



Northern Ireland
Assembly

Committee for Education

OFFICIAL REPORT (Hansard)

Seclusion, Restraint and Restrictive Practice:
British Association of Social Workers
Northern Ireland

9 December 2020

NORTHERN IRELAND ASSEMBLY

Committee for Education

Seclusion, Restraint and Restrictive Practice:
British Association of Social Workers Northern Ireland

9 December 2020

Members present for all or part of the proceedings:

Mr Chris Lyttle (Chairperson)
Ms Karen Mullan (Deputy Chairperson)
Mr Maurice Bradley
Ms Nicola Brogan
Mr Daniel McCrossan
Mr Justin McNulty
Mr Robin Newton

Witnesses:

Ms Carolyn Ewart	British Association of Social Workers Northern Ireland
Mr Andy McClenaghan	British Association of Social Workers Northern Ireland

The Chairperson (Mr Lyttle): I welcome Carolyn Ewart, the director of the British Association of Social Workers Northern Ireland (BASW NI), and Andy McClenaghan, its communications and public affairs officer. The Committee has been allocating some time to the issue for a number of months, and we have received correspondence from very concerned parents about restrictive practice in schools. We know that more up-to-date guidance on the matter has been progressed in other jurisdictions but not yet in Northern Ireland. The Committee is therefore glad to engage with the British Association of Social Workers on this important matter.

I advise witnesses that you have around 10 minutes in which to make an opening statement, which will be followed by questions from Committee members. Over to you, Carolyn and Andy. Can Andy hear us?

Mr Andy McClenaghan (British Association of Social Workers Northern Ireland): Chair, I can hear you; I cannot hear Carolyn.

The Chairperson (Mr Lyttle): OK. Is Carolyn starting?

Mr McClenaghan: Carolyn was to start, yes.

The Committee Clerk: Perhaps she is on mute.

The Chairperson (Mr Lyttle): Carolyn, are you on mute?

Ms Carolyn Ewart (British Association of Social Workers Northern Ireland): Apologies. Can you hear me now?

The Chairperson (Mr Lyttle): It is a bit grainy. Go ahead. Hopefully it will be OK.

Ms Ewart: The joys of digital technology. I will try to adjust the speakers on my headphones to see whether that makes a difference.

The Chairperson (Mr Lyttle): That would be helpful. It is digital-sounding at the moment. I do not think that we would be able to proceed with that sound level at the moment.

Ms Ewart: OK. Does that make any difference for you, Chair?

The Chairperson (Mr Lyttle): No, I do not think so.

Ms Ewart: OK. I can hear you all clearly, but something is clearly awry at my end. Is that any better?

The Chairperson (Mr Lyttle): It is slightly better. Try again. We have now lost you.

Andy, did you have any comments to make? Perhaps we can hear your comments while we try to get Carolyn logged out and logged back in again.

Mr McClenaghan: Certainly. Carolyn, would you be happy for me to speak to your opening statement?

The Chairperson (Mr Lyttle): That would be great. Sorry about this, Carolyn. Hopefully, we will get your issues fixed. Thanks, Andy.

Mr McClenaghan: No problem. I will just tear into it.

Mr Chairman and Committee members, thanks very much for the invitation to present to you this morning. As you know, I am the communications and public affairs officer for BASW Northern Ireland. Carolyn Ewart, our national director, will also give evidence. I will briefly outline BASW Northern Ireland's position on the use of restrictive practices, seclusion and restraint. I will then explain a little bit about what we feel should be put in place to remove the need for the use of restrictive practices in the vast majority of contexts, after which I am happy to take questions.

For a little bit of background, BASW Northern Ireland is part of BASW UK, which is the largest professional body for social workers in the UK. We have 21,000 members employed across all areas of social work practice. In Northern Ireland, there are approximately 6,600 registered social workers. The majority of them work in the statutory health and social care sector. Social workers also work in the education sector in various roles, including in the Education Authority (EA) and its Education Welfare Service (EWS) and Child Protection Support Service (CPSS). Social workers also work in the criminal and youth justice sectors, in the voluntary sector and as independent practitioners.

