3](#)).

### **Consent**

An explanation of the survey's aims and objectives including anonymity was outlined in the introduction. Consent for information to be used for the report was sought from Principals or senior person within the school other than the Principal, with an option to give a title. Eighteen responses were removed from the survey total, due to not providing consent.

### **Promotion of Survey**

NICCY sourced a number of ways to promote the survey to all educational settings. Targeted promotion through social media was conducted with primary, post primary and special schools.

The survey was open for 4 weeks from 2 June to 30 June 2021. NICCY contacted all schools directly through their info email address provided by the EA website.<sup>81</sup> NICCY contacted representatives in all relevant Trade Unions, representative Education Councils and regularly updated the EA 'C2K Notice Board'.

### **Response Rates**

A total of 252 responses were received, as previously mentioned 18 responses were invalidated and removed. Therefore, there were 234 valid responses with a 61% completion rate. School categories used were Primary, Post-Primary, Special, all other types (including, Pre-School, EOTAS) became 'Other'. The table below sets out the response rates for each of the four different school settings listed.

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<sup>81</sup> [School Search 2020 | Education Authority Northern Ireland \(eani.org.uk\)](#) Accessed Aug. 2021

**Table 1: Survey Response Rates by School Setting**

<b>Educational Setting</b>	<b>Responses</b>	<b>% Survey Response<sup>82</sup></b>	<b>% Schools in NI</b>
1.Primary Schools	145	62	18
2.Post Primary	53	23	27
3.Special Schools	25	11	60
4. Other Types*	11	5	N/A

\* Please note: an exception was made whereby two responses were re-categorised from 'Other' into 'Special School' as it was more appropriate (as identified in response comments).

Please note, this Review refers to all educational settings, however, there was a specific focus in relation to targeting primary and post primary schools and Special Schools. For each question response rate varies.

## 2.6 Qualitative Research

### Interviews and Focus Groups with Parents and Carers

NICCY is mindful of ensuring the correct terminology when referring to key stakeholders within this Review. It has been noted the differences between parents who have children with additional needs who also have carer responsibilities and parents without, however, to ensure anonymity we have not distinguished between parents and parent carers and will be referred to only as 'parents'. In the context of this Review, 'carers' refers to the person(s) with main parental responsibilities if that person does not identify as the child's 'parent(s)'.

### Partnership with Department of Education

NICCY worked with DE to ascertain the views, experiences, and suggested ways forward, of parents and carers regarding the use of restraint and seclusion in educational settings. NICCY agreed to produce a report that aimed to thematically analyse the findings of qualitative engagement with parents and carers, and present emerging themes on the use of restrictive practices in educational settings. The Report (which was used to inform this review) aimed to:

<sup>82</sup> Please note all percentage rounded up/down to 1.0% and may therefore not always add to 100%

- Provide a channel for the voice of parents and carers to be heard within both NICCY's and DE's Review on the use of restrictive practices in educational settings;
- Explore any difficulties with the parent's and carers' complaints process;
- Understand the varied terms of restraint and seclusion, including parent/carer perspectives;
- Consider the rights and expectations of parent's and carers' and identify the extent of any current deficits;
- Aid the identification of NICCY's recommendations regarding best practice from parent's and carers' perspectives;
- Understand the impact of the use of restrictive practices in educational settings on a child (and their family) through the parent's and carers' perspective and lived experience;
- Ascertain parent's and carers' knowledge, understanding and views on restrictive practices in educational settings where their child has additional needs including children with Attention Deficit Hyperactivity Disorder (ADHD), ASD and/or a learning disability; and
- Ascertain parent's and carers' understanding and knowledge and thoughts on restrictive practices in educational settings where there is no direct lived experience.

Within this separate report, interviews and focus groups were conducted with parents and carers to capture their experiences and perspectives on use of restrictive practice in educational settings. This included:

- Experience of use of restrictive practices in educational settings;
- Explore parent/carer experience of complaints process;
- Discuss terminology/language used around restraint and seclusion;
- Consider the rights and expectations of parents/carers and identify the extent of any current deficits;
- Understand the impact that use of restrictive practices in educational settings has on a child (and family/carers themselves);
- Aid the identification of recommendations regarding best practice;
- Ascertain parents/carers knowledge, understanding and views on restrictive practices in educational settings where their child has additional needs including children with ADHD, ASD, and/or a learning disability; and
- Ascertain parents/carers understanding and knowledge and thoughts on restrictive practices in educational settings where there is no direct lived experience.

As previously mentioned, the engagement with parents and carers, the research findings and conclusions have been reflected in this Review and will also be used as evidence to inform DE's Review of policy and guidance concerning restraint and seclusion in educational settings.

### **Consent for Interviews**

Information sheets outlining details about the Review were shared with participants and parents/carers. These included the voluntary nature of their involvement, their right to withdraw from the study at any time, all information shared will remain anonymous and confidential and that they understand they may ask questions and receive answers regarding their participation. Parent information sheets were given and both verbal and written informed consent was sought ([Appendix 4](#)).

### **Safeguarding**

NICCY is mindful of the sensitivity of the research subject. NICCY sought to ensure participation in the research was appropriate and that all participants were supported. Engagement with parents /carers was carried out in partnership with four partner organisations known to have an established relationship with the participants.

Both NICCY and partner organisations were committed to ensuring that the research principle of 'do no harm' was integral to the research and this is reflected in the ascribed roles and responsibilities. A strong commitment to working together to ensure participant engagement was made as comfortable and meaningful as possible, including the development of an information and signposting sheet distributed prior to engagement.

Partnership agreements were drawn up between NICCY and each of the external partner organisations to provide clarity on roles and responsibilities, safeguarding arrangements and steps to be taken in the event of a child protection or safeguarding disclosure. ([Appendix 5](#)).

### **Key Partner Organisations**

**The International Coalition Against Restraint and Seclusion (ICARS)** are a specialist non-governmental organisation with expertise in the field of restraint and seclusion within educational settings.

ICARS support over 2,000 families across the UK whose children have been harmed physically and psychologically through the use of restraint and seclusion in schools. They work with families, lawmakers and Human Rights organisations internationally on legislation.

**Mencap** delivers services and provides a voice for people with a learning disability across Northern Ireland, England and Wales. Mencap support people to achieve high quality of life outcomes and enable them to realise their full potential, goals and aspirations. Alongside people with a learning disability, Mencap influence decision-makers to improve education, employment, health and social care policy.

**Parent Action** is a Human Rights based organisation which enables and empowers Parent Carers of children and adults with disabilities/lifelong health conditions, to advocate for their children's rights in vital public services.

**Parenting NI** is a leading charity for parenting support in Northern Ireland. Facilitating Parenting programmes that aim to build on skills and boost individuals' confidence in their parenting.

### **Profile of Parent's and Carers' Engagement**

With consultation from NICCY's Advisory Group two main groups of parents and carers were targeted based on their experience: those with lived experience and those without lived experience of restrictive practices in educational settings.

**Table 2: Total Number of Participants**

<b>Total Number of Participants</b>	<b>Number</b>
Lived Experience of Restraint and Seclusion	20
No Direct Lived Experience of Restraint and Seclusion	22
Total Individuals Interviewed	42

Please note, throughout this document NICCY has referred to a child with '*additional needs*', this is defined as any additional need that is required to ensure they are able to reach their full potential in an educational setting.

### **Interviews with Professionals Within Health and Educational Settings**

NICCY held a focus group with nine UK based professionals in relation to their roles and experience of restrictive practices in educational settings and any recommendations regarding its use. An open call for participants was made through organisations Restraint Reduction Network UK (RRN), RRN IRE and the Challenging Behaviour Foundation. The Advisory Group was also invited to participate.

Permission was sought via online signed consent forms and again verbal consent at the beginning of the focus group. A copy of the information and consent form can be found in [Appendix 6](#).

## **2.7 Data Analysis**

The surveys were made up of a range of multiple response (quantitative data) and open response (qualitative data) questions. The results were downloaded from Survey Monkey into a word document.

The transcribed interview and focus group data was uploaded onto a spreadsheet and systematic coding and recoding of interview data was used as themes emerged during the analysis process. As the interviews were semi structured, the topic guide was used as the basic framework to begin the coding process. The transcribed focus groups with the health and education professionals were also coded for analysis purposes.

## **2.8 Limitations of the Research**

The most obvious limitations of this Review was the effect of self-selection bias through the use of gateway keeper recruitment and the potential for those who did not respond to the survey or taking part in the interviews having very different views from those who did. Also, because the survey was anonymous, we cannot identify if the same participants responded more than once.

For the online survey NICCY were using each school's assigned 'info' email address, some of which had exceeded their storage capacity and were not accepting any further emails. The response rate must also be seen in the context of the date that NICCY were asking schools to participate. June is the last full month of the academic term and can therefore be a busy period for schools, this has been exasperated by the COVID-19 pandemic.

NICCY had aimed to speak directly with educational staff, specifically teachers and classroom assistants. Although meetings had been preliminarily agreed and due to take place in September 2021, regrettably COVID-19 had severely affected the re-start of the academic year 2021/22, and therefore it was not feasible to progress these meetings.

Although the review considers all educational settings, it has largely focused on primary, post primary and Special School settings.

Finally, without regional reporting and monitoring of use of restrictive practices in educational settings, there is no way of knowing exactly how prevalent and widespread the use of restrictive practices are.



## Section Three: Research Findings



234 Survey  
Responses  
from Principals



39 Parents and  
Carers  
Interviews



9 Professionals  
Interviews

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NICCY engaged with a total of 282 participants through a mixed methods research process, including an open online survey for Principals (or senior school officials), semi structured focus groups and one to one interviews.

Similar questions of knowledge and understanding, experience and impact, challenges and recommendations for best practice were posed to each stakeholder group. All information was thematically analysed into the following areas, and these areas will form the structure of this section of the report.

1. Policy, Guidance and Legislation;
2. Understanding and knowledge of Restrictive Practices in an Educational Settings;
3. Experience and Perspectives on Restrictive Practices; and
4. Educational Culture and Accountability.

### 3.1 Policy, Guidance and Legislation

Within this Review, it is unsurprising that the need for clear concise policy, guidance and legislation was consistently mentioned as a main priority by all stakeholders. This section aimed to establish an evidence base highlighting the shortcomings on regional policy, monitoring, and reporting/recording on the use of restraint and seclusion.

Within NICCY’s regional survey to Principals, schools were asked had they received any guidance on creating a policy on physical intervention.

In general, schools reported they had received guidance on creating policies on physical intervention from the EA, specifically the EA Behavioural Support Team. However, other sources Schools had used to inform policy were included: DE Guidance including, DE Safe Handling (2004); DE/Circ.2021/13 and DE/Circ.1999/09. Team Teach and other providers such as British Institute Learning Disability (BILD) and Health and Social Care Trusts were also identified as sources that assisted schools in creating their current guidance and policies on restrictive practices.<sup>83</sup>

### **Policy in Northern Ireland on use of restrictive practices in Educational Settings**

In NICCYs survey with principals, 72% (n=157) stated they have not received any guidance on creating a policy on physical intervention (Table 3). Of the schools that had received guidance, the majority stated that the guidance included definitions of physical interventions/restrictive practices, how to record, store and monitor incidents and a suggested timeframe for review of the policy.

**Table 3: School Receipt of Policy Guidance on Physical Intervention**

<b>Have you currently received any guidance on creating a policy on physical intervention?</b>		
	<b>Responses</b>	<b>%</b>
<b>Yes</b>	60	28
<b>No</b>	157	72
<b>Total</b>	217	100

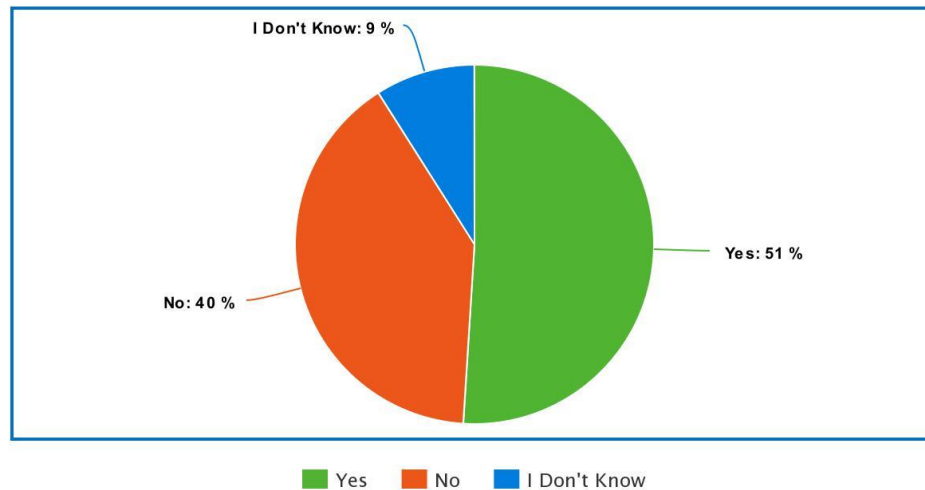
School Principals were also asked if their school had a policy on use of physical restraint and they were asked if the policy covered restraint and/or seclusion. The results in **Chart 1 and 2** below show that half of schools have a policy for restraint and 10% had one which included use of seclusion.

<sup>83</sup> Data was extracted from NICCY School Survey on Restrictive Practices (2021) which received a total of 217 responses. Of which 60 reported to receive guidance, with a total of 51 comments explaining where that guidance came from.

### Chart 1: School Policies for Restraint and Seclusion

Does your school currently have a policy on physical intervention that focuses on restraint? Total Response = 199

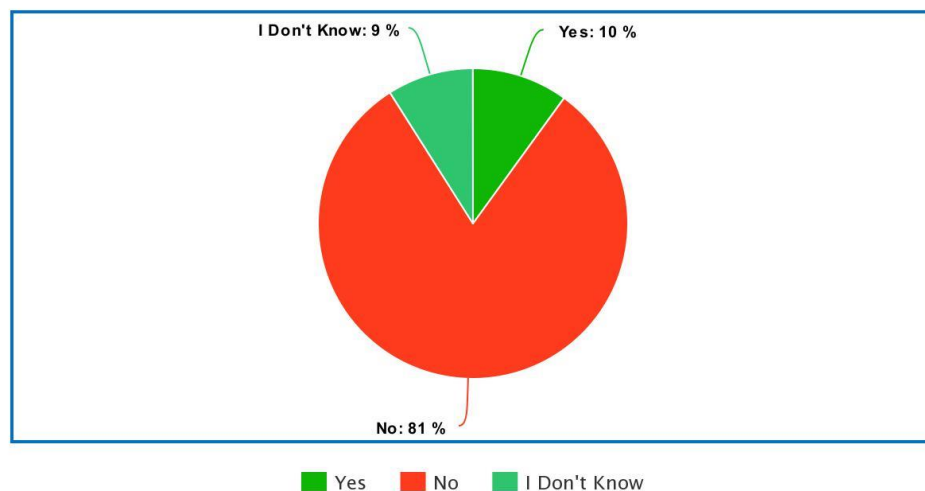
NICCY (2021) School Survey on Restrictive Practices



### Chart 2: School Policies for Seclusion

Does your school currently have a policy on physical intervention that focuses on seclusion? Total Response = 176

NICCY (2021) School Survey on Restrictive Practices



The following quotes from principals outline the lack of guidance for schools in Northern Ireland on use of restrictive practices and highlights how this vacuum creates considerable confusion for staff and is behind in terms of the best practice seen in other jurisdictions.

*“No training in NI is available for staff in mainstream schools and the focus has to be 80% on strategies to de-escalate situations before they reach the point where restraint has to be used. My previous restraint training (for school staff) outside of NI had to be refreshed every year and fully re-sat every 3 years. No equivalent exists in NI, and this must be addressed, even if the EA could award a contract to an external provider until they had their own staff trained to administer an agreed approach. This may take years to develop however.”*

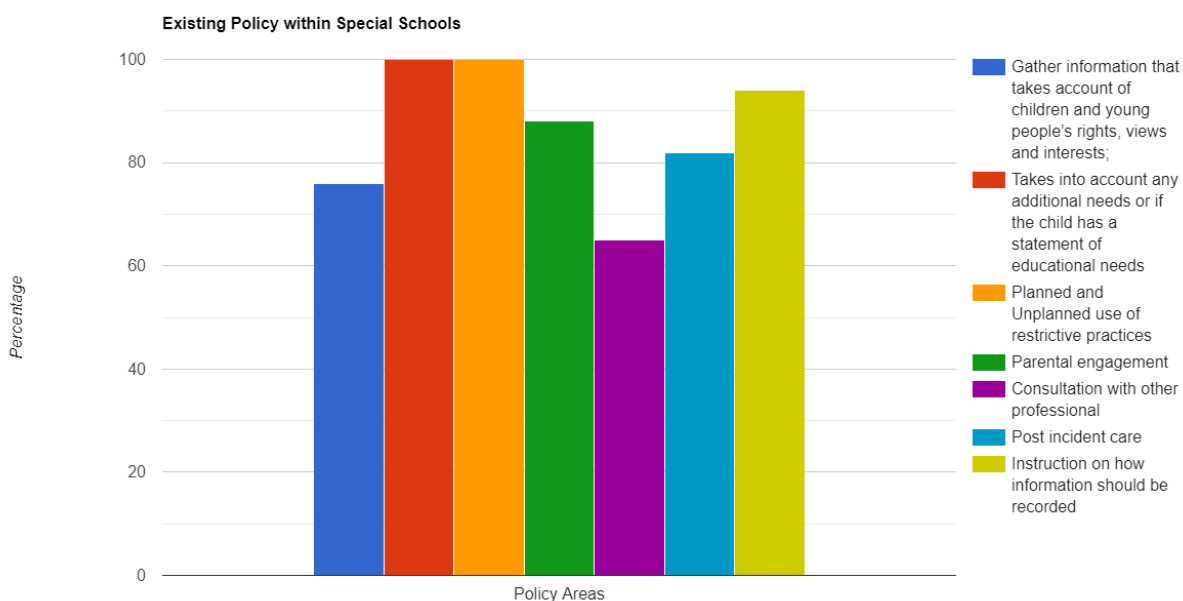
Mainstream School Principal

*“The advice we give our staff is ‘do not touch a child’ yet this runs in the face of the advice on restrictive practices.”*

Mainstream School Principal

## Existing Policy within Special Schools

**Table 4: Existing Policy within Special Schools (n=17)**

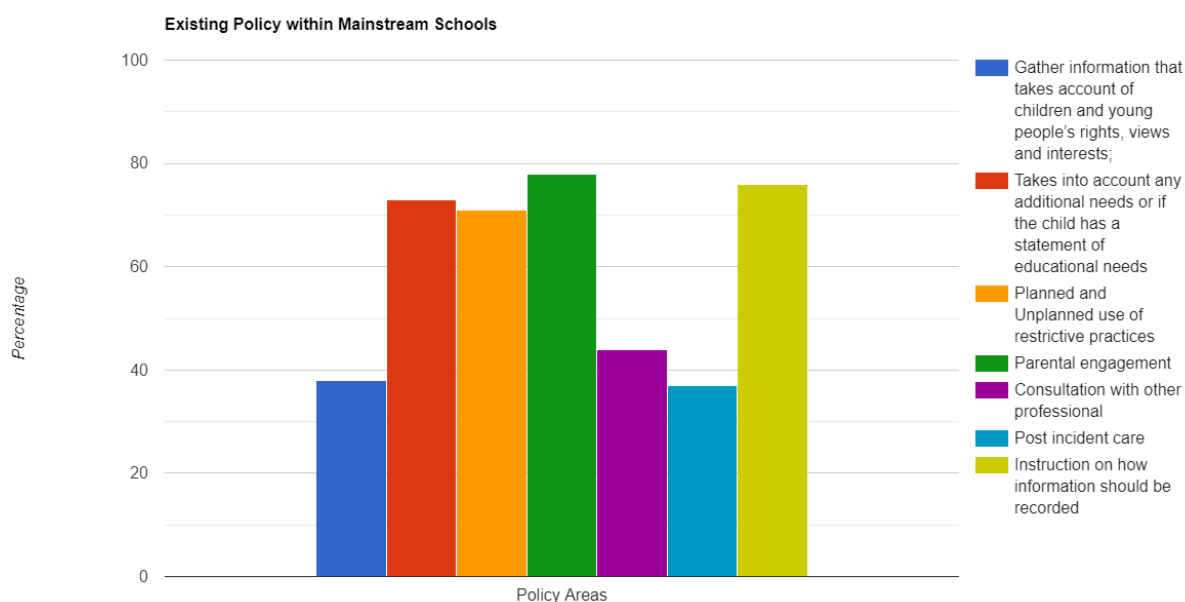


NICCY received a total of 21 responses from participants who identified as a school Principal or senior staff member from Special Schools. Of these, 17 reported that their school's policy specifically contained one or more of the following:

- 76% included how to gather information that takes account of children and young people's rights, views and interests;

- 100% take into account any additional needs or if the child has a statement of educational needs;
- 100% include guidance for planned and unplanned use of restrictive practices;
- 88% include guidance on engaging with parents;
- 65% include guidance on consulting with health professionals, i.e. allied health professionals, social workers etc.;
- 82% include guidance on care to the pupil post incident; and
- 94% include instruction on how information should be recorded in school

**Table 5 : Existing Policy within Mainstream Schools (n=63)**



From the school survey, 63 mainstream schools stated that the following sections were included in their school policy on restraint:

- 38% include how to gather information that takes account of children and young people's rights, views and interests;
- 73% take into account any additional needs or if the child has a statement of educational needs;
- 71% include guidance for planned and unplanned use of restrictive practices;
- 78% include guidance on engaging with parents;
- 44% include guidance on consulting with health professionals ie. allied health professionals, social workers etc.;
- 37% include guidance on care to the pupil post incident; and

- 76% include instruction on how information should be recorded in school.

