

Education, Communities and Economy

Midlothian Council
Fairfield House
8 Lothian Road
Dalkeith
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Director
Dr Mary Smith

Midlothian

19 February 2019

Mr Nick Hobbs
Head of Advice and Investigations
Children & Young People's Commissioner Scotland
nick.hobbs@cypcs.org.uk

Dear Mr Hobbs,

No Safe Place – Restraint and Seclusion in Scotland's Schools

I refer to your correspondence dated 14 February 2019 addressed to Dr Grace Vickers, Chief Executive, and passed onto this directorate to respond.

I am uncertain as to why our response has not been received however for ease of reference, proved our comments again as noted below.

(2B) a requirement to respond is a requirement that the service provider provides, within such period as the Commissioner reasonably requires, a statement in writing to the Commissioner setting out—

(A) What the service provider has done or proposes to do in response to the recommendation; or

(b) If the service provider does not intend to do anything in response to the recommendation, the reasons for that."

These points are perceived as being unconstructive and construed as negative and are not reflective of the exceptional practice that is carried out daily by dedicated hard working professionals to support all pupils who at some stage, may require interventions to keep themselves safe, allow them to develop self-regulation skills and ultimately succeed in life; albeit it is acknowledged that there is scope for further development in this area.

The method of information gathering does not reflect a true example of practice, wherein physical meetings to engage in professional dialogue, would have ensured that information was not misinterpreted. It would have also provided local authorities with the opportunity to demonstrate and explain current developments of policies and guidance documents, ensuring that the Commissioner is more suitably informed.

Midlothian Council also requests that similar language to that which is used by other organisations, e.g. Education Scotland use terminology such as 'the majority' 'mostly' etc. This would help Local Authorities to make better use of the figures and statistics contained in the report.

In terms of the key recommendations to be addressed by the local authority, please find below our response addressing each point in turn.

Please be advised that Midlothian Council has developed guidance around the two main themes of restraint and seclusion and this document forms part of our inclusion policy: "*Included Engaged and Involved*". This guidance document addresses all points raised within the key recommendations, drawing on examples contained within the report and highlighted as good practice.

Your Ref:
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A specific concern was raised within the report highlighting: *"Midlothian Council helpfully flags the need for parental consent before secluding a child but does not explain to staff the potentially serious consequences of secluding a child in the absence of valid consent, whether of a parent or a child."*

As part of our internal self-evaluation process and service review, we have recently appointed an Acting Virtual Head Teacher to oversee our provisions for supporting SEBN & LAC 5-16, which will give further scrutiny and focus to this area.

We have addressed this within the guidance document, and will ensure that subsequent training will highlight this to all staff.

1. *Local authorities should, as a matter of urgency, ensure that no restraint or seclusion takes place in the absence of clear consistent policies and procedures at local authority level to govern its use.*

In conjunction with our Inclusion policy: *Included Engaged and Involved*, the new guidance on restraint and seclusion supplements robust training for all staff before any restraint or seclusion would take place.

2. *Local authorities should record all incidents of restraint and seclusion in schools on a standardised national form. Anonymised statistical data should be reported to the Scottish Government's Children and Families Directorate.*

Midlothian Council will follow Scottish Government's directive on standardised recording and reporting of incidents.

3. *Local authorities should ensure that all recording forms at school level include sections for de-escalation techniques considered and attempted, the child's and parents' and carers' views. They should be incorporated into the assessment and planning processes in place under Additional Support for Learning legislation and Staged Intervention processes, as well as the GIRFEC National Practice Model and SEEMiS data management system.*

This has been incorporated into the guidance document, and will form part of training for senior leaders to roll out within their setting.

4. *In the interim, all local authorities should ensure that they are recording all incidents of restraint and seclusion.*

All incidents are currently recorded online however as part of our review of services, we have recently appointed a Virtual Head Teacher to oversee our provisions for supporting SEBN & LAC. Part of this role will be to monitor and oversee all incidents.

5. *Local authorities should amend their policies where necessary to make clear that damage to property should only be a justification for the use of restraint or seclusion when it presents an immediate risk of harm to the child or another individual. The same principle should be reflected in national policy and guidance.*

This has been included in the new guidance.

6. *Local authorities should ensure that the child's plan includes de-escalation techniques and a risk assessment.*

Current risk assessment state what strategies should be used with specific pupils.

7. *Local authorities should ensure that all children considered to potentially require physical intervention have a plan agreed in advance with the child and their parent(s) and/ or carer(s).*

Midlothian Council currently does this, and will continue to involve parents / carers in all risk assessments.

8. *Local authorities should ensure that the child's plan is reviewed on a regular basis, as well as following any incident of restraint or seclusion.*

This is current practice in Midlothian Council.

9. *Local authorities should ensure that parents and carers are informed as soon as reasonably practicable in every instance when restraint or seclusion is used on their child and offered the chance to take part in a post-incident review.*

This is current practice in Midlothian Council, parents / carers are involved in post incident meetings and subsequent review and updating of the individual plan.

10. *Local authorities should ensure that the views of the child are sought, recorded and reflected in all planning, risk assessment and post-incident reviews.*

Pupil's views are sought as soon as possible and appropriate following any incident as part of restorative practice.

11. *Local authorities should ensure that restraint and seclusion is only carried out by staff members who are trained to do so.*

Our guidance states that only staff trained in Team Teach may be involved in an incident of restraint.

12. *Local authorities should provide training to staff on a proportionate basis, with only those who have been assessed as needing training receiving it.*

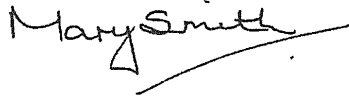
This is current practice in Midlothian Council.

13. *This training should be rights based and in line with the Council of Europe recommendations set out in Recommendation 2004(10) and with the principles in the Common Core.*

The training will aim to comply and work within "good practice" guidelines produced by government departments. Team Teach, has been actively involved with consultation by government departments looking at "good practice" principles in this area. Therefore this training will comply with the Human Rights Act.

Midlothian Council is happy to work in with Scottish Government and any other appropriate bodies to help move forward the recommendations that have been suggested to them.

Yours sincerely

A handwritten signature in black ink that reads "Mary Smith". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Dr Mary Smith
Director, Education, Communities and Economy
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