BASW Northern Ireland first became involved with the issue when a member of ours who co-authored a report was contacted by concerned parents. The report is titled 'Three Steps to Positive Practice'. It takes a rights-based approach that is to be used when considering and reviewing the use of restrictive interventions. The document was jointly produced by the Royal College of Psychiatrists (RCP), the Royal College of Nursing (RCN) and the Royal College of Occupational Therapists (RCOT). BASW Northern Ireland, as an association, cannot take on individual cases, but we decided to explore the wider social work issues that were raised and to review the policy and guidance. In short, BASW Northern Ireland is concerned at the lack of standardised policies and guidance from the Department of Education on the use of restrictive practices and seclusion with children and young people with additional needs, including those with physical or learning disabilities. The association recognises the damaging physical, psychological and emotional effects that restraint and seclusion can have on children and young people. We note that the emotional impacts of those practices are often felt by the families of the children and young people involved.

The Department's existing guidance on the use of reasonable force to restrain pupils focuses on the use of restraint in the context of good order and discipline. Where a child or young person with additional needs exhibits a behaviour that is considered to be challenging, however, it is important that

the approach taken centre on meeting the child's individual needs. Addressing the behaviour from a stance that is focused solely on maintaining discipline will fail to meet the needs of the children and young people involved.

BASW Northern Ireland has called for mandatory training for all staff who work directly with children and young people with additional needs. We recommend that interventions should be therapeutic in outcome and focus on positive behaviour support strategies, with restraint used only as a last resort. BASW Northern Ireland is opposed to the use of seclusion, which is the isolation of a child or young person away from others in a room or other area from which they are prevented from leaving. It is important, however, to stress that it should be recognised that there is a significant difference between the legitimate use of a quiet space away from other children where a child can go voluntarily as part of an agreed behaviour support plan or in an emergency situation for the prevention of harm. That is to be clearly distinguished from a room in which a child is locked in by themselves and is unable to leave.

Any forthcoming departmental guidance on positive behaviour support strategies needs to be produced in partnership with parents and all other relevant stakeholders. It should define what constitutes a last-resort scenario, in which restraint may be used. The guidance should be distributed to all staff who work directly with children and young people with additional needs as part of their mandatory training.

BASW Northern Ireland also supports the introduction of mandatory recording and reporting of all incidents of restrictive practice and seclusion. Records of cases of restriction and seclusion should be shared with the parents and guardians of the children and young people involved, as well as with the school board, the Education Authority, the Department of Education and the Northern Ireland Commissioner for Children and Young People (NICCY). Where restraint or seclusion has been employed, a meeting between the school and the child or young person's parents or guardians should be convened to consider the incident. The discussion should cover what prior interventions were employed to de-escalate the incident and examine what strategies will be put in place to minimise the need for seclusion or restraint in future.

Investigating safeguarding concerns resulting from restraint and seclusion is a role for social workers. It is essential that schools, the Education Authority and the Department engage fully in social work investigations of any such concerns. BASW Northern Ireland, however, believes that guidance for schools should be developed by the Department to ensure that, as a first step, there is a thorough, open and time-bound investigation of complaints raised by parents prior to the involvement of social services. To date, BASW Northern Ireland has met the Department of Education and the Education Authority to raise the issues that I have just presented to you. We have also had discussions with the Northern Ireland Commissioner for Children and Young People. We have sought engagement with the five teachers' unions to discuss the measures that we are calling for, but we have not had any conversations since we reached out to the teaching unions.

I will move on to what I was supposed to read out following Carolyn's statement. I have stressed that we advocate that restricted practices should be used only in last-resort scenarios. If we are going to avoid the use of restraint and appropriately meet children and young people's needs, we need to take several steps back in the process to ensure that support is delivered in what we consider to be a preventative, low-arousal context. If we are going to avoid the use of restraint, it is important that the support needs of individuals be anticipated and that any potential challenges that might be posed can be addressed so that restraint and seclusion can be replaced by person-centred therapeutic interventions that focus on improving the well-being of the child or young person. This is something that we will probably stress a number of times today, but, when considering how children and young people are supported in special educational settings, it is vital to remember that all behaviour is communication. That is especially relevant when considering the needs of children and young people who are non-verbal. It needs to be recognised that behaviour that challenges may signal a need for support. It is therefore essential to understand its underlying causes.