The following quote also illustrates the difficulty Mainstream Schools have experienced in trying to formulate policy and guidance on physical interventions including restraint.

*“We were required to draw up a policy with little or no guidance. We would have several pupils who can be violent and destructive. Both pupils and staff have been injured by violent children. There is no help from EA despite the immediate dangers and obvious stress of the situation. Requests for help 'fall on deaf ears' and we are told to 'apply policy'. This is not helpful to those actually dealing with the situation.”*

Principal of a Mainstream School

When schools were asked if they had a policy on seclusion, only 10% said yes. Respondents stated seclusion should not be used, and presented alternatives to the restrictive practices, such as comfort breaks and use of the therapeutic alternatives. Although some respondents communicated that seclusion as an intervention may still be required in the case of an emergency, most respondents highlighted alternative therapeutic interventions instead.

*“We frequently bring children to spend time with our SENCo, in her room, which is quiet and has a black tent, wherein children can sit to feel safe and secure. We also use theraputty<sup>84</sup> etc, which we know the children enjoy and which helps relax them. We never leave a child unsupervised, as we would view this as dangerous.”*

Principal of a Special School

*“The school does not practice seclusion under those headings. Our policy does not allow rooms to be locked, pupils can access communal spaces within the school. The issue we focus on is engagement in learning and preparing a child to learn. This has driven self-regulation practice. This was an issue for many of our pupils in lock down and was a significant reason that the school did not close. Now that we are attempting to build up on more inclusive practice, we have noted anxiety levels rise and the increased need for self-regulation practice to reduce the anxiety levels.”*

Principal of a Special School

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<sup>84</sup> TheraPutty® is a stretchy, silicon-based exercise material used by physical and occupational therapists for hand therapy, to grip strength, finger strength, and fine motor skills can all be improved by the use of hand putty ([Types of TheraPutty® - Fabrication Enterprises \(fab-ent.com\)](https://www.fab-ent.com)) Accessed Oct. 2021

*“Seclusion is the last resort and is only used when staff and pupils are being physically abused (hitting, biting, kicking, throwing objects, spat upon) and verbally abused. These behaviours have resulted in other pupils becoming extremely anxious, afraid of the pupil demonstrating unacceptable behaviours and regularly being taken from their safe learning environment sometimes by an unfamiliar adult as the staff in the room are trying to deal with the child demonstrating unacceptable behaviour. The behaviour of the child is a risk to their own personal safety (attempting to abscond, self-harming, climbing). In all cases where seclusion is used this has been discussed and agreed with parents in advance. The only time an adult will not be in the room is when they are at risk of physical harm (rights of staff to work in a safe environment). Pupils are constantly monitored from a window and via camera.”*

Principal of a Special School

### **Current Guidance**

Stakeholders identified various issues regarding the current interim policy and guidance DE/CIRC/2021/13, particularly the point that it is ambiguous, open to interpretation and difficult to enforce. It is heavily criticised for using outdated language (referring Article 4, The Education (Northern Ireland) Order 1998):

*“To prevent a pupil from engaging in any behaviour prejudicial to the maintenance of good order and discipline at the school or among any of its pupils”.<sup>85</sup>*

Furthermore, concerns were raised that without regional frameworks being in place, even if local schools were reporting restrictive practices there is no way to monitor and evaluate their usage, improve practices regionally and create support and training structures for schools to minimise the need for restrictive intervention.

*“The [Department of Education] Interim guidelines, I wasn’t happy. People need to be specific in policies what restraint definitions are. I think we need to educate people on what mechanical restraint is and what that might look like including reins, chairs, handling belts, anything that restricts the movement because people just don’t understand. Like I didn’t understand, and to me even in the interim guidance.*

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<sup>85</sup> The Education (Northern Ireland) Order 1998, Article 4 – Cited in [DE Circular 13 of 2021 - Restraint and Seclusion.pdf](#) ([education-ni.gov.uk](http://education-ni.gov.uk))

*But seclusion can still happen. It's just guidance...we need this to be statutory, to make it enforceable. (In order) to hold anybody to account it needs to be statutory to take effect. There needs to be documentation."*

Parent of child attending Special School

*"...‘To prevent a pupil engaging in any behaviour which is prejudicial to the maintenance of good order and discipline at the school or among any of its pupils' (Cited from DE/Circ.21/13). This is a vague statement leaving staff unsure what it means and what can and cannot be done. It is open to interpretation and is therefore meaningless. We appreciate pupils have rights but so do the staff- They come into school each day and want to do their best for the pupils but were being subjected to physical and emotional abuse. There is limited resourcing, staffing and support. In the event of an incident, it stated in the above Circular that they should receive support - from whom? As Principal I would appreciate knowing who provides this support and when I receive the abuse who supports me?"*

Principal of a Mainstream School

Schools specifically sought clarity on guidance and direction including the need for collaboration and a template policy and procedure accompanied by training materials. Effective reporting and timely updates and reviews of guidance.

*"The guidance is vague and does not take into account the complexities of some of our pupils with severe learning difficulties. The legislation again does not take into account the complexities of our pupils. There is a real danger that by oversimplifying this issue schools that have to accommodate pupils with severe challenging behaviour will be placed in an extremely dangerous and impossible position where staff and pupils will be placed in significant harms way. One incident we had to face lasted 5 hours and resulted in a young man having to be removed from the school by 4 police officers and an ambulance crew. To this day I do not know how he or someone else was not killed."*

Principal of a Special School

Interestingly, there was a difference of opinion amongst schools with regards to a model policy with all essential parts where a school can tweak to their own circumstances. Others believe that a Pro forma Policy for all schools which has been agreed by schools and their Trade Unions rather than schools creating their own. Importantly, all stakeholders agreed the need for co-production in the development and formulation of



new policy including Parents and Carers, Educational Staff, Allied Health Care Professionals, Social Workers, CAMHS, Education Psychologists and any other relevant professionals. All stakeholders agreed that a policy must be child friendly, and child-rights based.

### **Lack of Mandatory Guidance**

Several parents/carers stated that after their children's initial exposure to restrictive practices, they experienced frustrations or difficulties in accessing information on legislation, guidance and policy concerning restraint and seclusion in educational settings. They also commented that any information they did receive was outdated and disagreed with the language used, for example 'to maintain good order'.

Participants who specifically cited legislation recommended it have a focus on keeping pupils safe, accepting the vulnerabilities and communication difficulties pupils may have. In referring to the legal context, there was concern about the use of restrictive practices and consequential legal action for staff. It was recommended the DE Circular should be more explicit on the contact point for further advice on restrictive practices, as they felt it was currently unclear.

*"When I went to go looking for that (reasonable force policy?), I had to physically ask the School in writing for the policies...I felt really uncomfortable doing it, it was very intimidating because I was a Mummy confronting them (the School) and it was all very confrontational because nothing was transparent. On the School website the (guidance) wasn't available. There was nothing to even suggest that this would happen in School, and so I had absolutely no knowledge, no understanding that this could happen. And it was just very, very sad to kind of find out and the manner that we have found out, and even now it has all been denied."*

*Parent of a child attending Special School*

Parents and carers discussed the lack of consent required for the use of restrictive practices compared to other requirements in education and health settings.

*"My wee boy has got a McLaren pram, where the OT has to come to us every year to specialise the buggy basically for a child who would run away or whatever. But she actually has to ask us every year, are we strapping him in the pram, and we have to reply, "Yes, we are, for his own safety." And she says, "That's okay, I just*

*need to record this because it's a form of restraint by strapping him. But it's okay for the School not to have any policy or ask my parental opinion?...So, a bit like another parent said, it's just ridiculous, if I did this as a parent, I would be completely—my child would be going through a children's order, under the child protection process. It's just unacceptable that this is really happening in education."*

Parent of a child attending a Special School

"You know there is something massively wrong with the system, when you have to give permission about applying sun cream, but they can restrain your child, drag them up the corridor, kicking and screaming and their mental health deteriorating over time...that's okay, you don't need permission for that, but we do need permission to take a photo of the child, or sun cream---"

Parent of a child attending a Mainstream School

A number of parents and carers talked of their shock at finding restrictive practices used against their children who have additional needs without their knowledge and noted that if such practices were used in a home setting, then it would be deemed a safeguarding issue, whereby social services or the police would have to become involved. Parents and carers commented on the lack of available information on policy and guidance on restrictive practices. Furthermore, Teaching staff highlighted the need for policy makers to engage with educators who have 'first-hand experience' of working with children and young people to ensure any future guidance and policy is fit for purpose, a lack of peer-to-peer support was highlighted also.

*"Policy makers need to spend a substantial period of time in schools to get first-hand experience of working with children/young people, particularly special schools and working with children with special needs in mainstream schools. Assess the setting including environment and personnel to see if these are adequate to best meet the child's needs. Up-to date training for staff,. face to face support for schools and specialist support for the child readily available/easily accessible. Protection for school staff from malicious allegations. Pro-forma policy for all schools which has been agreed by schools/unions - not each school attempting to create their own. Better support for schools, children and staff from EA."*

Principal of a Mainstream School

### **Concerns about reasons for use of restrictive practices in school settings: safety concerns or compliance?**

This is an excerpt from a parent whose child had experienced multiple instances of restrictive practices in an educational setting who shared their concern that restrictive practices are applied unnecessarily.

“Despite it being in policy and guidance that restraint should only ever be used as a last resort, only when all other techniques have failed and only when they are in danger/putting someone in danger... My youngest son's school put many scenarios under the umbrella of safety including non-compliance. Scenarios such as:

- He wouldn't leave the room with the other kids and couldn't stay in there unsupervised 'for his own safety'.
- He swiped items off his desk; he (was secluded) as could have hurt himself or others.
- He made a fist at us; aggression puts others safety at risk (despite it being the threat of imminent restraint that was making him anxious, distressed and attempting to protect/defend himself from it happening).
- He threw a cushion on the floor; it's a safety concern and can't have him putting others at risk.
- He was standing on the stairs; this according to them was putting himself in an unsafe situation and required restraint for his own safety.

The list could go on and on and on. Not once was my child actually in danger or endangering anyone else for that matter. Anything they could possibly fit under safety or risk they used as an excuse to use restraint on my child.”

### **School Governance**

Principals were asked to identify where they believed guidance on restrictive practices should be placed within school governance structure:

- 60% believed restrictive practices should be within safeguarding guidance;
- 32% believed restrictive practices should be within behaviour policy guidance;
- 8% of respondents believed policy and guidance should be in a separate policy that

- incorporates behaviour, safeguarding, and child protection; and
- Other comments included looking at this within the context of child mental health and well-being policy.

Issues were raised amongst stakeholders regarding issues with child protection and the inclinations that it only deals with incidents that arise in the home. Stakeholders raised concerns that safeguarding protocols are not being followed regarding incidents of restrictive practices where a complaint has been raised by parents or carers.

### **The Complaints Process**

Parents and carers discussed their understanding and experience of making a complaint to the school about restrictive practices being used on their child. Parents described the process of addressing their complaints with the school as unequal and time consuming, with a lack of communication about the process, and the BoG demonstrating a lack of understanding and knowledge of what restrictive practices are.

Stakeholders have noted that there is no real accountability in regard to BoG. For example, there is a lack of clarity on how to make a complaint specifically about a Board (or member) within school complaint policies, and the procedures used to investigate such complaints. There are also inadequate mechanisms to hold a Board (or member) to account, either through sanction or removal, where failings/misconduct are substantiated and limited grounds for disqualification of a Board member.

Parents and carers were concerned that the school reputation was sometimes prioritised by Principals and the BoG rather than the best interests of the pupils who had experienced restrictive practices. Parents and carers describing schools being either dismissive or defensive and that the BoG 'sided' with the principal.

*“The management...if it was just the teacher you could maybe see past it, but when it's the management of a School that are listening to your concerns and you're raising these complaints and they're not listening. They're brushing over it as if it is completely acceptable, the board of governors was doing the same.”*

Parent of a child attending Mainstream School

*“It is controlled by fear and by, I suppose, this culture of just closing in on the parent and making them feel like they have nowhere to go. The complaints process is just designed to exhaust you at every stage, you just feel, how on earth am I going to continue, you have blocked wall after blocked wall, after blocked wall.”*

Parent of a child attending Special School

Parents and carers conveyed difficulties they experienced when they attempted to raise their concerns as a complaint to the BoG of the school. They expressed that following a lack of resolution with the school, the only options remaining were to either take legal action, a safeguarding complaint or go to NIPSO, all of which were difficult to undertake without any formal support.

It is worth noting that there are organisations that offer support including NICCY’s Legal and Investigations team who are available to assist parents and carers, some parents did refer to NICCY, others were unaware of our support at the time they were going through the process. Often parents and carers tried to notify the EA, but reported being disappointed when they were told EA had no authority or legal duty over BoG’s decision-making processes.

### **3.2 Understanding and Knowledge of Restrictive Practices in Educational Settings of Parents and Carers**

Throughout engagement with parents and carers, it was apparent that they did not want to be seen as unfairly negative or overly critical, especially towards teaching staff in general. A number of parents and carers complimented individual teachers for their contribution in trying to help, including where their child was having a negative experience in school. Small and effective reasonable adjustments that are child-centred, were consistently commented on when talking about positive relationships with staff members and schools. Examples of best practice or areas of improvement identified by participants will be included in this section of the report.

To minimise the use of restrictive interventions and remove the use of seclusion in educational settings, it was recognised by participants that all stakeholders within the educational settings must first have clear, concise and consistent understanding and knowledge of what restrictive practices are.

This includes an understanding of the context around why they are used and how to specifically mitigate the risk of the use of restraint as measures of last resort. Finally, throughout the Review, respondents identified training as the foundation for ensuring schools, parents and carers have the right resources to meet the needs of children.

As part of the Review, parents and carers were asked about their understanding and knowledge of the various terms used for restraint and seclusion in educational settings, the majority of those who responded had no prior knowledge of restraint and seclusion occurring in a school setting and the idea of it happening to children was deemed unacceptable by parents and carers. However, there was significant understanding and knowledge of restrictive practices applied in Health and Social Care, albeit mostly within adult social care settings.

*“I am aware of most of these terms (referring to restraint and seclusion), I would be horrified, I presume that these maybe happen in more SEN Schools who have to use these methods for want of a better word, I would be horrified if something came back if child was secluded or left in room for any length of time, it’s draconian.”*

Parent of a child with no experience of restrictive practices

Parents and carers who had more than one child in school felt that the treatment from school towards their child with a disability was different to their child without a disability.

*“I’ve had no experience of it before my own family’s experience. It was a massive shock; I had no idea that it could be done without even a permission or a conversation with parents and carers. I actually went and got legal advice because I was so shocked, I couldn’t believe it had happened.”*

Parent of a child attending Mainstream School

As mentioned in Section One, there are no current legal definitions, (with the exception of DoL), stakeholders highlighted inconsistencies in language, terminology and application of restrictive interventions. Throughout the engagement with participants, the Review found a clear need to address what people mean by restraint and seclusion and restrictive practices. The Review uncovered a range of issues with inconsistent terminologies and definitions including how therapeutic interventions are applied, as illustrated in the following quotes.

*“You know for me when people understand restraint, they associate it with physical on the body. I think people like me, if you had asked me well what do you think restraint does? I probably would have thought it's only probably holding somebody. I didn't realise that there's different types of restraint, and I didn't know that they can classify as chemical restraint, mechanical restraint and environmental and all can be applied with blanket restrictions.”*

Parent of a child attending Special School

*“The use of sensory rooms, as a therapeutic method, it should never be used as a form of seclusion and I think it is quite easy for a lot of Schools to put a child in the sensory room and say that they're in there for therapeutic reasons, but they're left alone, and we don't know that as parents and carers, which is quite scary.”*

Parent of a child attending Special School

### **Language Used When Describing Restrictive Practices**

Language was continually cited by participants, particularly in relation to ambiguity in understanding of restrictive practices leading to different interpretations amongst stakeholders. The review found that ‘jargon terminology’ used by staff led to parents and carers being unaware that restrictive practices were being used on their child in school, such as ‘positive handling’ or ‘safe handling’. Furthermore, without additional training, or understanding it is very difficult for Board of Governors to disagree with teaching staff reports.

*“...I suppose our professionals using language unknown to us, almost like an office framework. So, they understand what it is they're doing and saying. But when we said to the Board of Governors about the use of mechanical restraint in our complaint, they didn't know what mechanical restraint was!”*

Parent of a child attending Mainstream School

*“Fluffy words and phrases to cover up the brutality that it is restraint being used as a go to tool for everything! It is used to deflect parents from realising what it actually is and what it involves. We have no idea what is happening to our children because the words they are using sound 'nice' or even 'pleasant'. Such as the T-Wrap and they describe it as being hugged! Yet this is the one that they would brutally yank my child's arm up behind his back (he has hypermobility in his joints).*

*To me fluffy words are dishonest and not transparent! It's hiding the brutality of what it does to our children."*

Parent of a child attending Mainstream School

As previously discussed, the use of language was identified as a huge concern within policy. 'Behaviours that challenge' and 'bad behaviours' were seen by stakeholders as misleading and instead it should be changed to 'distressed behaviours'. Concerns were also raised regarding the use of the term 'restrictive practices.'

*"The term restrictive practice is very negative. As a school we refer to positive handling and this is used to safeguard a child when in danger of hurting themselves and or others. Therefore, it most definitely sits in safeguarding."*

*Principal of a Special School*

## **Training**

Training was continually commented on when it came to issues and areas for improvement on reducing restrictive practices in educational settings. However, there were differences in levels of need between Special Schools and mainstream school settings.

As part of a survey NICCY conducted with School Principals on current practices on restraint and seclusion in educational settings, we asked the question, "*Have relevant staff been provided training in relation to physical intervention?*" From the responses, it is apparent that there are differences in training provided to staff in mainstream and Special Schools. Only 31% (n=45) of respondents identified they had received training in physical intervention. Of those who identified as having training 88% (14 out of 16) Special Schools stated they had received training, whereas only 23% (n=28) of the schools who identified as being 'mainstream' stated they their school had been provided with training on physical intervention.

A number of respondents stated they had requested training that had not yet been received, alternatively a number of schools stated they had to source and fund training themselves, without support from their governing body. Alternatively, Principals explained if their staff received any training on restrictive practices, it was from a cluster training package on safeguarding or child protection. They emphasised a need for more specialised training on positive behavioural support, early intervention and prevention and



managing pupils distressed behaviours. The training should take into account the changing pupil profile in all schools, ensuring child's rights and their safety was a central focus of restrictive practices training.

The need for additional resources and specialised professional support was highlighted by some Principals as currently insufficient. Participants felt very strongly that teachers should never have to deal with such behaviours, however, additional training in challenging behaviour, autism and how to administer restrictive practices properly and safely without fear of reprisal was recommended by Principals in areas that could support staff.