The UK Government have produced non-statutory guidance for healthcare and special educational settings in England. That guidance focuses on reducing the need for restraint and restrictive intervention. It recognises that behaviour that challenges could be the result of a medical condition or sensory impairment or of previous trauma or neglect. Alternatively, it could be exacerbated by an unmet physiological need or an undiagnosed medical condition. Behaviour that challenges may also reflect the challenges of communication or the frustrations faced by children and young people with learning disabilities, autistic spectrum conditions and mental health difficulties, who also may have little choice and control over their lives.

I mentioned low-arousal approaches. They include interaction, diffusion and distraction strategies that focus on reducing stress, fear and frustration. Importantly, they are aimed at preventing aggression in crisis situations. Low-arousal approaches identify triggers and use low-intensity strategies and solutions to avoid punitive consequences for children who are distressed.

BASW Northern Ireland is concerned that the training that is currently provided to teachers and support staff in Northern Ireland may not focus sufficiently on de-escalation training and low-arousal approaches. That can lead to the unnecessary use of restraint and seclusion. The result is that what should be used as a last resort — in crisis situations only — is being used too frequently and without regulation, without recording and without reporting to parents and families.

I will finish there. Is Carolyn back with us?

Ms Ewart: Hello, Andy. Can you hear me?

Mr McClenaghan: It is still a bit dalek-sounding.

The Chairperson (Mr Lyttle): It is still very *[Inaudible.]* That is a good comparison.

Ms Ewart: I am not sure what else I can do at this stage. Is it impossible to make out what I am saying? *[Inaudible.]*

The Chairperson (Mr Lyttle): I can make out what you are saying, but, as Andy said, it is extremely close to dalek from 'Doctor Who' *[Laughter.]*

Ms Ewart: *[Inaudible.]*

The Committee Clerk: We have some guidance. It is something to do with her headphones.

The Chairperson (Mr Lyttle): It could be something to do with your headphones.

Carolyn, an alternative option is to use the phone line.

Andy, you have covered all of the opening comments that BASW wanted to make, is that right?

Mr McClenaghan: That is right.

The Chairperson (Mr Lyttle): They were very helpful. We can hear what Carolyn is saying, but it is not normal audio. We will try to get the phone option working. If there is a key point that you want to make, we can persist with that. Are you content for us to move to questions at this stage, Andy?

Mr McClenaghan: Can we hold on, Chair, until Carolyn is connected? Is that OK?

The Chairperson (Mr Lyttle): OK. Let us take a two-minute break to see whether we can resolve the issues for Carolyn. Thank you for a really helpful opening statement, Andy.

Mr McClenaghan: No problem. You are welcome.

The Committee suspended at 11.45 am and resumed at 11.51 am.

The Chairperson (Mr Lyttle): OK, members and witnesses, we have now returned to public session.

Carolyn, I think that we have resolved the audio gremlins, and we are delighted to have you back with us.

Carolyn and Andy, thank you both for that extremely helpful opening statement. I will ask the first set of questions. Are there approaches that have been taken to update guidance on restrictive practice, seclusion and restraint in other jurisdictions that could serve as a useful template for what updated guidance ought to look like in Northern Ireland?

Ms Ewart: Andy, do you want to take that?

Mr McClenaghan: No problem, Carolyn.

Sorry, Chair, your audio went a bit vague, but I got the gist of the question. Yes, government guidance has been issued for England. It was produced in 2019 and is on reducing the need for restraint and restrictive intervention. Although it is very welcome that that guidance was produced, there are some shortcomings with it. It is non-statutory guidance, which limits how useful it can be. Moreover, it applies only in special educational setting and healthcare settings. It does not apply in mainstream schools, which also limits its usefulness. Another shortcoming of the UK guidance is also that it places quite a responsibility on the professional judgement of teachers to decide whether restraint is necessary, reasonable and proportionate. We, as BASW Northern Ireland, believe that any guidance that is introduced in Northern Ireland should exceed that standard and have a comprehensive but non-exhaustive list of examples of when restraint should be used. Our concern is that, if you leave the decision solely to the professional judgement of individual teaching staff, that allows significant room for interpretation of the standards, which could lead to an unnecessary and avoidable use of restraint. The English guidance also places an unfair responsibility on teachers, because it states:

"To be confident in their judgement, staff should also ensure they know the scope of the legal powers authorising restraint and keep abreast of changes and developments in the understanding of what constitutes good practice in this area."