One teacher stated that teachers should be given time and support, including by teaching unions, to carve out time to be trained in restrictive practice.

*“Ensuring adequate time is allocated in school for ensuring that all staff are familiar and understand the practices and that they are supported by teaching unions.”*

Member of teaching staff in a Special School

The Review highlighted that all respondents promoted the use of early intervention and practices of de-escalation and positive behavioural support as a way of minimising the use of restrictive practices, however, lack of resource and support for teachers was a huge barrier in implementing best practice. Both physical and legal support and protection for staff was referenced as important but lacking in schools. There was acknowledgment that use of restrictive practices on pupils can be challenging, distressing and emotional on staff.

The Review revealed a deep sense of fear from teachers in all educational settings regarding the practical application of restrictive practices, particularly in misapplying restraints and hurting a child or becoming culpable for potential legal action against them. There was a strong emphasis that teaching staff did not want to use restrictive practices and that if restrictive practices are required, it is not a decision that is taken lightly.

*“We cannot create a situation whereby staff are afraid to intervene and restrain or physically stop a child who may be about to come to harm.”*

Principal of a Special School

*“Staff are concerned about legal challenges. Staff do not want to take part in these methods of restraint or control.”*

Principal of a Mainstream School

*“A clear understanding of the complex needs of pupils within all educational settings and the changing profile of pupils within special school, e.g. higher frequency and severity of challenging behaviour. A need to work closely with school Principals, staff and parents to ensure a common and consistent approach which is clearly understood by all.”*

Principal of a Mainstream School

Overall, participants were of the view that all teaching staff should be aware of how to minimise the risk of using restrictive practices, it was believed it should begin in initial teacher training or at post graduate level and should continue on towards professional development.

### **Additional Training to minimise the risk using restrictive practices in educational settings**

Participants believed training on the use of restrictive practices should not be done in isolation and to minimise use of restrictive practices several training packages should be developed, including how to create a personalised learning plan for an individual with additional needs that cover the following areas:

- How to create an individual learning and support plan that includes identifying person centred training requirements;
- Positive Behaviour Support ;
- Effective communication and engagement with parents and carers;
- Mental health;
- Trauma informed practice;
- Additional needs;
- Disability awareness, specifically autism spectrum disorder (ASD) and learning disability;
- Addressing distressing behaviours in children, including early intervention and de-escalation techniques; and
- How to effectively work within a multi-disciplinary team.

Most of the survey respondents from Special Schools indicated Team Teach training was provided<sup>86</sup>. Parents were not supportive of the use of Team Teach and the negative effects of using physical restraints were noted in schools where Team Teach training has been provided. One of the major issues raised by Principals in mainstream schools was the lack of availability of training for staff.

Whilst the majority of respondents from Special Schools indicated Team Teach training was provided, the staff engaged with as part of this Review indicated that there are difficulties in maintaining learnings from Team Teach, its practical applications and sourcing replacement trainers when staff move on. Other comments drew attention to training becoming outdated with fewer opportunities for teachers to renew or update their training.

*“I also think that schools should actually be telling parents what their policies are and what they can and can’t do. The Team Teach is so backward. It’s not forward at all. And they’re using that all the time. It’s made to sound positive...positive handling and – it’s not. At the end of the day, you’re hurting our children.”*

Parent of a child attending Special School

*“I was told that as I did not teach in a Special School that I could not have this training - I asked. I would much rather have this to prevent injury to the young person or myself and minimise any harm, to anyone involved”.*

Principal of Mainstream School

The Education Authority was highlighted as a source of training, specifically the Education Behaviour Support Team. (EBST) despite the majority of respondents from Mainstream Schools identifying training as crucial to minimising the use of restrictive practices in educational settings.

*“(Previously we received)...EA training by Behaviour Support in 2018, at the request of the school. This is no longer available to mainstream schools in NI. I have requested this again from Behaviour Support and have been told it is not possible. I have requested a list of approved independent providers, but none is available for schools to facilitate their own training independently.*

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<sup>86</sup> Please note: Team Teach is an accredited, provider of positive behaviour management training: <https://www.teamteach.co.uk/about-us/> Accessed Aug. 2021

*I have held in-school awareness-sessions with all staff to ensure their familiarity with our policy (based on the 2004 document), given the pupils increased levels of aggressive responses towards others.*

Principal of a Mainstream Post Primary School

*“My goal is to reduce the risk of a staff member intervening to restrain, if at all possible, by them understanding how we must exhaustively try to de-escalate situations using an agreed range of strategies. Until NI support-structures for pupils with behavioural challenges mature, there is an increased risk of restraint having to be used by staff when, with the right staff training and other support structures in place, it could potentially be avoided in many situations.”*

Principal of Special School

Training is so important, but it is only the foundation of building blocks of good practice for minimising the use of restrictive practices, it gives staff the understanding and knowledge of reasonable adjustments, but the training must accompany clear policy and guidelines and for each school to set a standard of practice that enacts effective training.

*“Yes definitely, almost all of my child’s restraints and seclusions came after they had had a meltdown. If they had the right training, and had given her the space she asked for, the space we agreed, they might not ever get to the stage of using restraint and seclusion on them. I think it’s wrong to use them in Schools, they are only children. It’s about training, acceptance and making adjustments... By seeing what their triggers were, understanding what their triggers were and the impact they would have and to have recommended adjustments in place.”*

Parent of a child attending Mainstream School

### **3.3 Experiences and Perspectives of Restrictive Practices in Educational Settings**

As part of this Review, it was crucial for NICCY to ascertain and assess the lived experiences of stakeholders regarding the impact using restrictive interventions can have on all individuals involved. This section of the report will provide an overview of the experiences of restrictive practices from School Principals and parents and carers.

It will provide examples of the impact and trauma it has had on the children themselves, their peers, parents, carers and the educational staff who have had to engage in using a restrictive practice.

It is clear from our engagement with stakeholders that the use of restrictive practices can be extremely challenging, and in some circumstances traumatising for those involved or observing it. Respondents discussed the need to support staff and schools, in relation to the suitability of placement and protection and help for staff. It was communicated that teachers often feel that their rights and well-being are pitted against the child's in a situation where they may need to use a physical intervention, and that they were at risk of physical assault when a pupil was in a heightened state of emotion. All stakeholders agreed that it was wrong to blame teaching staff, instead there is a need to identify systematic issues in addressing and alleviating pressures that cause distressing behaviours amongst children with additional needs.

*“The disparity regarding public talk regarding our use and that reported in the media. Good practice is not celebrated in this area.”*

Principal of a Special School

*“Saying to a child 'remember safe hands safe feet when you are being punched, objects flying at you or a distressed child at the top of a tree - is not good enough for the child or the school. The Education Authority needs to act immediately and trust in the professional judgement of school staff... Ultimately we have learnt that you cannot compartmentalise children.”*

Principal of a Special School

### **Parent's and Carers' Views on their Child's Lived Experience of Restraint and/or Seclusion in an Educational Setting**

During the Review, parents and carers discussed their experiences of how restraint and seclusion was used on their children. These were described as some of the most harrowing and upsetting experiences, with long lasting trauma for the whole family including detrimentally affecting their children's mental well-being, self-efficacy and ability to learn. This includes the use of restrictive intervention on children who are non-verbal and without parents and carers being informed that this had happened.

It is evident from parent's and carers' accounts that the use of restrictive practices has the potential to cause both physical and mental trauma on their child, the child's peers and staff involved, and in many cases already has. The engagement also highlighted differing experiences in the types of restrictive practices used and the impacts they create. The following accounts illustrate examples of parents' and carers' experience of the different types and combinations of restrictive interventions that may be used in an educational setting, these are mechanical restraint, physical restraint and seclusion.

### **Experiences of Mechanical Restraint used on Children**

All parental accounts of mechanical restraint used on children in educational settings were based around being 'tied' or 'strapped' to a chair. The majority of parents and carers of the view that their child was inappropriately restrained to attempt to control perceived 'behavioural problems', rather than a method of last resort due to a risk of harm to their child or others.

*"The chair is of the type designed for children that can't support themselves physically to sit up. Schools get around using these chairs on children with behaviour problems by calling them 'learning chairs'. They say things like children with autism don't know how to play, so we have to teach them and short periods in these chairs help them sit still and concentrate. I actually saw these used before school age when they were in a nursery at age three. I didn't like the look of the chairs and thought it must be a way to help them all sit together but didn't query it at that stage".*

Parent of a child attending Special School

*"The occupational therapist oversees the chairs and she had tried them in it. I didn't think it was right that they could even put your child in such a thing to try them in it without the parent's permission but didn't say that. The teacher said it would only be used if I agreed. I was very hesitant, and she suggested a meeting with the Acting Vice Principal at the time. I agreed and was very emotional during the meeting and didn't handle it the way I would now. I asked why children had to be put in chairs (they replied) 'so that assistants could go on breaks and lunch.' How was that a reason for it and would it not be up to them to do something different instead of putting them in chairs? It didn't go down well, and the Acting Vice Principal said I could agree to it, or they would cut my child's hours. They were only in two and a half hours at that stage, and I didn't feel there was any other option but agree to it."*

Parent of a child attending Special School

The following quote highlights how ‘mechanical restraint’ can be as damaging to a child’s development as physical restraint.

*“You know they have full use of their legs, arms, and (mechanical restraint) it’s almost becoming like a power play, so they’ve taken like a healthy child who’s quite independent and made them unhealthy and not independent and made them institutionalised. They made them more disabled than what they are, and I still find that (hard) to be honest. I still feel like when I look back and videos if I ever showed them to you, you would think they just look like you know, a normal baby you wouldn’t know. Now it’s like the light has gone out.”*

Parent of a child attending Special School

### **Experience of Physical Restraint used on Children in an Educational Setting**

Parents and carers gave various examples of the way physical restraints were used on their children. The most common references were the injuries that resulted, from ‘fingertip bruising’, to more seriously cuts and concussions.

*“The School was very much like, Team Teach was just like being hugged, believe it or not, that was how they described how our child was being put into restraint. Yet, my child was then coming home saying that they were pinned to the ground, they had knees digging into him, elbows digging into them, their arms pulled up behind their back. They were lifted completely off the ground, which I’ve witnessed myself, that was the most horrific thing to see.”*

Parent of a child attending Special School

### **Experiences of Seclusion used on Children in an Educational Setting**

Parents and carers also described their experience of their child being secluded as a form of behavioural management. Below is a parent’s description of their child being secluded in an Education Other Than at School (EOTAS) centre.

*“They struggled with the School canteen, they were like, ‘It’s too noisy. There are too many people’. Their reply to that was, ‘let’s put them in a room on their own at break and lunch’. A child that has tried to commit suicide and a child that doesn’t eat, and they put him in a room on their own. I don’t think that was good idea to begin with. And then they told me that it was their idea of fixing my child socially, because they were socially anxious, they really are.”*

*Their idea of fixing it was putting them in a room on their own. My child self-harmed in School. He got a pencil and they digged it so deep into both their arms -when they came home, they had blood over their shirt, and I said, 'What on Earth has happened to you?' I rang up the School and they were like, 'Well, we told them not to do it.' And that was their reply to it. There was no care follow-up after that."*

Parent of child attending Mainstream School

### **Experiences of Restraint and Seclusion used on Children in an Educational Setting**

In some instances, parents and carers described the use of restraint and seclusion happening to their children within their school, occurring multiple times within the school term. These accounts from parents recall how they first discovered that restrictive practices had been used on their child and how it continued to be used until they moved schools, illustrated by the following two case studies below.

#### **Case Study 1**

"I had no idea why my child's behaviours were escalating as they were. It all came to a head one day; I was called to the School and was met by the Acting Principal at the door. She walked me down to the class...the whole class had been evacuated...so when I got there...my child was curled up on the floor, and they were whimpering like a wee injured animal, repeating the word 'no'. I asked what was going on, no one answered me, you know like in a car accident, when everything is really slow motions. And then everything goes really fast? It was a bit like that... I could feel my heart beating really fast...I didn't know what was wrong, but I knew something was wrong, because you shouldn't walk into a School and see your child curled up on the floor in a ball repeating the word 'no' continuously...The classroom assistant was very upset, really upset, I kept asking her what was going on but she didn't answer me, I went to talk to my child, but they just kept repeating the word 'no', and patting my hand. I thought they were talking about the sensory room which I know he loves, but all I had found out that day is that he been taken and locked in a room (I later found out the room was an old storeroom with no windows).

The next day I had asked the Acting Principal had he ever been in the room before as his reaction was so severe. One instant their teacher had told them to sit down, they were staring at their book apparently, (the) teacher stated they wouldn't sit down, he was being 'defiant' and was a risk to himself so they were prone



restrained, by three adults...one had a knee on their back...the Acting Principal told me...an adult held their head...she held my child's arms behind their back and a third adult held their feet... they were six years old...then these three people carried them out of the classroom, down the hallway, and locked him in this storeroom again...all because they wanted to get up to look at a book in the library corner while everyone else was doing work. I had asked for an incident report form, I was told the school didn't have one" <sup>87</sup>

Parent of a child attending Mainstream School

## Case Study 2

*"The windows had bars on the outside, it was horrible, it was like a prison. And they were dragged from the classroom into that room, because they didn't want to go into it. They kept saying, 'I don't want to go in, I don't need to go in.' But the teachers dragged them by their arms and legs and put them into the room. And when my child was in that room, they were so scared. They were banging on the windows to passers-by asking to get out of that room, "Help me, please help me, please help me." ...I mean obviously there's something (wrong)...you know, their hair was wet, they must have been pulling at it, ...tears dripping down their face, and that's okay?!"*

*(It was) two days before they could actually tell me what had happened. I asked, 'What happened there?' They (the EOTAS) admitted, they told me that they did drag them in, and it was for their own good, and that they would have been a danger to themselves and to whoever else was there, that they needed to go into the room. And I had said, 'But they clearly didn't want to go into that room.' Putting them in that room- it emotionally scarred them, it still does to this day. And once I had raised that issue with them and I had said about, you know, that that was no way to treat anybody, my child's time outs came to an end (so did the placement). They said my child doesn't need to be there anymore."*

Parent of a child who experienced multiple uses of restraint and seclusion in  
Mainstream School and EOTAS

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<sup>87</sup> Face-down restraint - or prone restraint, is when someone is pinned on a surface and is physically prevented from moving out of this position. [Department of Health \(2014\) Definition of Prone Restraint. Accessed Oct. 2021](#)

### **Impact of Restrictive Practices used on Children in an Educational Setting**

Throughout engagement with parents and carers, every account on the post experience impact of the use of restraint and seclusion was negative, with some parents and carers describing severe and detrimental impact of the experience on their children and all of their family. Comments in relation to the impact on behaviour, mental health and withdrawal from family life were consistent throughout parent's and carers' accounts. Self-harm, suicide attempts and ideation, and eating disorders, were some of the more extreme manifestations of the adverse impacts on children.

For children who are non-verbal, parents and carers consistently highlighted negative changes in their child's behaviour including night terrors in describing the impact on their child. The following parent testimonies provide examples of use of restrictive practices in pre-school, mainstream school and EOTAS.

*“My child has suffered for years since their experience (of restrictive practices) in that playgroup. We had to take them to a private psychologist for play therapy sessions for anxiety because their experience had affected them so badly. They are now six and has to have a one-to-one support in School. They are on a reduced timetable to help with their anxiety over School and still has significant anxiety leaving us at the front gate. It took us months to make them stop calling their self a ‘bad child’. They are so afraid to try new things in case they do it wrong and gets shouted at that it takes them a long time to trust new people, especially in a School setting. They often used to sit inside at lunch time during P1 because they were afraid to mix with their peers and seemed fearful at playtime... we can't say for sure everything that went on in the playgroup, but the change in them was so profound that we believe we only know the tip of the iceberg of what went on. With the right teachers in Primary One and now Primary Two, they are thriving and one of the most advanced (academically) in their class. However, we still battle with School anxiety every single day.”*

Parent of child who experienced restrictive practices attending Pre-School

*“We thought there was something medically wrong with him initially with physical symptoms such as headaches, leg pains, tummy aches, easily bruising but after multiple tests that came back normal, we were stumped. The doctor raised anxiety, stress and lack of support after discussing the school situation.*

*His mental health declined. Depression, anxiety, panic attacks, mood swings, behavioural decline etc, that progressed to suicidal ideation at the age of nine and progressively got worse by the age of 10 where he was actively trying to throw himself from our moving car. We knew where his mental health was at and had child locks on and myself sitting in the back with him but that scenario could have been very different had we not thought ahead. As a family it brought us to our knees. We knew his behaviour, his meltdowns, his mental health was all communication, but we felt powerless to help him. At that time, I had no clue home education existed or was an option. It was only when my son screamed at me 'can you not educate me at home' that I actually looked into it and discovered it was a perfectly legal option for us to take. That option saved our child and our family unit. I believe my child would be six feet under had we not taken action when we did."*

Parent of a child attending Mainstream School

*"So, my child's experience went right up to third year, it was just terrible. And what had happened third year my child actually self-harmed from the treatment that they had received over all of them years. And I think that's really important it's been about eight years' worth; do you know what I mean? Okay, so their learning- Well they kind of lost interest in it but my child is very bright and intelligent student...they weren't really motivated and even last year they weren't, they had no care for it, really. They just kind of had no hope for their future. Do you know? We did not get help for their self-esteem and not for their confidence, definitely not, they just felt worthless. They were told that they were a danger to themselves and to people. And they were told that they were a bad child, and that's the reason why they were at home. And this actually came from teachers. So that was just, that was horrible for them emotionally."*

Parent of a child attending Mainstream School and EOTAS provision

### **Impact of Restrictive Practices on Children who are Non-verbal in an Educational Setting**

Parent and carers of children who are non-verbal described how the use of restrictive practices affected their child's behaviour. It was evident that the majority of parents whose child was non-verbal were not notified when restrictive practices were being administered on their child.

*“I saw them in the chair like they were rocking back and forth. You know, just really absent, it was almost like as if it was just their way of coping with how they were being treated. Even though I knew that was wrong, I still didn't understand what they were sitting in was mechanical restraint. I just did not understand. And it's frustrating because if I'd known I could have stopped it a whole lot earlier because of what I seen. You know I could have nipped it in the bud.”*

Parent of a child attending a Special School

*“So, I think that as a parent, it is quite hard to take, that you don't always know the truth and you only have what you're told to go with. I just don't like that feeling of knowing something isn't quite right. In P1, they cried all the time, would get really upset going into School. As soon as we got even close to School, they would be devastated, and it wasn't like a grumpy cry, like I can't really be bothered, I think it was like a fearful cry, it was so distressed. And they obviously couldn't tell me. I was thinking, oh, they just don't want to leave me. You sort of think, oh well- but over time they should have- I don't know, if it was a bad day, or a bad week or they had something else, a niggle with them, it would resolve itself, but this was ongoing.”*

Parent of a child attending Special School

*“You know everything kind of started to come together and it made me understand why I felt there's something wrong and I don't know what's wrong, cause I couldn't put my finger on it. My child's behaviour had changed. They became very detached. They had night terrors, panic attacks. They would defecate whenever we left the house for fear, they had anxiety and panic attacks. They became completely different, and it's really horrible to say this, but I kind of felt like is this how it is going to be for the future? You know, is this how autism is? Are we just losing my child, is this how they are going to be? They just wanted to be by themselves, they never wanted to be with us anymore. We have our feeding chair at home, and they wanted to use that chair all the time.... It's almost as if it just completely changed them because that is what they were being taught at School for four or five, six hours. So, if that repetition keeps happening, you know a child is being taught a learned behaviour, and then that spilled over to home. So, what we didn't know was happening in School was spilling over at home and we really couldn't find an explanation for it.”*

Parent of a child attending Special School

### Impact on Parents and Carers and other Family Members

The Review noted that the impact of restrictive practices extends beyond the person administering it and the child it is used on. Families as a whole are affected; however, it was noted that participants felt there was no support for parents/carers or siblings or class peers to process their experience or support the individual who the intervention had been used on. Furthermore, parents and carers felt victimised and powerless when trying to raise issues with the school.

*"At one point I broke down, I was lying on the floor with my doctor on the phone. I was begging him, please, please, tell them it's not me. please believe me"*

Parent of a child attending Mainstream School

*"I am so lucky—well, not lucky but, my child is so lucky that they wouldn't have the intellectual ability to understand what happened to them or (maybe) remember it, but I will always remember it, and I will always remember it as a parent. I will remember it for every year they go through that School, until the day I die actually because it's really ruined my trust in people and broken that down. When they go into adult services, that (trust) is completely ruined now by that one instance."*

Parent of a child attending Special School

The impact of an incident or repeated use of restrictive practices on a child can have long term consequences, particularly if it is not addressed and accountability taken for those actions, as the following quote from a parent helps to explain.

*"We have had to continually relive this over the last four years...we have had to continually relive the trauma...it impacts my children, because nobody should have to go over these things again and again, especially something as serious as, a six-year-old child who said no to completing their work. The child was physically held down and they were physically dragged to a room and locked in it...if that had have happened to an adult, they would have a public inquiry by now...they are not afforded the same justice, as it happened in a school setting."*

Parent of child attending Mainstream School

In small close-knit (rural) communities where everyone knows everyone else, it can be particularly difficult for parents to challenge what is happening to their child, as the following quote illustrates.

*“Because of the rurality of the School, complaining (about the School) put the community against us, we nearly lost our business, my relative nearly lost her job at the School – all because I was telling the truth. It’s almost you know way back years ago, you know you feel like people are really, really shamed in their community and it’s like you’re in a movie where somebody is standing and it’s almost like you’re standing waiting to be hung. It felt like that. It affected my whole family, my brother and my elderly mum too. I never felt supported, I felt alone. I feel like it’s like a lonely journey to be honest.”*

Parent of a child attending Special School

### 3.4 Educational Culture and Accountability

Negative culture in educational settings was referenced by different stakeholders and the correlation with adverse impacts on children with additional educational needs. This section will consider participants feedback on ‘toxic culture’; what is considered ‘bad behaviour’; lack of reasonable adjustments; lack of support; and the power imbalance parents and carers experience when discussing restrictive practices in educational settings.

#### ‘Toxic’ Culture

Participants highlighted that the issues that arise in the use of restrictive practices in education should not be seen in isolation, instead, they should be viewed as part of the wider systemic issues facing children with additional needs in educational settings.

*“Collectively, we need to think about the human rights of staff and their right to practice in an enabling environment. I think in some instances what we see are the results of staff practicing in environments which are not enabling, and which are destructive and toxic both for staff and the children they support. So, if we have a human rights approach which embraces dignity for everyone, we create these enabling competent environments, then I think both will get better buy in from staff and I think will also ultimately deliver sustainable change. Victim blaming for staff or services is not helpful, identifying the structural reasons including resource is what is really helpful.”*

Academic specialising in Psychology, Education, Social Policy and Sociology

A number of parents and carers were concerned about the issues exposed in Muckamore Abbey Hospital and drew similarities with issues they have had with accountability, lack of communication and culture within the education system.

*“I think and it is like the Muckamore thing too, the more vulnerable you are the more at risk you are and the more you are to be exploited and I think there needs to be a massive recognition that in mistreatment at all like (there should be) zero tolerance because I think there’s far too much tolerance... the classroom assistant, for example, who treated (restrained) my child like that, they still work there. There’s been really no consequence for them at all apart from a telling off and then (the Principal) saying they had a bad day. My child could have broken a bone”.*

Parent of a child attending Special School

### **Focus on ‘Behaviour’ rather than ‘Emotional Needs’**

Parents and carers whose children attend mainstream settings, identified issues regarding the ability of some schools’ understanding and capacity to support children with additional needs, with the focus often being on ‘bad behaviour’, discipline and control, rather than recognising the environmental, social and/or emotional needs of the pupils.

Alternatively, parents and carers whose children attend Special School felt that there was a culture of acceptance and over-reliance in the use of restrictive practices had crept in, rather than it being a measure of last resort due to a risk of harm to the individual or others.

*“It was about power and control, the teacher said to me, my child just has to learn. I had a principal tell me that if my child kept up the way they’re going, they’re going to end up in jail. We had to make the right choices, this is something that I really hate about Schools, ‘I can make the right choice’. I know my child is autistic and when they are in distress, my child is struggling, they cannot make any choices, never mind the right ones! But if my child got three strikes, they were out, that was it. They were secluded, they were put in detention, my child was given consequences for their ‘defiant or non-compliant’ behaviour. This is something that really annoys me about the Schools, the lack of understanding about our children’s needs. They think it is a one-size fit all umbrella where they are perfectly capable of understanding what they’re doing and they’re thinking ahead about the consequences of it, and that is not the case.”*

Parent of a child attending Mainstream School

*“I remember the teacher saying that she made them say sorry, she said, I keep them behind there until they calm down until they are able to say sorry. And I was like, but my child is non-verbal, and she said, ‘Well, they did say, sorry.’ I don’t believe that for a second, the headmaster, they brought me into a room and was sitting casually talking, trying to joke around, trying to make it as if it was no big deal.”*

Parent of a child attending Pre-School

### **Lack of Reasonable Adjustments**

Parents and carers reported a lack of reasonable adjustments being offered by schools, some described a noticeable deterioration in their child’s health and ability to learn due to simple interventions not being applied, which at times also caused the increased use of restrictive practices.

*“I should say they actually used to do it in front of the whole classroom for my child. They used to tell my child, ‘Sit on your hands.’ And make a show of them in front of the whole classroom. And I didn’t like that. My son has ADHD, he’s not an animal, stop treating them like one! When I suggested a fidget cube and all, I had to fight with the school to let them have a fidget cube in their pocket to stop them fidgeting. It took me a good while to fight with them and by the time they agreed, it had all just got a bit too late.”*

Parent of a child attending Mainstream School

Parents and carers shared concerns about use of therapeutic interventions, such as sensory rooms as a reward or punishment tool for ‘good or bad’ behaviours. Furthermore, parents and carers commented on restrictive practices being part of the broader issues with the education system, and that without proper support, training and resource, there is potential for the misuse of restrictive practices within educational settings.

*“The removal of reward-based systems for children with disabilities and/or additional needs. This included ‘choices - or I can make the right choice’. These systems automatically set our children up for failure because of difficulties that arise from their disabilities etc that are completely out of their control. This means they are punished for having a disability and not being able to cope. This is discrimination!”*

Parent of a child attending Mainstream School



The following account comes from a representative from a voluntary and community sector organisation whose work involves reducing restrictive practices in health, education and social care. This professional articulates the importance of culture change being a central pillar for the change needed in how the education system sees and responds to children with emotionally complex needs. This culture shift is integral to the changes that are needed in language, attitude, policy and practice.

“This is about a culture change program. It's not going to be overnight. It is going to take time. There is generally in health and social a sort of understanding of when someone is highly distressed, because their needs have not been met and as a result they've gone into crisis and, we need to look at that (in education). Our job as professionals and providers of services is to say, ‘Hang on. We haven't met that person's needs. And how do we learn from this? How do we do things differently? How do we change the support we are providing? How do we change the environment?’ I think this is a huge concern in education.

A lot of this does link to people's human rights, and it's about people. It's about good support for people and individualised approaches and say, ‘actually this person has become distressed. They have needed to be restrained. Clearly, we need to prevent this happening in the future’. So, every time restraint happens, we use that as a learning opportunity, and we look at that and analyse anything. How do we prevent that happening again and getting that into the culture that we recognise that actually, that restraint was a failure to meet that person's needs? We need to learn from it. We need to look at, without blaming, let's not blame.

Installing that culture that if you use restraint it is a failure, ask the teachers, how do we do it differently? ...It's got to include the prevention side and preventing the need for restrictive practices in the first place as far as possible”.

### **Understanding Children's Additional Needs**

A core issue raised throughout this review was the associated difficulties in mainstream schools' understanding and accommodation of children's additional needs, and that without those needs being met, the result could be a child's distressed behaviour escalating to a point where the school uses restraint and/or seclusion.

The lack of understanding of children's individual needs and a lack of care planning is a significant issue in some mainstream schools.

*"Look, you aren't understanding the reasons why my child is going into these distressed moments. Try and get to the bottom of that and stop focusing on their behaviour...but they (the school) only ever focused on my child's behaviour. And every time I kept saying, there is social and emotional problems there, it's not just behavioural, deal with them, and the behaviours will lessen, or you'll understand the reason why the behaviours are happening."*

Parent of a child attending Mainstream School

In the following excerpt a parent explains how their child sees and responds to the world around them and how their behaviour can be misinterpreted and responded to in an unhelpful and trauma-inducing way if not understood.

"When my child was really distressed, they would lash out because they were trying to communicate something wasn't right and that they weren't coping. So, that could have been the environment, and you know School often isn't the best environment at all, it's often too noisy, these lights that are too bright, they can hear noises that we can't. Trying to filter out different kinds of conversations and noises, what's going on, the smells of making lunch in the School canteen, so that affects different sensory outputs. There's a lot of sensory overloads that if children experience it causes them great distress and that's what it is, it's distress. And so, a lot of that though, the adults, who are caring for their children, are (maybe) not seeing that.

So, they're not understanding, they're not seeing our child's behaviour is their way of communicating, I can't cope. Something's wrong: the environment's not right, it's too hot, too cold, I'm hungry, I'm thirsty. A lot of our children are on medication that makes them extra thirsty. Are they hungry? Are they in pain? Because often our children don't understand how to communicate, they're in pain. So, you change the child's support, and you change the environment.

When they take the children out of the classroom and they go and put them into a seclusion room, they think that they're mitigating a risk...but actually if they were to look at the child in a holistic way and say, what can we do differently to meet that child's needs?

For me the first thing is you don't put them in a room on their own, apart from the fact it's unethical and unlawful.

A lot of our children need movement, they need a lot of activity to satisfy particular sensory needs. So, instead of (secluding them) take the child outside, let them run around, let them climb, let them do all sorts of different things. If you are putting them in a room on their own (you could be creating) lasting traumatising impact. “

### **Parental Sense of Powerlessness**

Parents and carers describe the imbalance of power between parents/ carers and the school when discussing restrictive practices in educational settings. Lack of trust, poor communication and not being 'believed' by the school were significant concerns for them. This often resulted in parents and carers feeling isolated and unsupported and feeling they have no alternative but to accept, reduce their child's timetable, move them to a different school or to electively home educate their child.

*“I can relate it to the fact where the principal said to me and my wife, if you have a problem, remove your child from here, but every other special school is at capacity. I'll be honest, I was sitting thinking, oh, my God, we both work full-time, Jesus, my child is getting all their therapy here, they're settled, that was last year, will I give them the benefit of the doubt? I've still got that fear factor behind everything.”*

Parent of a child attending Special School

*“My child has been about two months and three days in total throughout the year in School (2020/21 academic year), that's all they've managed to do. There was no help, they didn't care. When I pulled him out of school, I haven't got a phone call, there was no check-up. And I'm still in a fight with the EA to get him any type of placement at all. So, my child's not in school, school is non-existent. We've all the evidence (of the additional educational needs). We've doctors (evidence), we've CAMHS (attendance to service) ... No one wants to help me, why does no one understand (my child's needs)? It's all a bit of a mess.”*

Parent of a child attending Mainstream School

*“Were we listened to? No. We never are. They are the ‘trained’ professionals with a wealth of experience and knowledge and we are merely parents that do not know how to support our own children. Or we are difficult/challenging parents who are looking too much from the system despite only asking for what is in their statements or in guidance and law to be given to our children.”*

Parent of a child attending Mainstream School

### **Accountability of Educational Settings when using Restrictive Practices**

Throughout the engagements with parents and carers on the use of restrictive practices in educational settings, the lack of accountability within schools when restrictive practices were used featured prominently.

They emphasised how little control they had within the process, from knowledge of the restrictive practices being used on their child, lack of parental consent to the use of the restrictive practices, lack of engagement with parents on why restrictive practice was deemed necessary and what support their child may need afterwards to prevent restrictive practices being required again.

Parents and carers raised their concerns that structurally there is a lack of accountability around the decision-making and monitoring of restrictive practices. Parents and carers also expressed their disbelief that restrictive practices could be administered to a child without consultation or consent of a parent/carer and without a statutory obligation to record and report on such incidents.

Parents also discussed the difference between how ‘physical violence’ is perceived in the home versus the school setting.

*“Yes, I was completely disgusted when I realised how outdated it (the policy on restraint and seclusion) was and the fact that they can do something, that I, as a parent, could not do to my child without having social services or the police at my door and the potential of losing my children. But in an educational setting, it’s quite okay for them to grab and restrain and drag them up corridors and hurt them, it was a complete shock that in that setting, it was deemed okay, and we were powerless to do anything about it.”*

Parent of a child attending Special School

### **Lack of Support for Parents and Carers**

Lack of support and guidance was raised by parents and carers, particularly with respect to being believed, and practically about how to make complaints and what to do next. Parents and carers explained that peer advocacy was often their only form of support.

*“(The) parent advocate was so brave and shared their story Northern Ireland wide and I can actually remember, when their story happened, and it happened to our wee one a few weeks earlier, and I actually remember sending to our in-group chat, my family group chat, I was like, oh, my God, this is happening again, and I actually see still the image they shared. I remember seeing the picture and I was sitting thinking, oh, my God, this is actually just not happening to me, this is happening right across Northern Ireland. I can actually remember speaking to another parent, she was sharing the story about their wee one, and I was like, there is something fundamentally wrong about the system and about how we treat the most vulnerable in society.”*

Parent of child attending Special School

### **Multi-Disciplinary Co-ordination and Shared Responsibility**

Discussion with all stakeholders identified a need for a more cohesive and collaborative approach between education, health and social care professionals. As the following two quotes illustrate:

*“So, there is this massive culture of nobody wants to take responsibility for anything, nobody wants to hear what you have to say, because they just want to hide behind their wee rocks and think if I investigate this and there is something wrong, my head might be on the chopping block.”*

Parent of a child attending Special School

*“In those (Multi-disciplinary meetings), CAMHS was invited, and they came, and she sat very quiet, and a lot of blame was put on to them and they would pass the blame back on the School. Nobody was really taking responsibility. And this is what you find in there, it’s like ping pong they just bat it to somebody else’s corner, ‘it’s your problem.’... And then you fall in the gap in the middle and you have nothing on either side to help you. There’s no help ...it’s just - it can be very stressful and lonely at times”*

Parent of a child attending Mainstream School

The following account comes from a social worker addressing the importance of improving collaboration between health, social care and education sectors and by reframing how we perceive and respond to children's behaviour is central to a child-centred and trauma informed practice.

"I really do feel that we need to take a step back before we even start to consider policy because we need an overhaul of the culture that currently exists in terms of education.

I really don't feel that we can make positive progress without acknowledging the harm that currently exists in the education setting and the harm that we are inflicting on children. The current system is using a discipline policy to manage distress behaviour in children.

The current approach to managing distressing behaviour is actually one of disciplining bad behaviour. And if we look at that in a child, see it, and we're completely neglecting our responsibility to safeguard children. I do feel that coming from a social work background what is often lost in the narrative, it is a fact that by adults and service providers, including schools implementing restraint and seclusion, they're actually directly causing harm to children.

Restraint and seclusion occur in a crisis as a last resort, but what most of the information tells us is we need to focus on what's happening as a first resort. From a misunderstanding of what human rights means, and often times the sense that adults assume children don't have rights... I think the first thing we need to undertake is a trauma informed approach to all policies so that we are doing no harm first and then make an informed decision about how to support under a safe learning environment. Children don't learn when they're frightened.

I really feel that there is a much bigger task at hand which is for us to acknowledge that as there have been in many sectors practice, that policy that currently exists is outdated and harmful, and to support teachers and staff in those environments.

We won't progress if we are only blaming, there's some sort of amnesty required here that we work in an integrated way across Health and Social Care and that Social Services should understand. Health and Social Care Workers want to be able to welcome education staff on board and share our learning.

There's a wealth of learning in terms of adult services, and I think we can only build on that and try to work in a collaborative way to educate children safely... We've a wealth of policies already, I think what we need to do is marry those up with the trauma informed approach to how we practice and their respect for children and families and how we are held accountable as professionals including how we engage with families."

## Section Four: Information from Additional Sources

This section outlines information gathered from other stakeholders beyond the research participants, and broadens the evidence base to include information from academics, Northern Ireland Assembly Research Team, St Mary's and Stranmillis University Colleges, Trade Unions, and the EA.

### 4.1 Policy, Guidance and Legislation

Throughout this Review, there has been a clear case established for new policy, guidance and legislative reform to minimise the use of restrictive interventions and remove the use of seclusion in educational settings, and to ensure compliance with the rights of children and young people. Urgent action is required to safeguard children from disproportionate use of force against them which may cause them harm and to ensure education bodies are no longer vulnerable to liability for a potential breach of children's rights.

Force should never be used on children in educational settings for discipline purposes. **Article 36 of the Education and Libraries (NI) Order 2003** confirms the abolition of corporal punishment in schools and is referenced in guidance on the use of any such physical contact to cause deliberate pain or injury or humiliation.<sup>88</sup> The UNCRC Committee Concluding Observations (2016) underlined the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment:

**Paragraph 41 (b)** *Ensure that corporal punishment is explicitly prohibited in all schools and educational institutions and all other institutions and forms of alternative care.*

However, **Article 4 of The Education (NI) Order 1998** outlines the 'power of member of staff to restrain pupils includes:

*"A member of the staff of a grant-aided school may use, in relation to any pupil at the school, such force as is reasonable in the circumstances for the purpose of preventing the pupil from doing (or continuing to do):*

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<sup>88</sup> Education (Northern Ireland) Order 2003, Article 4



*(c) engaging in any behaviour prejudicial to the maintenance of good order and discipline at the school...but it does not authorise anything to be done in relation to a pupil which constitutes the giving of corporal punishment....”<sup>89</sup>*

It is critical that the 1998 Order is amended to address this apparent contradiction in how staff can lawfully engage in restrictive practices. The Children’s Law Centre (2021) notes human rights protections apply equally across all educational settings where a child might be at any given time, and the absence of appropriate legislative or policy protections and safeguards for children by government departments will not protect decision makers and children’s services providers from being liable for human rights breaches.<sup>90</sup>

## **4.2 Understanding and Knowledge of Restrictive Practices in an educational setting**

In 2019, the Northern Ireland Committee of the Irish Congress of Trade Unions (NICICTU) carried out a survey among 1,427 teaching and support staff on their experience of violence in the classroom.<sup>91</sup> The results indicate variable use and knowledge of behaviour policies at a school level: 50% of respondents were unaware of whether risk control measures and/or procedures relating to violent behaviour were in place and 45% of respondents stated they had never seen a risk assessment or behaviour plan for any of the students they work with.

Although NICICTU’s survey was primarily designed to understand teachers’ experience of violence in school settings and what, if any, support they receive, it highlighted the lack of awareness among respondents of their school’s behavioural support policies in the context of restrictive practices. This raises the question as to whether teachers are fully informed of procedures for the application of best practice alternatives and their responsibilities for recording and reporting incidents.<sup>92</sup>

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<sup>89</sup> [Education Order \(Northern Ireland\) 1998. Article 4](#)

<sup>90</sup> Children’s Law Centre (2021) *Response to Regional Policy on the use of Restrictive Practices in Health and Social Care Settings and regional operational procedure for the use of Seclusion Northern Ireland and Regional Operational Procedure for the use of Seclusion Northern Ireland*

<sup>91</sup> [Survey of education workers reveals scale of violence inside schools | ICTU NIC;](#)

<sup>92</sup> Cited in Pg 9.McMurray, S.(2021) [Restraint and Seclusion of Children with Additional Needs in Schools \(niassembly.gov.uk\)](#)

Difficulties can arise where staff using restrictive practices are unclear and so their ability to develop and implement less restrictive practices/strategies in health, social care and educational settings will be limited. In some cases, this has meant that professionals are making potentially unlawful decisions by imposing unnecessary or disproportionate restrictions on a child's liberty.<sup>93</sup> These restrictions are often implemented without an acceptable rationale, any process for gathering evidence of the necessity for their use, without consideration of the impact on a child's human rights, and without appropriate safeguards in place.<sup>94</sup>

### **Training on restrictive practices**

Throughout the review, stakeholders discussed the need for training on restrictive practices to begin with students in their Initial Teacher Education (ITE) or Post Graduate Certificate in Education (PGCE) and that training continues through a standardised training framework and continuous professional development (CPD).

Below is an overview of training on restrictive practices during initial teacher education (ITE) and Post Graduate Certificate in Education (PGCE) in Northern Ireland.

#### **Stranmillis University College explained:**

All ITE students receive sessions on safeguarding in which appropriate physical contact in schools is addressed. They are also informed that unnecessary restraint or seclusion are safeguarding concerns and so therefore must be reported appropriately following the appropriate Child Protection and Safeguarding policy in schools.

For the group of students prepared for Special School placement there is a session on managing behaviour delivered by a special school Vice Principal. As part of the induction to Special School placement, schools may give students an introduction to Team Teach but in practice, in Special Schools, this is something which the trained classroom staff would manage, rather than a student teacher who would not be taking the lead in extreme situations where restraint or seclusion might be considered. This area is also addressed briefly in an optional final year module on Working with Disadvantaged Children.<sup>95</sup>

<sup>93</sup> Royal College Nurses (2017) Three Step Positive Approach : A rights-based approach when considering and reviewing the use of restrictive interventions

<sup>94</sup> *Ibid.*

<sup>95</sup> Correspondence with NICCY and Stranmillis University College via email September 2021

### **St Mary's University College Belfast (SMUCB)<sup>96</sup>**

SMUCB explained that they instill the understanding in all students that restraint is only used as a last resort and/or only when the child or others are at risk in both of their Bachelor of Education (BEd) Primary and Post-Degree Programmes. Furthermore, within these courses, students become familiar with the key roles played by colleagues, parents, carers, external agencies and with the protocols around communicating with these groups in order to identify issues and agree interventions at an early stage, before a situation escalates to a serious level.

#### **BEd Primary and Post-primary Degree Programmes**

A focus is placed on the basic principle of restrictive practice to be used only as a last resort within aspects of modules which focus on behaviour management. However, this approach to the use of restraint is supported by a wider set of actions and elements within all modules. The following points outline examples of how this issue is managed in the BEd programmes, in all relevant courses.

Students begin a programme of Safeguarding in the first year of the two programmes. Students are not permitted to begin School Experience without completion of the introductory Safeguarding course.

Students are required to show evidence of familiarity with school policies, and this will include policies relevant to the issue of safeguarding and managing pupil behaviour in their host schools (Please note students undertake MSW Modules across each year of the BEd Programmes).

During 32 weeks of school experience in a wide range of school settings, students are expected to observe and reflect upon the approach to managing behaviours and to responding to challenging situations. Structured opportunities for critical reflections and for sharing insights and concerns are built into the programme.

Across all Professional Studies modules, there is an emphasis on developing effective classroom pedagogies, developing an understanding of how to promote positive behaviour and strengthen emotional literacy and helping children to regulate and moderate their own behaviours. Prevention of the need for restraint is emphasised as a priority.

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<sup>96</sup> Correspondence with NICCY and St Marys University College via email September 2021

### **SMUCB PGCE Programme**

Specific courses such as The Holistic Development of the Child (Module MPS4002) and Special Educational Needs (MPS 4001) focus on restrictive practices being used as a method of last resort. However, this approach to the use of restraint is supported by a wider set of actions and elements within all modules. The following points outline examples of how this issue is managed in the PGCE programme.

1. Students begin a programme of Safeguarding in their first week of induction and this continues throughout the first term. Students are not permitted to begin School Experience without completion of the introductory Safeguarding course.
2. Students are required to show evidence of familiarity with school policies and this will include policies relevant to the issue of safeguarding and managing pupil behaviour in their host schools (MPS4001).
3. 3. During 18 weeks of School Experience in a wide range of school settings, students are expected to observe and reflect upon the approach to managing behaviours and to responding to challenging situations. Structured opportunities for critical reflections and for sharing insights and concerns are built into the programme.
4. 4. The content of each of the three modules which comprises the PGCE includes an emphasis on developing effective classroom pedagogies, developing an understanding of how to promote positive behaviour and strengthen emotional literacy and helping children to regulate and moderate their own behaviours. Prevention of the need for restraint is a priority.
- 5.

### **The Education Authority Training Opportunities**

The Education Authority met with NICCY (August 2021) to discuss a range of issues regarding Restrictive Practices in Educational Settings.<sup>97</sup> In the first instance the EA encourages schools to use a specific advice support line regarding Primary Behaviour Support and Post-Primary Behaviour Support.

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<sup>97</sup> Meeting NICCY and the Education Authority August 2021

There is also a range of online resources available provided by the Children and Young People's Service including the: Regional Capacity Building Programme to Schools, a range of specialist training can be accessed for teachers, classroom assistants, SENCOs and Senior Leadership Teams in areas relating to: Understanding and Supporting Social, Emotional and Behavioural Difficulties (SEBD) in Primary Schools; Understanding and Supporting SEBD in Post Primary Schools, Development of a Positive Behaviour Policy and A Positive Approach to Risk Reduction<sup>98</sup>.

Through the C2k platform, schools can make a referral for individual or cluster groups to receive bespoke training needs including:

- Understanding children's social, behavioural, emotional and wellbeing needs (SBEW);
- Training on how to write effective behaviour policy including risk production action plans; and
- Advice on methods of de-fusion and de-escalation, specifically managing a child in crisis;

The Education Authority recognised the benefits of standardised training for all relevant staff, however, they voiced concerns that if the training was solely on physical intervention, it may have the potential to drive further use. Training should be more focused on understanding a child's needs, de-escalations techniques and that interventions do not always have to be physical, they recognised the need for:

- A core set of training to understanding behaviour would be beneficial to new teachers;
- Essential base training on young people's emotions and how this relates to educational staffs' actions/responses; and
- Behaviour is not always negative. There is a need to shift people's mindset towards seeing behaviour is a continuum, rather than only 'bad behavior.'

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<sup>98</sup> [Behaviour Support and Provisions \(BS&P\) – Regional Training Calendar | Education Authority Northern Ireland \(eani.org.uk\)](#) / [Positive Behaviour Policy Resources | Education Authority Northern Ireland \(eani.org.uk\)](#) Accessed Sep. 2021

## Accredited Training Standards

This Review has revealed the necessity for accredited training standards that are rooted in children's rights, and which focus on de-escalation and minimising the risk of using restrictive practices in educational settings, for example those developed by the Restraint Reduction Network (RRN).

The RRN state that it is important that training standards are applied consistently across education, Health and Social Care and across children and adult services. They believe they should equally applied across the UK and internationally for all populations, including people with mental health conditions, dementia, learning disabilities and autistic people in order to consistently minimise the risk of physical and psychological harm. However, it has been noted by other stakeholders that any guidance created for NI should be specific to the educational and cultural needs of the school population here.

The RRN Training Standards apply to all training that has a restrictive intervention component and will provide a national and international benchmark for training in supporting people who are distressed in education, Health and Social Care settings<sup>99</sup>. These Standards aim to ensure training is directly related and proportional to the needs of populations, by experienced training professionals.

In addition to improving training and practice, the Standards aim to protect people's fundamental human rights by promoting person centred, best interest and therapeutic approaches when supporting people who are distressed. It aims to improve the quality of life for individuals by reducing staff reliance on restrictive practices through promoting positive culture and practices that focus on prevention de-escalation and reflective practice. This includes increasing people's understandings of the root causes of behaviour, as well as the recognition that many behaviours are the result of distress due to unmet needs. And if it is a measure of last resort, where required, individuals should focus on the safest and most dignified use of restrictive interventions including physical restraint.

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<sup>99</sup> [The Restraint Reduction Network Training Standards - Restraint Reduction Network](#)

## 4.3 Experiences and Perspectives on Restrictive Practices in Educational Settings

It was extremely important that we ensured the experiences of education professionals were appropriately represented in this report. However, due to the ongoing COVID-19 pandemic, NICCY were unable to conduct focus groups with teachers and classroom assistants. Therefore, NICCY reached out to relevant Unions to garner the experiences of their members and received responses from National Education Union (NEU) and National Association of Head Teachers (NAHT).

### Trade Unions

In correspondence with NICCY, the NEU raised their concerns about the current situation regarding the use of restrictive practices in educational settings, specifically highlighting the vulnerabilities of Teachers who are falsely accused of physical intervention and the mechanics of how policy is implemented.

The NEU raised the following concerns regarding the 2004 'Regional Policy Framework' compared with 'real life' requirements, using an example (see below) where a teacher was subsequently disciplined for their intervention.<sup>100</sup>

- 'Tell the pupils to stop the inappropriate behaviour '  
*(the teacher did this, the pupils continued fighting)* ;
- 'Ask the pupils to behave appropriately, clearly stating the desired behaviour';  
*(the teacher did this, the pupils continued fighting); and*
- 'Tell the pupils that physical intervention will take place if inappropriate behaviour continues'  
*(the teacher did not do this, but yelled "STOP" instead. The pupils continued fighting);*  
*At this point the teacher intervened to separate the fighting pupils*
- 'During the incident repeatedly reassure the pupil and tell him/her that physical contact will stop as soon as he/she is ready to behave appropriately'  
*(the teacher did this, although whether the pupils concerned, in an agitated state, heard this is open to question); and*
- 'If the teacher feels at risk (e.g. from a large or older group of pupils) send for the

<sup>100</sup> DE ( 2004) Regional Framework Pg 7: setting out pre-intervention procedures.

nearest staff support ;  
(no other staff member was within close proximity).

NEU explained that guidance on the use of “Reasonable force” is set out in the DE Circular 1999/9,<sup>101</sup> but argued that this fails to address the uncertainty for teachers on how they are meant to react, often in seconds. In particular, the interpretation of ‘reasonable-force’ is extremely difficult and they explained that many teachers feel they are walking a very fine line. The NEU are concerned that they have no alternative other than to advise teachers to stay clear, try to clear the area, but ultimately not to intervene. NEU concluded by emphasising the need for support and clarity for their members in the correct application of restrictive practices in educational setting.<sup>102</sup>

In May 2021 the NAHT (NI) produced a position paper on the use of restrictive practice in schools<sup>103</sup>. This outlined their concern at the lack of statutory guidance and appropriate training on the use of restrictive practices in educational settings, including the use of seclusion and DoL. They recognised the particular vulnerabilities in supporting pupils who may have special educational needs and/or complex and challenging medical and behavioural need in relation to restrictive practices. NAHT (NI) acknowledged *‘the immeasurable and damaging effect that any intervention involving restrictive practice can have on a child or young person and their families’*.<sup>104</sup>

The NAHT published 12 calls for action including legislative reform and publication of accompanying standardised guidance for schools, developed in partnership with key stakeholders including parents, carers, schools and unions. They recommended that a full consultation process should inform the development of this guidance and clear, legal definitions as to what constitutes restrictive practice, seclusion, restraint and deprivation of liberty must be included, and that a timetable for their development should be published immediately.<sup>105</sup>

<sup>101</sup> [Circular 1999/09 - Use of reasonable force | Department of Education \(education-ni.gov.uk\)](#) Accessed Oct 2021

<sup>102</sup> Correspondence with NEU and NICCY October 2021

<sup>103</sup> [NAHT\(2021\) Position Paper on the use of restrictive practices in schools.](#) Accessed Oct 2021

<sup>104</sup> *Ibid.*

<sup>105</sup> *Ibid.*



## Safeguarding and Child Protection Issues in Schools

The Challenging Behaviour Foundation’s focus is specifically on children, young people and adults with severe learning disabilities whose behaviour challenges.<sup>106</sup> They host quarterly ‘Reducing Restrictive Interventions’ meetings, which involve a UK wide stakeholder group including members from academia, policy, professionals from health (mental health) and education backgrounds, of which most have indicated that engagement of Social Workers can influence successful changes in restrictive practices in educational settings.<sup>107</sup> In section 3.1 ‘Policy, Guidance and Legislation’, NICCY highlighted a lack of accountability for safeguarding and child protection issues in educational settings being raised by parents. They reported more monitoring of restrictive interventions amongst domestic settings rather than within an educational setting. This point was supported by the Children and Young People’s Commissioner in Scotland:

*“Current child protection guidance and practice is focused on harm caused by parents, however children experience harm from other settings and have a right both to protection from that harm and to remedy where they have been harmed. However, our investigation into the use of restraint and seclusion in Scottish schools found that, where a child had been harmed by a member of staff as a result of inappropriate use of restraint, for example, there was often no legal remedy available.<sup>108</sup>.... It is therefore important that there is greater clarity in the Guidance to ensure that, in line with General Comment 13 and the United Nations Alternative Care Guidelines, children’s rights to protection apply to all those with a duty of care, including in institutional settings.”<sup>109</sup>*

CYPCS (2021)<sup>110</sup>

As outlined in section 3.1 ‘Policy, Guidance and Legislation’, parents and carers have raised concerns about the allocation of responsibility for safeguarding children when restraint and/or seclusion have been used in educational settings. They felt the responsibility for children protection, arguably falling under the remit of both the Health and Social Care Trust (HSCT) Children’s Services and EA Child Protection Support Services (CPSS), resulted in neither taking lead responsibility. In correspondence with NICCY, the EA explained that CPSS are an advisory support to schools and do not have authority to

<sup>106</sup> About us - Challenging Behaviour Foundation (CBF) Acc Oct 2021

<sup>107</sup> CBF (2021) Reducing Restrictive Interventions Meeting June 2021

<sup>108</sup> CYPCS. (2019). No Safe Place: Restraint and Seclusion in Scotland’s Schools. Acc. July 2021

<sup>109</sup> UN (2009) General Assembly Resolution 64/142. Guidelines for the alternative care of children. Acc. Oct 2021

<sup>110</sup> CYPCS. (2019). No Safe Place: Restraint and Seclusion in Scotland’s Schools. Acc. July 2021

investigate incidents at schools.<sup>111</sup> They explained that support and advice they provide is regarding reasonableness of force, lawfulness of intervention and the proportionality of restrictive practices. Finally, the CPSS can advise on adherence to guidance and professional standards.

Stakeholders have highlighted their difficulty in understanding where the responsibility lies for investigations of child protection concerns, whether it is HSCT Children's Services Social Work teams and Police Service Northern Ireland (PSNI) or the Education CPSS.

To ensure appropriate involvement of Social Services it is vital that clear, easily understood protocols are introduced for all parties to follow when child protection concerns arise in educational settings. It should not be left to families to navigate their way around social services in various sectors, and it is essential that schools, the EA and the DE fully engage in Social Services investigations relating to the use of restraint and/or seclusion.

Protocols should ensure, that as a first step, schools conduct thorough, open and timebound investigations of complaints raised by parents through their own complaints processes. If there is a question of child protection concerns the school should follow their own child protection policies without delay. And should an internal investigation identify the need for referral on to social services, this must be made to the Gateway Services Team in the relevant Health and Social Care Trust.

Schools should make information readily available to parents about how they can refer a case to Social Services or the PSNI, in instances where the outcome of a school's initial investigation determines there is no need for a referral.

The British Association of Social Workers (BASW NI) stated its concern at the relative lack of standardised guidelines in NI, particularly with regard to children with special educational needs. BASW NI is concerned at the lack of standardised policies and guidance from the DE regarding use of restrictive practices and seclusion with children and young people with additional needs, including those with physical or learning disabilities.

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<sup>111</sup> [BASW NI policy statement concerning restraint and seclusion of children and young people in schools and educational facilities | www.basw.co.uk](http://www.basw.co.uk)

BASW NI's short policy statement outlines the Association's views on the issue and details a series of changes which they believe are required to ensure interventions are therapeutic in outcome and focus on positive behaviour support strategies

#### **4.4 Affecting change in understanding educational culture**

It has been acknowledged that trying to minimise the use of restrictive practices without, at the same time, addressing organisational culture in many schools, would be counterproductive. Stakeholders need to have a clear understanding on how their language, how they understand their role, workplace and work practices, and the role of supervision and leadership, impacts on their attitudes to the use of restraint and seclusion in schools.

##### **Changing Cultural Perceptions through Reflective Practices**

An example of the use of interventions in changing cultural perceptions through reflective practice is demonstrated in James et al (2021), 'Challenging Behaviour around Challenging Behaviour'.<sup>112</sup> The study explored the impact of video feedback intervention for staff teams from multiple disciplines who work with children with intellectual disabilities and distressed behaviours. The intervention gave the teams the opportunity to observe themselves in relation to each other and to a child they all worked with. This created the conditions for them to re-appraise their perspectives of themselves, each other, the child and family as well as their collective identity and the beliefs (or theories) shaping their practices.

This research demonstrated that the focus of participating staff on the child's distressing behaviour reduced. Participants aimed to create supportive linkages in the child's interactions both in the school and home environment and, as the intervention progressed, the child was no longer seen as the problem.

*"When we choose to see through a systemic lens, addressing challenging behaviour legitimises the consideration of interactions across the whole system."*<sup>113</sup>

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<sup>112</sup> James et al. (2021) Challenging Behaviour around Challenging Behaviour: Wiley Online

<sup>113</sup> *Ibid.*

## Recognising Children’s Display of Distressed or Distressing Behaviour

In order to change culture, we need to change language. Using language that places an emphasis of blame or responsibility on the child can be damaging and biased. Instead of ‘behaviours that challenge’ or ‘challenging behaviour’, it is more appropriate to describe children’s behaviour as ‘distressed or distressing behaviour.’<sup>114</sup>

Distressed behaviour is strongly associated with children who have certain developmental difficulties and disabilities, particularly those with a learning disability or Autism,<sup>115</sup> who are more likely to exhibit ‘behaviour that challenges’ in order to express themselves and consequently are more likely to be subject to restraint and seclusion. Recent guidelines introduced in England on the use of restrictive practices in schools describe how challenging behaviour should be viewed as a means of communication with a cause and a purpose:

*“Behaviour that challenges may signal a need for support. It may, for example, be the result of a medical condition or sensory impairment, previous trauma or neglect, or be exacerbated by an unmet need or undiagnosed medical condition. It may reflect the challenges of communication, faced by children with learning disabilities’.”<sup>116</sup>*

Distressing behaviours that challenge can include aggression, destruction, self-injury and other behaviours (e.g. running away) associated with personal or social risks.<sup>117</sup> A definition by the Royal College of Psychiatrists includes more extreme behaviours:

*“Behaviour can be described as challenging when it is of such an intensity, frequency or duration as to threaten the quality of life and/or the physical safety of the individual or others and it is likely to lead to responses that are restrictive, aversive or result in exclusion.”<sup>118</sup>*

<sup>114</sup> Correspondence Parent Action and NICCY November 2021

Please note that, for the purposes of this report, where sources quoted use the term ‘challenging behaviour’ these have not been amended.

<sup>115</sup> Wilton, J (2020): Trauma, Challenging Behaviour and Restrictive Interventions in Schools: Centre for Mental Health

<sup>116</sup> HM Government (2019) Reducing the Need for Restraint and Restrictive Intervention Department of Education and Department of Health

<sup>117</sup> Challenging Behaviour Foundation (2014) Briefing Paper Early Intervention for Children with Learning Disabilities whose behaviour challenge November 2014

<sup>118</sup> Royal College of Psychiatrists (2007) Challenging behaviour: A Unified Approach. Clinical and Service Guidelines for Supporting people with Learning Disabilities Who Are At Risk Of Receiving Abusive or Restrictive Practices: College Report CR144 10

The Royal College of Speech and Language Therapy explains behaviour is communication. Many children and young people who have behavioural difficulties, including many of those with social, emotional and mental health needs (SEMH) also have speech, language and communication needs (SLCN). These needs often go unrecognised because behaviour can mask a child's or young person's difficulties with communication.<sup>119</sup>

The increased understanding of distressed behaviour as a method of communication rather than a behaviour that needs to be supported, has led to the development of preventative therapeutic models including Positive Behaviour Support (PBS) strategies, whereby restrictive practices are used only as a last resort.<sup>120</sup> However, a lack of standardised guidance and sufficient training for staff in educational settings on the use of PBS strategies, means that in many cases, restrictive practices remain the main method for managing distressed behaviours.<sup>121</sup>

Best practice in PBS as described in Paterson B et al (2011) on the use of time-out and seclusion in Scottish schools, requires a functional assessment which should involve a series of stages including gathering background information on the young person, taking a medical/treatment history, undertaking a communication assessment and carrying out an environmental assessment.

As part of this, structured/semi-structured interviews should be carried out with parents/carers (and other relevant stakeholders) and the children themselves. For example, observations of the child should take place in their school (and in some cases their home) that are both naturalistic (watching them play) and structured. The assessment should collect data to determine what interventions may be required and finally should develop a pupil support plan<sup>122</sup>. Examples of support plans include the Public Health Agency (PHA) Adult Learning Disability Passport (Appendix 7) and the PABSS Communication Passport.<sup>123</sup>

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<sup>119</sup> [rcslt-behaviour-a4-factsheet.pdf](#)

<sup>120</sup> The Challenging Behaviour Foundation Key Messages about Positive Behavioural Support [online] Available at: <https://www.challengingbehaviour.org.uk/learning-disability-assets/pbskeymessagesapril2017.pdf>

<sup>121</sup> Paterson B., Martin A., Nisbett I. and Leadbetter D. (2011) The use of time-out and seclusion in Scottish schools: A matter for concern? Report Arising from a Workshop © CALM Training

<sup>122</sup> *Ibid.*

<sup>123</sup> [Communication Passport | Positive Active Behaviour Support Scotland \(pabss.org\)](#)

Parent Action recommended the development and use of learning support plans and/or 'communication passports' in addition to other multi professional and parent/carer assessed plans for each child with a history of distressed communication in school. However, these must be developed in line with national best practice and completed by parents and carers, in partnership with health professionals caring for their child in the community, and are discussed with education staff in the school, by way of partnership working with parents.<sup>124</sup> They explain the purpose of 'communication passports' is to improve better communication and partnership working between parents, education staff and health staff working with the child in their home, school and community. Community children's nursing records are a good example of how these could be developed.<sup>125</sup>

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<sup>124</sup> Parent Action is a human rights-based organisation, which enables and empowers parent carers of children and adults with disabilities/lifelong health conditions, to advocate for their child's rights in vital public services.

<sup>125</sup> Correspondence Parent Action and NICCY November 2021.

## **Section Five: Findings, Recommendations and Conclusion**

This Review has concluded that the current policy, guidance and legislative frameworks around use of restrictive practice in educational settings are not fit for purpose and need immediate reform.

A system-wide approach is required to address the issues identified in this Review. It must involve evidenced-based solutions and a joint commitment from all relevant departments and agencies to address existing gaps and weaknesses. Ultimately, it must be ensured that all those working with these vulnerable children see them as children first and foremost, ensuring their best interests are the primary concern, their rights are protected and they are provided with every opportunity to fulfil their full potential.

### **5.1 Policy, Guidance and Legislation**

The urgent necessity for changes in policy, guidance and legislation on restrictive practices has been evidenced throughout this Review. Currently 72% (n=157) of schools who responded to NICCY's survey on restrictive practices in educational settings stated they had never received guidance on creating a policy on physical interventions. Furthermore, 51% (n=102) of schools stated they had a policy on physical interventions that included the use of restraint, whilst only 10% (n=17) had a similar policy on seclusion. This report has identified legislative gaps in the 'use of reasonable force'; unclear guidance to schools on initial reporting and recording/monitoring of incidents of restrictive practices; and deficiencies in the current policy regarding the complex support needs of some pupils and collaboration with other professionals such as Allied Health Professionals and Social Workers.

NICCY welcomes the upcoming DE Review of Restraint and Practices in Educational Settings as a real opportunity to affect positive change and support some of the most vulnerable children in NI. Moving forward, any new policy and guidance that the DE produces must ensure regional standards are established, minimising the use of restrictive practices and seclusion across all educational settings.

A standardised policy must incorporate a child-centred focus approach that ensures equal protection is applied to all children regardless of their background, status, additional needs, or disability.

The new guidance must also be accompanied by a supporting training framework, to ensure protection of children in all settings and ensuring systemic co-operation across all relevant departments, including DoJ and DfC. For this reason it is imperative that the training includes information on the Children's Services Co-operation Act (NI) 2015, human rights standards under the UNCRC, UNCRPD and Articles 3 and 5 of the ECHR.

Given the difficulties outlined with Article 4 of the 1998 Order in section 4.1 'Policy, Guidance and Legislation,' the human right implications of applying force to a child in education outside the circumstance of protecting that child or others from serious harm, must also be addressed.

### **NICCY Recommendations:**

1. The Department of Education must create legislation which should include:
  - A provision to ban the use of seclusion in educational settings;
  - A provision to ban the use of any techniques which inflict pain on children;
  - A definition of restraint and clarity that this should only be used as a last resort;
  - Requirement for mandatory recording of all incidents of restrictive practices by educational settings; and that
  - The Education Authority undertakes an annual review on the use of restrictive practices across all settings which should include: the number of children who experienced restrictive interventions; the number of times each pupil experienced a restrictive practice; the type of de-escalation techniques and restrictive interventions used; how children and parents were involved and what support/training may be required.
2. The Department of Education must ensure that the legislative framework explicitly limits the use of restraint or force on a child so that it is only permitted to protect that child or others from immediate and serious harm.

The Department must review The Education (NI) Order, 1998 repealing Article 4 (1)(c) '*To prevent a pupil engaging in any behaviour prejudicial to the maintenance of good order and discipline at the school or among any of its pupils*'.



3. The Department of Education should issue mandatory guidance on the use of restrictive practices in educational settings detailing the legislative and policy context, and outlining the roles, responsibilities and accountabilities of school staff, external professionals, Principals, Board of Governors, the Education Authority, (or other Governing Bodies) and the Department itself. This Guidance should be developed in consultation with schools, professional bodies, parents/carers, and children. They should:
  - o Provide further clarity on the legal definitions of 'restrictive practices' which should align to those of the Departments of Health and Justice;
  - o Change the use of terminology from 'challenging behaviours' to 'distressed behaviours';
  - o Ensure the provision of training; and
  - o Outline the requirement to immediately inform parents/carers of the incident following up with a formal report which should include measures to support the child and staff and prevent further incidents.
  
4. The Department of Education must establish regional standards on restrictive practices in schools including how to minimise their use and eliminate the use of seclusion. The policy must incorporate a rights-based, child-centred focus, ensuring that all children are protected, regardless of their background, status, additional needs, or disability.

### **Complaints**

This report has highlighted various issues in the current complaints process in educational settings, most notably in relation to the role of the BoG. Whilst some are very effective, other BoG appear to have little understanding and knowledge of the appropriate use of restrictive practices, and there is a lack of accountability in relation to their decisions on complaints concerning these practices.

Parents have described an unequal power imbalance in the complaints process. DE and EA must provide more guidance to schools about communicating with parents in relation to complaints and how these should be undertaken. Furthermore, educational and health staff in schools must be given support to raise public interest concerns in relation to matters such as the inappropriate use of restraint and seclusion.

5. Within the revised guidance document for schools, the Department of Education should outline standards for responding to complaints, in line with Complaints Standards set out by Northern Ireland Public Service Ombudsmen (NIPSO). The guidance should also provide direction on providing pathways for staff (including health staff visiting the school) to raise concerns.
  
6. Parents should be informed of independent advocacy and support services, including peer advocacy, to assist in their complaint.

## **5.2 Understanding and Knowledge of Restrictive Practices in Educational Settings**

This Review uncovered the need for a clearer and more consistent understanding of restrictive practices, their use and the policy and legislative context. Practical guidance and training is required around the appropriate use of these practices and alternative approaches to ensure that they are only used as measures of last resort.

7. Information regarding any policy, guidance and legislation on restrictive practices should be made publicly available and easy to understand, with alternative accessible formats available on request.

### **Training**

Children with additional needs often communicate distress through behaviours that may be considered disruptive in educational settings. Training is essential to support education professionals to understand children's needs and minimise restrictive practices in educational settings. It should not simply be about what restrictive practices are, or how to restrain children, but should be rights-based, child-centred, trauma informed, providing guidance on therapeutic interventions and de-escalation techniques.

Training must focus on increasing the capacity of staff to identify each child's communication and learning needs, and understand when, and how to, intervene.

It must outline the importance of child and family-based approaches, involving the child's parents and carers in developing action plans in advance if there are any risks of physical interventions or restrictive practices being required as set out in section 4.2 of the Review.

This training must be provided to all relevant staff, specifically teaching and classroom assistants, in all educational settings, and be incorporated into ITE and PGCE courses as well as early professional development and continuing professional development. Opportunities should be provided for all teaching students to gain practical experience in working with children who have special educational needs and/or disabilities, additional needs or may manifest distressing behaviours.

### **Recommendations**

- 8.** Teacher training institutions and the Education Authority (EA) should provide mandatory training on restrictive practices to be used as a last resort by all educational staff, including classroom assistants and non-teaching staff (where relevant).

This should be accredited and/or subject to external independent training standards and should begin at Initial Teacher Education (ITE), at Post-Graduate Certificate Education (PGCE) levels and continue into Early Professional Development (EPD) and Continuous Professional Development (CPD).

- 9.** Any new policy should be accompanied by an accredited training framework and supportive infrastructure to ensure schools have appropriate resources in place to support their pupils and staff in minimising the use of restrictive practices in educational settings.
- 10.** Additional training should be made available on areas complementary to reducing restrictive practices including on:
  - Effective communication;
  - Mental health;
  - Trauma;
  - Disability awareness training (particularly focusing on Autism Spectrum Disorder (ASD) and learning disability);
  - Managing distressed behaviours;
  - Supporting children with additional needs with or without a Statement; and
  - Children's rights.

### **5.3 Experiences and Perspectives of Restrictive Practices in an Educational Setting**

From the personal experiences shared by parents/carers and teaching staff, the use of restrictive practices often results in extremely negative, long lasting traumatic experiences for all involved, most particularly for the child who experienced it first-hand. Evidence suggests there is a distinct lack of pastoral support available to help individuals who have experienced restrictive practice, with no consistent direction in how to communicate with parents regarding these incidents.

The research identified the need for more support to staff and schools in relation to changing their approach to the use of restrictive practices including de-escalation methods, therapeutic interventions and the practical application of guidance. There was agreement on the need to identify systemic issues in addressing and alleviating pressures that cause distressing behaviours amongst children with additional needs.

- 11.** Parents and carers should have an opportunity to receive support and training, to understand the use of de-escalation and therapeutic interventions, as well as restrictive practices. They should have the opportunity to develop capacity to ensure they and their children can contribute to the development of personalised learning plans and be provided with information on the complaints process.
- 12.** Learning support plans or ‘communication passports’ should be in place for all children with additional needs, with a particular focus on children who are at risk of exhibiting behaviours that are distressing.
- 13.** Social, emotional and practical support should be provided for all individuals who experience, witness or apply restrictive practices in educational settings, especially children, siblings, parents/carers, and classmates, as well as the staff member involved.

## **5.4 Culture and Child Rights Framework**

Disability discrimination is not an issue particular to education, but is a societal issue that needs addressed, requiring co-operation from all relevant authorities. Furthermore, restrictive practices in educational settings cannot be resolved in isolation but need to be incorporated into a systematic review of how we support pupils with additional needs within our education system.

It is critical that reasonable adjustments are understood and embedded in educational practice. A statement of special educational need should not be required to make reasonable adjustments for children with additional needs, and behaviours should be acknowledged as communication requiring a therapeutic response, rather than ‘bad behaviour’ requiring punishment.

- 14.** All educational settings should be informed by a UNCRC child’s rights framework and embed a culture of school values underpinned by the principles of inclusion, the best interests of children and respect for their human rights.
- 15.** The Department Education and Education Authority should provide support to school leaders in school-based transformation work, as required, including changing culture and attitudes towards pupils with additional needs. Resources, training and sharing of good practice should be provided to ensure this happens.

## **5.5 Conclusion**

**The Northern Ireland Commissioner for Children and Young People (NICCY) commits to monitoring the implementation of these recommendations and will engage all relevant agencies to ensure improved outcomes for children and young people.**

## **APPENDICES**

### **Appendix One**

## **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."<sup>126</sup>

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."<sup>127</sup>

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.

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<sup>126</sup> 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.

<sup>127</sup> CRPD/2017/CO

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](mailto:Fionac@niccy.org.uk)

## Appendix Two

### Ethical Approval

#### Q.1 Name of Project

The use of restraint and seclusion in educational settings

Please note elements of this project will be in partnership with Department of Education (DE). The parental engagement costs have been covered by DE, NICCY will produce a separate report solely on parental engagement including thematic analyses. DE will not receive raw data nor be able to access names/details of individuals. NICCY and DE will have joint ownership of this data and can therefore reference it for their Rights based review and proposed guidance updates for ministerial approval. This will be noted throughout the document.

#### Q.2 Name of Researcher(s)

Lead Researcher: Fiona Cole (Lead on R&S)

Other Researchers: Niamh Devlin (Lead on Education)

#### Q.3 Researcher(s) Contact Details

Address: 7-9 Shaftesbury Square, Belfast, BT2 7DP

Telephone: 02890 316384

Email: fionac@niccy.org

#### Q.4 Brief Summary of Proposed Research

NICCY plans to carry out a child rights-based review of the use of restraint and seclusion in educational settings. The research will take place in the following forms:

- Desk Based Research on relevant international child rights & best practice regarding the use of restrictive practices in educational settings

Qualitative Research - (No specific target on participation numbers)

Please note key Voluntary and Community Sector organisations have become partners within the qualitative research and will act as facilitators to NICCY's engagement with parent/carers: ICARS, Mencap NI, Parent Action and Parenting NI. This is an extremely important part of the methodology for the interview phase of the research, as their skill set, and in terms of safeguarding, their established relationship with participants is key.

- Information gathering from healthcare professionals; Social Work, Allied Health Care Professionals, facilitated by British Association of Social Workers NI (BASWNI), Mencap NI and Restraint Reduction Network RRN
- Focus Group with Teachers supported by NAHT
- Focus Group with Allied Health professionals and Mencap Early Years Staff supported by Mencap NI

- Focus Group & 1-1 Interviews with parents and carers with direct family /lived experience of restraint and seclusion being used on family members in an educational setting facilitated through various Parenting Organisations and Mencap NI.
- Focus Group & 1-1 Interviews with parents and carers with no experience of restraint and seclusion being used in educational settings facilitated through various Parenting Organisations and Mencap NI
- Focus group with Fathers only who may or may not have direct experience of having restricted practices being used on their children in educational settings, facilitated by Parenting NI.

Please note: Although not directly research, some advisory group members, represent parents whose children have had direct experience of R&S, and have indicated that children and young people want to submit artwork/ prose of their experiences and could provide examples. Ethically, there are too many challenges in seeking this directly from other children. Any artwork or prose used for print will be agreed with children and young people and their parents/carers ahead of publication. This will take form in consent form (using informed consent where the child/young person is non-verbal) and consent from parents, facilitated through ICARS. Prior to publication, the child/young person will be sent proofs of how the artwork/prose will be used and consent to use will again be sought from the child/young person and their parents/carers. ICARS will initiate an after care call post publication.

It is worth reiterating that NICCY has a partnership agreement with DE, whereby all the information gathered from qualitative participation with disseminated, thematically analysed and prepared within a report that will be shared with DE. DE will not have access to any raw data or any information that can identify participants. This report will not include any recommendations, it will however be referenced in NICCY's rights-based review as evidence to form our own recommendations. Information sheets and consent forms will reflect how data will be used and will reassure anonymity with participants.

#### Quantitative Research

(Targeted 10% response rate from primary and post primary schools)

- Baseline survey to all NI Schools regarding current use of restrictive practices. Further detail on the methodological design is included in Q9.

#### Q.5 Benefits of the Research

Please outline details of the perceived benefits of the research for participants, relevant stakeholders and others.

The perceived benefits of the research include:

- Creating a baseline of understanding regarding school policies, training, support and recording practices currently used within schools.
- Enabling children and young people to have their voices heard through submissions of artwork/prose to be published. (See above in Q4)

- Enabling parents/carers to share their direct experiences of the use of restrictive practices in educational settings and the impact/effect that it has had on their family members.
- Enabling parents/carers without direct experience to share their thoughts and reflections on restrictive practices.
- Creating a robust evidence base to develop a range of recommendations for the Minister and Department of Education review of current guidance.
- Enabling professionals from education and health sectors to share their direct experiences on the use of restrictive practices in educational settings.
- It was identified that fathers were an underrepresented group in ascertaining parents' views, to ensure their voices are heard in the form of one focus group through a Parenting NI fathers support group.

#### Q.6 Perceived Risks associated with the Research

Please identify any perceived risks associated with the research and briefly describe what steps which will be taken to minimise these. Risks should include those potentially affecting participants, including organisations or agencies involved in the research and the researcher/s undertaking the research.

The risks and mitigating steps proposed to minimise these have been set out below and are largely related to the qualitative research, unless stated otherwise.

#### Risk 1: Participants getting upset / requiring support

NICCY understands the vulnerabilities and sensitivities around restrictive practices. The biggest risk to parents/carers is not only reliving their experience, but the language used regarding restraint and seclusion within educational settings. Our upmost priority it to ensure the safety and wellbeing of all our research participants during the course of our review.

The research will be designed to ensure that the interview process is conducted at the participant's pace. Where a person shows signs of distress, the interviews will be paused, postponed until another time, or ended. The focus groups and interviews will take place in a space where participants feel safe and free to express their views and have supports available if they become upset.

Participants will be fully informed of the nature of the interviews as part of the consent process, this will include the fact that they can end or pause the interview if they get upset and will include a person and space they can go to for support. This will be pre-arranged with partner organisations who will be facilitating our engagement with participants and an agreed follow up call will process will be applied where appropriate. Participants will also be provided with a list of support organisations that includes support contact details, the services offered by the NICCY legal team and services, and emotional and mental health services / supports.

Parents or guardians that are engaged with during the fieldwork may themselves be vulnerable adults, by way of being traumatised through the lived experience of their child negatively experiencing the use of restraint and/or seclusion in an educational setting. Therefore, it is expected that a large number of the interviews will be facilitated through partner organisations who will be

familiar with the parents / guardians. As much information as possible will be collected about the support needs of participants before the interviews in order to prepare interviewers and to ensure necessary adaptations are made.

**Risk 2: Issues / Complaints arise during interviews that require a follow-up response**

Issues may arise during interviews which require support. A signposting list will be provided that includes support contact details, the services offered by the NICCY legal team and services, and emotional and mental health services / supports.

Some parent/carers may already be known to NICCY L&I Team. Therefore, a specific procedure has been developed whereby the lead researcher will inform all participants about our legal and advice team, instead of going directing participants to the website they will asked to email the lead researcher in the first instance. The lead researcher will ask if the participants have had previous advice from NICCY, and if so, the lead researcher will gain permission to reiterate this in the introduction email to the legal and advice email. Finally, the lead researcher will attach the L&I referral form, and include an explanation on how to complete it and who to send the referral it back to. This has been included in NICCYs signposting sheet.

In the event of any circumstance whereby the lead researcher feels this referral pathway will re-traumatise a participant, it has been agreed a telephone call and referral will be offered. This will be on a case by case basis, and will not be advertised publically as an option.

The list of contacts for support will also be available on a NICCY webpage.

**Risk 3: Participants fit interview profile but don't come through a group**

The interview methodology has been developed with partner organisations as a key way of identifying participants for interviews and facilitating engagement. This method of engagement has been chosen in order to ensure that there are sufficient supports in place for participants if they require support, before, during or after interviews. If participants are not part of a partnership organisation, NICCY will take each request on a case-by-case basis to ensure that individuals have the necessary support before, during and after any engagement with us. This may result in NICCY not being able to engage directly with this individual, however, may instead request a written submission that will be anonymised.

**Risk 4: Responses suffer from selection bias / are un-representative**

Identifying participants who are only involved with partner organisations does lend itself to selection bias, however the benefits that this approach offers ethically, outweighs the bias it creates. By NICCY working closely with partner organisations to facilitate our engagement, parents/guardians who have had lived experienced of restrictive practices on their child will be supported throughout the research process. Therefore, we can safeguard or mitigate the risks of re-traumatizing participants.

Risk 5: Data confidentiality is breached  
See answer to Q14 and 15.

Risk 6: Consent is not fully informed.  
See answer to Q. 13.

Risk 7: Disclosures of safeguarding or criminal nature or made during interviews.  
See answer to Q.16.

#### Q.7 Involvement of Children and Young People

Does the research involve direct engagement with children and young people?

Yes – Submissions of artwork or prose through gatekeeper organisations on the Advisory Panel Only.

Advisory Group Members who represent parents whose children have had direct experience of R&S, and have indicated that they could provide examples. Ethically, there are too many challenges in seeking this directly from other children. Any artwork or prose used for print will be agreed with participant and their parents/carers ahead of publication. Please note this is not a research aspect, as there is no analysis, it is for illustrative purposes only.

Yes 1            0 (If 'No', please go to Question 9)

#### Q.8 Involvement of Vulnerable Adults

Does the research involve direct engagement with vulnerable adults?

Yes – adults involved within this participation may be seen as vulnerable due to being traumatised through lived experiences (mostly negative) of their son/daughter having restraint and/or seclusion being used on them within an educational setting.

Partnership agreements with Parent Action, Parenting NI, Mencap NI and ICARS have been agreed to ensure the safety and wellbeing of participants is safeguarded.

Yes 1 x    No 0 (If 'No', please go to Question 11)

#### Q.9 Details of Participants

It should be noted the qualitative research will not require target numbers.

- Information gathering from healthcare professionals; Social Work, Allied Health Care Professionals and early years experts. (Expected to be around 5-7). This will be facilitated by Mencap NI, BASWNI and RRN
- Focus Group with Teachers facilitated through National Associations Heath Teachers (NAHT)

Participants will consist of a mixture of mainstream primary, post primary and special school employee representation - unknown number of participants

- Focus Group & 1-1 Interviews with parents and carers with direct family /experience of restraint and seclusion being used on family members in an educational setting.

Recruited by International Coalition Against Restraint and Seclusion (ICARS)- Focus group (unknown number of attendees) and 3 x 1-1 interviews and Parent Action 4 x 1-1 interviews

- Focus Group & 1-1 Interviews with parents and carers with no experience of restraint and seclusion being used in educational settings. (Attendees unknown, facilitated by Parenting NI Max 2 Focus Groups)

#### Quantitative Research

As of 2020/21 DE listed 1,051 schools in Northern Ireland: 803 Primary Schools, 193 Post Primary Schools, 42 Special Schools (including independent Special Schools), and 13 'Other' Schools.

As this survey is non-compulsory, we did not expect the results to be statistically significant. However, we anticipate a reasonable sample size of 10% response rate from Primary, Post Primary and Secondary Schools and 20% rate from Special schools.

#### Q.10 Access NI

Please provide names of the researchers who will have direct contact with children and young people/vulnerable adults

The main researchers that will be conducting fieldwork is Education Lead and Senior Research and Policy Officer, Niamh Devlin and Lead Researcher on Restrictive Practices, Fiona Cole. The researchers will be supported by the rest of the policy and participation team in NICCY; however, this will only be in an advisory capacity.

Are Access NI checks being carried out for each of these researchers?

Yes 0 No 1 x

If No, please explain why

This piece of work is being carried out in-house by NICCY staff members. Existing Enhanced Access NI checks have been undertaken with staff when they were first employed. Staff have been employed for varying amounts of time.

NICCY staff will never be left alone with anyone under the age of 18 on a one-to-one basis.

Permission will be sought to record all qualitative research for transcribing purposes.

#### Q.11 Engagement with Children and Young People/Vulnerable Adults

Please provide details of how the researcher/s intends to engage with children and young people or vulnerable adults

Given the sensitivities of the subject matter, recruitment will be facilitated via gatekeepers that are able to support vulnerable adults and will be subject to a partnership agreement with NICCY, outlining expectations and responsibilities.

Engagement will be as follows:

Vulnerable Adults

- Initial contact through gatekeeper/ partner organisation will make initial contact with potential participants and will facilitate/schedule focus groups or 1-1 meeting.
- Focus Groups with max of 8 participants and a time limit of 90 mins (this is a maximum time limit and does not have to be fully used) and will be hosted virtually via Zoom
- 1-1 Interviews will take a max of 60mins to complete and will be hosted virtually via Zoom.
- Follow up care call will be agreed to be facilitated by Gatekeeper/Partner organisations and will be made by follow up call. The partner organisation will confirm with NICCY post aftercare call.

Contact with children and young people

NICCY will work with the advisory group to work with children and young people who have already made artwork portraying their experiences of restrictive practices in educational settings. Consent will be sought and agreements will be made to support individuals pre publication, to ensure sight of their artwork in the review does not retraumatise them.

Please give brief details of how the research will be explained to participants.

Research will be explained to participants by way of an information sheet prior to the fieldwork and reiterated at the start of the focus group/one to one interview. Consent regarding participation, information being shared with DE (but not raw data) and recordings, will also be ascertained by a digital consent form prior to engagement and again verbally before the NICCY fieldwork begins.

Q.12 Use of information concerning Children and Young People/Vulnerable Adults

Will the research involve the collection of information concerning children or young people/vulnerable adults, e.g., medical records, social services' data?

Yes 0            No 1

If 'Yes' please provide brief details.

Q.13 Consent

How will consent be sought from participants?

It is imperative that this research study takes every step to gain the voluntary and informed consent of participants.

All participants will complete and return a consent form and at the start of each engagement either in a focus group or one to one interview, verbal consent will be sought.

The consent will ensure people know how the data is being used, including the thematic analyses report shared with DE. This report will be specifically with the parental engagement and will summarise and thematically analyse all responses from parents, no raw data or identifiable



information will be used. This document will be used as an evidence base to inform both DE's review of guidance on restrictive practices and NICCY's rights-based review on restrictive practices.

Consent will also be sought regarding the recording and transcribing of focus groups and interviews. To alleviate concerns about the recording, it will be agreed that once the audio records are transcribed by a reputable source, the videos/audio recordings will be deleted. The rest of the data will be stored securely for five years, as with NICCY's data retention policy.

Yes 1 x      No 0

If No, please briefly explain your response.

#### Q.14 Confidentiality and Anonymity

Please provide brief details of how the research will address these issues.

The survey will be anonymous and will not ask for any identifiable information. Where identifiable information has been provided, it will be removed, or pseudonyms used for the purposes of analysis and reporting.

Contact details will be required for the purpose of setting up interviews. However, a file of names will be kept separately from the interview transcripts. Each interview transcript will be given a unique anonymous identifier code. A small number of NICCY staff will have access to this information which will be contained in a password protected folder.

#### Q15 Data Protection and Data Storage

Please provide brief details of how data will be handled and stored.

The data from the research will be stored for 5 years and the need to retain for any longer will be reviewed at this point.

Procedures will be set up regarding storage of participant information, this includes the following:

- Online zoom recordings for audio only
- recordings to be uploaded onto a password protected folder on the NICCY secure network, as soon after the interview as possible. The server is backed up every night.
- A file of contact details will be kept separately from the interview transcripts. Each interview transcript will be given a unique anonymous identifier code.
- A small number of staff will have access to the password protected folder.
- It has been noted that participants are concerned about being recorded online. To alleviate issues, once videos have been transcribed, the original recording can be deleted.

#### Q16 Disclosure of Information

Please outline details of how the researchers intend to manage the potential disclosure of information relating to individuals' safety or wellbeing or to their involvement in criminal activities.

### Survey

The survey will be designed so that no identifiable information is required and therefore no follow-up is possible.

### Interviews

NICCY staff who are part of the interview team will have been provided with a briefing on how to deal with a disclosure that is made during the interview process. This includes applying NICCY's safeguarding policy.

Safeguarding procedures will be developed in partnership with partner organisations who are facilitating access to children and young people for the interviews- this will include roles and responsibilities of both parties. This will include aftercare calls post participation.

Safeguarding messages will be provided to participants before the interview starts. This will include exceptions to participant confidentiality i.e., where the researcher has concerns about the safety or wellbeing of the participant or criminal activity is disclosed during the course of the research.

Interview /focus groups – parental engagement, transcripts will not be shared with the Department of

### Q17 Additional Ethical Issues

If appropriate, please identify any additional ethical issues which may arise during the research and provide details of how these will be addressed.

### Q.18 Relevant Documentation

Please list and attach any documents relevant to the submission (e.g., consent form, information for participants, details of how feedback will be provided to participants and details of how participant's personal data and research data will be managed).

To be attached:

Draft Participation Information Sheet - Parents

Draft Consent Form: Parents, Professional, Educational Staff

Partnership Agreement: Mencap NI, Parenting NI, Parent Action, ICARS

### Q.19 Additional Issues/Questions

Do you have any issues/questions you would like to raise through the Research Ethics approval process? If so, please detail these below.

N/A

## Appendix Three

### School Survey on Restrictive Practices

NICCY's invitation for Schools' input to our review of restrictive practices in education

As you may be aware, NICCY is undertaking a rights based review of restrictive practices in educational settings. This review is about highlighting what is required to improve school support, teacher training, policy development and regional monitoring and recording. It is therefore vital we include schools' knowledge and experiences within our review.

This survey will be completely anonymous and your schools will not be identifiable. Its purpose is to create a benchmark understanding of current practices in place. The findings of the survey will be collated and thematically analysed alongside other research findings and presented in our rights based review on restrictive practices in educational settings.

The research is extremely important for us to create evidence based recommendations, and therefore any assistance you can give us is greatly appreciated.

The average time of completion is 5-10 minutes.

If you have any questions, or would like to speak to us about our research, please do not hesitate to contact NICCY: [fionac@niccy.org](mailto:fionac@niccy.org)

**\* 1. I give consent**

- I am the Principal and I consent on behalf of my school
- I am an authority figure other than the Principal and I consent on behalf of school

If you are an authority figure other than the Principal, please state your title

2. Please select the type of school that you represent.

Other: If your school setting has not been listed, please provide details below.

**Current Guidance**

\* 3. Have you currently received any guidance on creating a policy on physical intervention?

Yes No

If you have answered Yes, please provide information on who the guidance was from and how the school received the information and when it was received

**Current Guidance (continued)**

**4. Did this guidance include?**

	Yes	→	No	→	I don't know
A definition of physical intervention or restrictive practices?	<input type="radio"/>		<input type="radio"/>		<input type="radio"/>
How to record, store and monitor incidents?	<input type="radio"/>		<input type="radio"/>		<input type="radio"/>
A means of reporting interventions and incidents to the Education Authority?	<input type="radio"/>		<input type="radio"/>		<input type="radio"/>
A suggested date or timeframe before the policy should be reviewed?	<input type="radio"/>		<input type="radio"/>		<input type="radio"/>

**6. Does this policy on restraint...?**

	Yes	→	No	→	I don't know
Include how to gather information that takes account of children and young people's rights, views and interests?	<input type="radio"/>		<input type="radio"/>		<input type="radio"/>
Take into account any additional needs or if the child has a statement of educational needs?	<input type="radio"/>		<input type="radio"/>		<input type="radio"/>
Include guidance for planned/unplanned use of restrictive practices?	<input type="radio"/>		<input type="radio"/>		<input type="radio"/>
Include guidance on engaging with parents?	<input type="radio"/>		<input type="radio"/>		<input type="radio"/>
Include guidance on consulting with health professionals, allied health professionals, social workers etc.?	<input type="radio"/>		<input type="radio"/>		<input type="radio"/>
Include guidance on care to the pupil post incident?	<input type="radio"/>		<input type="radio"/>		<input type="radio"/>
Include instruction on how information should be recorded in your school?	<input type="radio"/>		<input type="radio"/>		<input type="radio"/>

Please feel free to make any further comments.

Seclusion is defined as “the confinement of a child, without their consent, by shutting them alone in a room or other area”.

Deprivation of Liberty is when all of the following occur; A person is not free to leave; A person is under continuous supervision and control .

\* 7. Does your school currently have a policy on physical intervention that focuses on practices of seclusion?

Yes  
No  
I don't know

**School Survey on Restrictive Practices**

School Policy on physical intervention using practices of seclusion continued

8. Does this policy on seclusion ...

	Yes	No	I don't know
Include how to gather information that takes account of children and young people's rights, views and interests?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Identify any additional needs or if the child has a statement of educational needs?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Include guidance for planned and unplanned use of seclusion?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Include guidance on engaging with parents?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Include guidance on consulting with health professionals e.g. allied health professionals, social workers?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Include guidance on care to the pupil post incidents?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Include instruction on how information should be recorded in your school?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Allow for the practice of seclusion to be used within a secured environment, e.g. room locked	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please feel free to make any further comments.

The following questions are to enable NICCY to understand and create a baseline or recorded incidents of restraint and seclusion within schools. In order to ensure we have a robust evidence base, we are requesting schools refer to incidents recorded in 2018/19, which is the last full academic year pre COVID-19. Please see the definitions below of restrictive practices for reference when completing the survey:

Physical Restraint is defined as “using physical force to prevent, restrict, or subdue the movement of a student’s body”.

Mechanical Restraint is the restraint of a person by the application of a device to the person’s body, or a limb of the person, to restrict the person’s movement.

Seclusion is defined as “the confinement of a child, without their consent, by shutting them alone in a room or other area”.

Deprivation of Liberty is when all of the following occur; A person is not free to leave; A person is under continuous supervision and control .

\* 9. In the Academic Year 2018/19 did your school record any instances of physical intervention under the NICCY definition of restrictive practices?

Yes

No

I don't know

The following questions are to enable NICCY to understand and create a baseline of recorded incidents of restraint and seclusion within schools. In order to ensure we have a robust evidence base, we are requesting schools refer to incidents recorded in 2018/19, which is the last full academic year pre COVID-19.

10. Please answer the following questions on restraint and seclusion  
Number

In the school year 2018/2019, how many instances happened where restraint was used?

In the school year 2018/2019, how many instances happened where seclusion was used?

11. Can you break down the incidents according to the following pupil profile?  
Number  
Special Education Needs with Statement

Please use this space if you want to provide any additional comments.

**12. Within the academic year, 2018/19, did you receive any complaints from families regarding physical interventions that required restrictive practices?**

**Yes**

**No**

If you answered **Yes**, please specify how many complaints and where they were referred to. For example, Board of Governors, Education Authority, NIPSO, NICCY

School Survey on Restrictive Practices Training and Governance

This is the final section regarding training needs and your school's opinions on any recommendations on governance of restrictive practices.

13. Have relevant staff been provided training in relation to physical intervention?

Yes No

If you answered Yes, please state the training provider, when it was received, and who resourced the training, ie School, Education Authority etc.

14. What is the biggest challenge when it comes to implementing guidance on restrictive practices for your staff?

\* 15. Where should guidance on restrictive practices sit within school governance structure?

Safeguarding Behaviour Exclusions Other

Please explain your answer

16. Do you have any recommendations on how to improve regional policy on physical intervention using restrictive practices?



## **Parent/ Carer Participation in NICCY Rights Based Review of Restraint and Seclusion in Educational Settings**

**July 2021**

### **Who we are**

The Northern Ireland Commissioner for Children and Young People or ‘NICCY’ was created in 2003. Koulla Yiasouma is the current Commissioner and her role is to safeguard and promote the rights and best interests of children and young people in NI.

When promoting the rights of children and young people, we use the United Nations Convention on the Rights of the Child (UNCRC) to guide NICCY’s work. The UNCRC is a set of promises that the government has made to children and young people. It is made up of a list of 42 rights, which every child and young person in Northern Ireland should have. It is the Commissioner’s role to make sure all children and young people have access to their rights in their day-to-day lives, so they have the best opportunity to reach their full potential. It is her job to check that the government and other ‘relevant authorities’ (such as education, justice and health agencies) provide services for children and young people in ways that are in the best interests of all children and young people.

The Commissioner does this by:

- Advising government on the policies, legislation (laws) and services it provides, for children and young people.
- Monitoring – Overseeing what government does for children and young people, to challenge them to deliver what children need.
- Holding government to account – when the Commissioner believes not enough is being done for children and young people, she asks them to do better and to tell her what they did.

### **NICCY Review of Restraint and Seclusion in Educational Settings**

NICCY is undertaking a rights-based review on the use of restraint and seclusion in

educational Settings. We are aware that current guidance for school settings is over 20 years old and that schools need to have clear, updated guidance.

With lack of international standard definitions of restraint and seclusion (restrictive practices) in educational settings, NICCY are using the current definitions:

- **Physical Restraint** is defined as “using physical force to prevent, restrict, or subdue the movement of a student’s body”.
- **Mechanical Restraint** is the restraint of a person by the application of a device to the person’s body, or a limb of the person, to restrict the person’s movement.
- **Seclusion** is defined as “the confinement of a child, without their consent, by shutting them alone in a room or other area”.
- **Deprivation of Liberty** is when all of the following occur; A person is not free to leave; A person is under continuous supervision and control.

Our review will provide evidence from a range of stakeholders that include Schools, professionals and parents regarding the use of restraint and seclusion in schools in Northern Ireland and will include clear recommendations to the Minister and Department of Education regarding how to update their guidance and support for school settings to ensure restraint is only used as a last resort only when the child or others are at risk, its use is recorded and reported and parents are fully informed.

### **What will we want to talk to you about?**

Parent and carer’s knowledge, experience and views are vital in ensuring we have a robust evidence base when advising / making recommendations to the Minister regarding the use of restrictive practice. Most importantly, where parents and carers have direct lived experience, your personal account can demonstrate the impact that the use of restraint or seclusion had on your child.

We would like to invite families to share the experiences, suggest recommendations and if possible, explain the impact the use of restrictive practices has had on children and young people.

### **Benefits of the participating in NICCY's research**

This is an opportunity to have your voices heard and where possible share your and your child's experience of restraint and seclusion of your children within a school setting in a safe space. NICCY wants to ensure that your contributions are listened to and are effectively included within our Rights Based Review. Furthermore, the Department of Education are equally interested in listening to the voices of parent/carers in developing recommendations to the Minister in how to update guidance on the use of restraint and seclusion in educational settings.

### **How we will do this**

(Org Name) is supporting NICCY by introducing us to participants that they work with by asking them if they would like to talk to us about their experiences. If you would like to be part of this, we will invite you to join an online group discussion for a maximum of 90 minutes, (although it may not take that long) . Or alternatively indicate if you want to speak to NICCY on an online 1-1 basis for a maximum of one hour (spaces are limited, so please speak to xxx).

Permission will be sought via an online signed consent form and again verbal consent at the beginning of each focus group or one to one meeting. All information gathered will be confidential and NICCY will ensure no one will be identifiable in any reports that we produce.

Participation is entirely voluntarily, participants can keep their camera's/ speakers off and opt to participate only through the chat function. Participants can focus group, or can decide to stop participating. You can also ask us to stop using the information you give us, by contacting us at [fionac@niccy.org](mailto:fionac@niccy.org). You can also find out more about our work here: [www.niccy.org](http://www.niccy.org).

### **We want to make sure you are ok**

NICCY is extremely aware of the sensitivities around experiences of restraint and seclusion is, and how traumatic it might be for some people to share those experiences. NICCY's primary concern is the safety and wellbeing of our participants, which is why we have partnered with xxxx. Xxxx will contact you to arrange the focus group or one to one meetings with NICCY and will also be available to support you during the engagement and will arrange an aftercare call with you.

### **Participation will be Anonymous**

It is extremely important to NICCY that all participants in our research feel safe and supported to do so. We will be working in partnership with several key organisations to ensure that there is immediate help, advice and support should you need it. We can provide opportunities to talk in a group or on a one to one basis and all feedback received within our focus groups including names of schools will be kept anonymous.

NICCY may use direct quotes from what you have said in our engagements, or we may combine similar viewpoints to strengthen our recommendations, these will all be kept anonymous, if we think at any point you can be identified from that quote, we will delete it.

### **A report will be shared with the Department of Education**

You may be aware that the Department of Education are currently looking at updating their guidance to all schools on the use of restraint and seclusion in educational settings. They are very keen to hear direct experiences of parents/carers and therefore partnered with NICCY to ensure their voices are heard in a safe and meaningful way.

Therefore NICCY will engage with a range of parents and carers to understand their views and (where relevant) their lived experience of restraint and seclusion in schools. NICCY will then write a separate report that summarises all these parent/carers engagements, to highlight emerging themes and patterns discussed. Participants will be kept completely anonymous and all disclosures are completely confidential

### **What will happen with this information?**

We will gather all the information from our focus groups and one to one interviews with parent/carers and collate it with evidence we gathered from other stakeholders. This will feature in NICCY's report on the use of restraint and seclusion in educational settings and will form our recommendations based on the evidence gathered.

The rights based review will be shared directly with the Department of Education and Minister to inform their current ongoing review aimed at updating the guidance and will be launched in December 2021.

### **The online sessions will be audio recorded**

In order for NICCY to make sure they have captured what everyone has said correctly, they will audio record our online sessions with parents and carers to be transcribed. This

simply means we will take a voice recording of our focus groups and one to one interviews, and listen back to them to type what people have said word for word, ensuring we do not misquote (anonymously), or misunderstand what people have said.

This is will not affect participants' anonymity. Once the transcriptions have been made, the original recording will be deleted. Consent will be required from participants regarding the recording of sessions and participants can be opt out of being recorded at any times. If you have any issues with this, please let NICCY know beforehand so alternative arrangements can be put in place.

**Please get in touch**

If you have any questions, or would like a little more information – please do not hesitate to contact Fiona Cole Policy and Research Officer: [fionac@niccy.org.uk](mailto:fionac@niccy.org.uk)

**Thank you**

## **Hearing from parents/carers regarding the use of restraint and seclusion in educational settings: Information for participants**

NICCY is the Northern Ireland Commissioner for Children and Young People. The Commissioner's job is to safeguard and promote the rights and best interests of children and young people. This includes making sure that they are not treated differently because of their age or disability when receiving services.

We are going to be writing a rights-based review on the use of Restraint and Seclusion in Educational Settings. We are aware that current guidance for school settings is over 20 years old and that schools need to have clear, updated guidance.

Our review will provide evidence from a range of stakeholders that include Schools, professionals and parents regarding Restraint and Seclusion in schools in Northern Ireland and will include clear recommendations to the Minister and Department of Education regarding how to update their guidance and support for school settings to ensure restraint is only used as a last resort only when the child or others are at risk, its use is recorded and reported, and parents are fully informed.

### **What will we want to talk to you about?**

Parent and carer's knowledge, experience and views are vital in ensuring we have a robust evidence base when advising / making recommendations to the Minister regarding the use of restrictive practice. Most importantly, where parents and carers have direct lived experience, your personal account can demonstrate the impact that the use of restraint or seclusion had on your child.

We would like to invite families to share the experiences, suggest recommendations and if possible, explain the impact the use of restrictive practices has had on children and young people.

### **Benefits of the participating in NICCY's research**

This is an opportunity to have your voices heard and where possible share your and your child's experience of restraint and seclusion of your children with within a school setting in a safe space. NICCY wants to ensure that your contributions are listened to and are effectively included within our Rights Based Review. Furthermore, the Department of Education are equally interested in listening to the voices of parent/carers in developing recommendations to the Minister in how to update guidance on the use of restraint and seclusion in educational settings.

### **How we will do this**

(Org Name) is supporting NICCY by introducing us to participants that they work with by asking them if they would like to talk to us about their experiences. If you would like to be part of this, we will invite you to join an online group discussion for a maximum of 90 minutes, (although it may not take that long) . Or alternatively indicate if you want to speak to NICCY on an online 1-1 basis for a maximum of one hour (spaces are limited, so please speak to xxx).

Permission will be sought via an online signed consent form and again verbal consent at the beginning of each focus group or one to one meeting. All information gathered will be confidential and NICCY will ensure no one will be identifiable in any reports that we produce.

Participation is entirely voluntarily, participants can keep their camera's/ speakers off and opt to participate only through the chat function. Participants can focus group, or can decide to stop participating. You can also ask us to stop using the information you give us, by contacting us at [fionac@niccy.org](mailto:fionac@niccy.org). You can also find out more about our work here: [www.niccy.org](http://www.niccy.org).

### **We want to make sure you are ok**

NICCY is extremely aware of the sensitivities around experiences of restraint and seclusion is, and how traumatic it might be for some people to share those experiences. NICCY's primary concern is the safety and wellbeing of our participants, which is why we have partnered with xxxx. Xxxx will contact you to arrange the focus group or one to one meetings with NICCY and will also be available to support you during the engagement and will arrange an aftercare call with you.

### **A report will be shared with the Department of Education**

You may be aware that the Department of Education are currently looking at updating their guidance to all schools on the use of restraint and seclusion in educational settings. They are very keen to hear direct experiences of parents/carers and therefore partnered with NICCY to ensure their voices are heard in a safe and meaningful way.

Therefore, NICCY will engage with a range of parents and carers to understand their views and (where relevant) their lived experience of restraint and seclusion in schools. NICCY will then write a separate report that summarises all these parent/carers engagements and will highlight emerging themes and patterns discussed. Participants will be kept completely anonymous, and all disclosures are completely confidential.

### **What will happen with this information?**

We will gather all the information from our focus groups and one to one interviews with parent/carers and collate it with evidence we gathered from other stakeholders. This will feature in NICCY's report on the use of restraint and seclusion in educational settings and will help form our recommendations.

The rights based review will be shared directly with the Department of Education and Minister to inform their current ongoing review aimed at updating the guidance and will be launched in December 2021..

### **The online sessions will be audio recorded**

In order for NICCY to make sure they have captured what everyone has said correctly, they will audio record our online sessions with parents and carers to be transcribed. This simply means we will take a voice recording of our focus groups and one to one interviews, and listen back to them to type what people have said word for word, ensuring we do not misquote (anonymously), or misunderstand what people have said.

This is will not affect participants' anonymity. Once the transcriptions have been made, the original recording will be deleted. All participants have the option to keep their mics and camera's off and engage through chat functions, if you have any issues with this please let NICCY know beforehand so alternative arrangements can be put in place.



## Consent form

Participation is voluntary- it is up to you if you take part and how much you say.

<i>Put a tick in the box if you agree</i>	
<input type="checkbox"/>	I have <b>read and understand</b> the information sheet
<input type="checkbox"/>	I am clear on the purposes of NICCY's review and how my participation will inform the findings. Any queries I may have had have been responded to.
<input type="checkbox"/>	I <b>give</b> my consent to take part
<input type="checkbox"/>	I <b>do not</b> give my consent to take part
<b>Participant's name:</b>	
<b>Signature:</b>	
<b>Date:</b>	

Please return this form to xxx. Thank you.

## Appendix Five

# **NICCY rights based review of restraint and seclusion in educational settings**

## **Research Agreement between NICCY and (insert parenting organisation) on supporting the facilitation of qualitative engagement with parents/carers**

**July 2021**

### **Background**

- NICCY is undertaking a rights based review of restraint and seclusion in educational settings.
- A key strand of the Review is to better understand the impact restraint and seclusion in educational settings has on children and young people. Ethically, it is inappropriate for NICCY to interview children and young people with direct experience, so in order to do achieve this, parents / carers, are being asked to participate and share their lived experiences through a series of one to one interviews and focus groups. In addition to this, we are also going to gain knowledge and understanding of restrictive practices from parents/carers who do not have direct experiences of restrictive practices in educational settings.
- NICCY aims to work with in partnership with xxx to support recruitment, facilitation, analysis and write up of one to one and focus groups.
- Finally, the various outputs will be reported and shared with Department of Education (DE) as evidence for their review of restraint and seclusion in educational settings as per NICCY's partnership agreement with DE. (All participation will be notified of this partnership and will not be identifiable to NICCY or DE).
- The ethical review process carried out on this research highlighted the importance of partnering with specialist organisations to identify and coordinate direct engagement with participants. xxx is a member of the professional advisory group set up to provide advice on the overall Review, and has also agreed to support NICCY in its engagement with participants with xxx. This document sets out the respective roles of NICCY and relevant parenting organisations in supporting the facilitation of qualitative research with parents/carers.

### **Safeguarding Participants' wellbeing**

- NICCY is mindful of the vulnerability of parent/carers who may participate in the review of restraint and seclusion in educational settings, and the sensitivity of the research subject. NICCY will seek to ensure they only participate in the research where this is appropriate and that they are fully supported at all times.
- The objective of the Review is to ensure that parent/carers (either direct or indirect) share their understanding and, where relevant, experiences of restraint and seclusion in educational settings to inform recommendations that will be made to Government to improve the use of restrictive practices in educational settings. NICCY views that learning from the experiences and perspectives of parents/carers is vital to the development of updated guidelines and legislation.
- Both NICCY and xxx are committed to ensuring that the research principle of 'do no harm' is integral to the Review and this will be reflected in the ascribed roles and responsibilities outlined, and will be discussed with relevant organisations in advance of any participative research. They are also committed to working together to ensure that participant engagement is made as comfortable and meaningful as possible.

### **Roles and responsibilities**

- NICCY will provide participants with all the necessary information about the research in advance of interviews. This will include an information sheet which outlines what the research is about. Participants will also be provided with an advanced copy of the interview questions if that would be useful. Finally, participants will receive a signposting information sheet containing a list of organisations they can contact for advice or support.
- NICCY will ensure that participants provide informed consent both in returning a digital consent form and verbally before interviewing begins.
- NICCY will be advised by xxx about whether it is appropriate for a participant to be interviewed by NICCY on their own or with a xxx co-facilitator. This decision will be taken on a case by case basis.
- Interviews will be paused or stopped if a participant shows any signs of distress or not wanting to continue the interview.

- The participant information sheet will note that while interviews will be recorded for analytical purposes, no identifying information from the interview will be used in the research, and all recordings will be transcribed and then subsequently deleted, the transcriptions stored securely and deleted after 5 years.  
It will be highlighted that participant input is on a voluntary basis and that they can decide not to proceed with the interview, to take a break during the interview or to end the interview at any point.
- Participants will also be made aware that if during the course of the interviews, concerns are raised that a child is or may be at risk of harm, details will be passed on to the relevant statutory agency, such as Social Services or the Police, in line with the agreed Safeguarding Protocol between NICCY and xxx (see Appendix One). Parents / carers will be reminded of this before the interview starts.
- Participants will be made aware of partnership with DE and how they anonymity will be safeguarded (more details below).
- NICCY will ensure participants have details for contacting support organisations at the end of the interview. It is important to reiterate that partnering organisations will be undertaking follow up support on NICCY's behalf.
- NICCY will cover out of pocket expenses for parent/carers who participate in the Review. This may include for example data and/or interpreter costs.
- NICCY will provide feedback to participants on the Review findings and recommendations.

NICCY acknowledges the wide range of support xxx is providing in order to facilitate this research. Although NICCY has overall responsibility in conducting and managing the research process, and ownership of the data gathered. xxx will have a critical role in a number of key aspects of the Research, the detail of which is outlined below.

It is worth reiterating that NICCY has a partnership agreement with DE, where by all the information gathered from qualitative participation with disseminated, thematically analysed and prepared within a report that will be shared with DE. DE will not have access to any raw data or any information that can identify participants. This report will not include any recommendations, it

will however be referenced in NICCY's rights based review as evidence to form our own recommendations.

xxx role in the research will be fully acknowledged in the final report and in the dissemination process.

### **Role of Xxxas a Partner supporting the facilitation of qualitative engagement with parents/carers**

- Xxxwill support the Review by identifying suitable parents/carers who may wish to participate in the research.
- Xxxwill work jointly with NICCY in identifying suitable times for conducting interviews / discussion groups, online platforms will be used to hold all meetings.
- Xxxwill work with NICCY to adapt questions and to develop visual or other aids to support interviewees.
- Xxxwill take the lead role in determining whether it is appropriate for a parent/carers to be interviewed on their own or with their own co-facilitator. This decision will be taken on a case by case basis.
- Xxxwill provide parents with information provided by NICCY prior to the interview or group session i.e. information sheet and consent forms.
- Xxxwill be able to provide support for participants before, during and after the interview. The details of this will be clearly defined during the planning stages.
- Xxxwill ascertain preference of the parent/carers on who conducts the interview. If the parent/carer has no objection, Xxxwill conduct the interviews and feedback to NICCY.

### **Reports**

Ultimate responsibility for the final restraint and seclusion in educational settings review rests with NICCY; however, Xxxwill be recognised in the final report, and during the dissemination of the work, as having a valuable and important role in supporting the Review. Prior to the final document NICCY will be in touch with Xxxwith draft recommendations and any specific quotes (including context used), to ensure participant is content that their participation has been used correctly and in no way been misrepresented.

### **A separate report will be shared with the Department of Education**

The Department of Education are currently looking at updating their guidance to all schools on the use of restraint and seclusion in educational settings. They are very keen to hear direct experiences of parents/carers and therefore partnered with NICCY to ensure their voices are heard in a safe and meaningful way.

Therefore, a separate report of NICCY's engagement with parents and carers will be written and shared with DE, it's aim is to demonstrate a thematic analyses across the qualitative research. This separate report that summarises all these parent/carers engagements, to highlight emerging themes and patterns discussed. No raw data will be shared, and participants will be kept completely anonymous and all disclosures are completely confidential. Through our consent procedures, all participants will be fully informed prior to the research via our consent and information sheets.

## **Safeguarding Protocol between NICCY and (partner organisation)**

### **Approach**

- NICCY is undertaking a rights-based review of restraint and seclusion in educational settings and NICCY and Xxxare working in partnership to ensure parents/carers with/without lived experience have an opportunity to participate in interviews or group sessions as part of the Review. It is envisaged that Xxxstaff will be central to the co-ordinations of interviews, group sessions and pre and post interview support for participants.
- NICCY follows the Safeguarding Policy of the organisation involved and staff from said organisation make any referrals to Social Services or PSNI.
- NICCY seeks to reflect this approach in the partnership work with Xxxand notes this should ensure that all child protection concerns are responded to appropriately and referrals to statutory agencies made as required while promoting continuity of care between parents/carers and Xxxwith whom they have an ongoing relationship and minimising risk of duplicate referrals by both organisations.

### **Procedure**

- NICCY will ensure it is content with Xxxpolicy and procedures for responding to safeguarding concerns, including where a child or adult may be at risk of suicide.
- Xxxwill agree with participant the date and time to schedule an aftercare call to ensure participants have not been detrimentally affected as a direct result of participating in NICCY's research.
- If any other concerns of a safeguarding nature arise, such as concerns or allegations about a member of NICCY or Xxxstaff, each organisation will follow their own respective safeguarding policies.

## **Hearing from Professionals and other stakeholders regarding the use of restraint and seclusion in educational settings: Information for participants.**

**August 2021**

NICCY is the Northern Ireland Commissioner for Children and Young People. The Commissioner's job is to safeguard and promote the rights and best interests of children and young people. This includes making sure that they are not treated differently because of their age or disability when receiving services.

We are going to be writing a rights-based review on the use of Restraint and Seclusion in Educational Settings. We are aware that current guidance for school settings is over 20 years old and that schools and staff need to have clear, updated guidance.

Our review will provide evidence from a range of stakeholders that include Schools, professionals and parents regarding Restraint and Seclusion in educational settings in Northern Ireland. The review will include clear recommendations to the Minister and Department of Education regarding how to update their guidance and support for school settings to ensure restraint is only used as a last resort only when the child or others are at risk, its use is recorded and reported, and parents are fully informed.

### **What will we want to talk to you about?**

Professionals and other stakeholders experiences and views are vital in ensuring we have a robust evidence base when advising / making recommendations to the Minister regarding the use of restrictive practice. Most importantly, NICCY is interested in direct experience of Professionals within their roles of restrictive practices in educational settings and any recommendations regarding its use.



### **How we will do this**

NICCY will host a focus group on Tuesday 31<sup>st</sup> August 2021 at 3pm on Teams for a maximum of 90mins (however, it may not take that long). The format will be semi structured, which means that NICCY wants to ask key questions, but most importantly provide a safe space that colleagues can contribute from experience, including highlighting recommendations and illustrating best practice. The questions will include (but not limited to):

1. What is role does your profession hold regarding the use of restrictive practices in educational settings, including direct experience?
2. What policies and recording mechanisms are used for restrictive practices?
3. Are there any therapeutic alternatives to restrictive practices?
4. What training should be held for staff members in educational settings?
5. What recommendations would you make for future guidance on restrictive practices in educational settings?

Permission will be sought via online signed consent forms and again verbal consent at the beginning of the focus group. All information gathered will be confidential and will ensure no one will be identifiable in any reports that we produce. We may record our conversation so that the sessions can be transcribed, however they will be anonymised and once completed, all recordings will be deleted.

Participation is entirely voluntarily; participants can keep their cameras/ speakers off and opt to participate only through the chat function. Participants can decide to stop participating at any point, and you can also ask us to stop using the information you given us, by contacting: [fionac@niccy.org](mailto:fionac@niccy.org). You can also find out more about our work here: [www.niccy.org/restraintandseclusion](http://www.niccy.org/restraintandseclusion).

### **What will NICCY do with the information?**

The views experiences and recommendations you share will be used to inform our rights-based review of the use of restraint and seclusion in educational settings. This review alongside its recommendations will aim to directly advise the Department of Education and the Minister of Education of their systematic review of restraint and seclusion. We intend to launch this report in December 2021, there may be a possibility that the recommendations of the review will be reported within social and mainstream media.

## Consent form

Participation is voluntary- it is up to you if you take part and how much you say.

<i>Put a tick in the box if you agree</i>	
<input type="checkbox"/>	I <b>give</b> my consent to take part
<input type="checkbox"/>	I <b>give</b> my consent for this meeting to be recorded for the purposes of transcription only.
<input type="checkbox"/>	I <b>do not</b> give my consent to take part
<input type="checkbox"/>	I <b>do not</b> give my consent for this meeting to be recorded for the purposes of transcription only
<b>Participant name:</b>	
<b>Signature:</b>	
<b>Date:</b>	

## Parent's Poem

Childhood was perfect with a few wee friends.  
Everything was fine when it all made sense.

Behaviours worsen, must be difficulties at home.  
Phone call after phone call, please leave me alone.

Teachers and psychologists questioning your parenting,  
giving you that look... like you're not worth anything.

Family and friends will soon disappear.  
No party invitations from either of our peers.

Sadness and confusion on your little one's face.  
Anger and loneliness are what I embraced.

Years with no answer, no support nor care.  
Even now with a diagnosis I still worry and despair.

Bright and intelligent, she will do well,  
but we don't understand her so we'll punish her as well.

Exclusions, suspensions, isolation and much more.  
What's happened to this place, is there no care anymore?

No understanding, nurturing or empathy  
has left my child feeling unwanted and empty.

Embarrassed, ashamed, even made to feel guilt.  
Why can't you understand this isn't her fault.

No patience, no awareness or training yourselves.  
A blade to her arm as she blames herself.

Broken and beaten by Authority figures.  
Do you realise... you are now her triggers?

She will stim and mask even cry and roar  
but if you give her a chance you will soon see her soar.

I'm tired and drained, I wish it would all go away  
but the misunderstanding unfortunately will stay.

Her brain may be different, but it's not broken or wrong  
and I will fight for her rights no matter how long.

I see her worth, I see her potential  
I also see her challenges which are not intentional.

You don't see what I see but let me tell you it's there,  
a beautiful young woman with so much love and care.

*Poem by a parent of a child who experienced multiple periods of restraint and seclusion  
in mainstream Primary, Secondary and EOTAS settings.*



**You can contact the Northern Ireland Commissioner for Children and Young People using the following details:**

**Northern Ireland  
Commissioner  
for Children and  
Young People**

**Equality House**  
7-9 Shaftesbury Square  
Belfast  
BT2 7DP

**T:** 028 9031 1616  
**E:** [legalteam@niccy.org](mailto:legalteam@niccy.org)  
**W:** [www.niccy.org](http://www.niccy.org)  
**Facebook:** [www.facebook.com/nichildrenscommissioner](http://www.facebook.com/nichildrenscommissioner)  
**Instagram:** [niccy\\_yp](https://www.instagram.com/niccy_yp)  
**Twitter:** [@NICildCom](https://twitter.com/NICildCom)



**Legal Complaints Referral Form** - if you need advice, assistance or wish to make a complaint please use the form at [www.niccy.org/referralfom](http://www.niccy.org/referralfom) to contact a member of our Legal and Investigations team.

**Making a Protected Disclosure** - Under the Public Interest Disclosure (NI) Order 1998 NICCY is a 'prescribed person' to whom 'protected disclosures' can be brought by employees regarding concerns or breaches of safeguarding the rights and best interests of children and young people. You can find out more at [www.niccy.org/protecteddisclosure](http://www.niccy.org/protecteddisclosure)

**Please contact the Communications team at NICCY if you require alternative formats of this material.**