That is not appropriate at all. To ensure that staff are adequately resourced and supported to minimise the use of restrictive practices, it is absolutely essential that staff in Northern Ireland are fully trained in the use of positive behaviour support strategies so that they have an alternative approach and so that the Department of Education and the Education Authority are held responsible for ensuring that staff are kept up to date with developments in what is considered good practice. To put that responsibility on to individual teachers is very lacking and is not fair to those staff. The Scottish Government are developing guidance on the use of restraint and seclusion. That came about as a result of a judicial review that was supported by the Scottish Human Rights Commission. If the Committee wants to look into that in more detail, the Children and Young People's Commissioner Scotland has a fantastic report, published in 2018 and entitled 'No Safe Place: Restraint and Seclusion in Scotland's Schools'. The report examines the use of restraint and seclusion across schools in Scotland. The engagement there is with local authorities, given their responsibility for education. The report found worrying inconsistencies in a lack of policies across local authorities. It found that the situation in Scotland and lack of guidance centrally risked violating various aspects of human rights law.

The report flagged up issues around the United Nations Convention on the Rights of the Child (UNCRC). As I understand it, however, the judicial review that was taken forward and supported by the Scottish Human Rights Commission focused on articles 3, 5 and 8 of the European Convention on Human Rights (ECHR), because it is the ECHR that is implemented via the UK Human Rights Act, so that is what is applicable in UK law. Article 3 focuses on the prohibition of torture or inhuman or degrading treatment or punishment. Article 5 focuses on the right to liberty and security, and article 8 focuses on the right to respect for private and family life, which includes respect for physical integrity. The Scottish guidance that is being developed will, I understand, have a strong human rights basis, and we think that a similar approach needs to be taken by Northern Ireland.

The Chairperson (Mr Lyttle): That is helpful, Andy. There is a significant body of work there that the Department of Education and other stakeholders can draw from. You said that a limitation of the England guidance was that it is non-statutory in nature. Do you believe that new guidance in Northern Ireland should be statutory in nature?

Mr McClenaghan: I am sorry. I did not catch that, Chair.

The Chairperson (Mr Lyttle): Can I check that everyone who is not speaking is on mute? There is significant background noise.

Do you think that the Northern Ireland guidance should be statutory in nature?

Mr McClenaghan: Yes. I would also say that the Scottish guidance is non-statutory. My understanding is that their plan is to introduce non-statutory guidance, with that to be reviewed down the line to see how useful it had been.

The Chairperson (Mr Lyttle): OK.

Mr McClenaghan: Our position is that the introduction of non-statutory guidance in Northern Ireland would be a good thing in the short term. Given how long it could take for the legislation to pass, it would be remiss to wait until legislation was passed to have statutory guidance introduced. If you are going to engender any cultural shift in how people operate in a big institution — we can think of the education sector as an institution in that context — it is important to shape the culture through training, engagement and guidance. If we just wait to have legislation passed, that is going to take a long time. It may also not have all the intended benefits that we would be looking for.

The Chairperson (Mr Lyttle): Fair enough. In terms of the action necessary to bring forward up-to-date, standardised guidance in Northern Ireland, can you give the Committee an idea of what work is under way? The Department of Education, the Children's Commissioner and the Northern Ireland Public Services Ombudsman have initiated work in that regard. Is that right?

Ms Ewart: Chair, I am happy to report that that is the case. At this stage, I would like to thank you all for your patience and understanding with the difficulties. It is nice to be able to speak with you.

I want to acknowledge the huge amount of work that families have been doing in this area for some time. Those are the families of children who have been directly impacted. We have had involvement over the past 12 months or so in trying to look at the issues, and Andy set those out clearly in his earlier briefings. We have had two meetings with the Department of Education and the Education Authority. The first was in September and the second was just last week. It is fair to say that, at our first meeting, the officials were very clear that they were initiating, on the request of the Minister, a very broad-ranging review and were open to all the suggestions that we had made about the need for guidance. There was an openness to consider statute and the use of legislation, if that was required, and an openness and willingness to review the current guidance, which, in our view, is woefully outdated — the last guidance was issued to staff and schools in 1999. We also made representations that it was important that all stakeholders were involved and included in the process.

They will be much better able to answer for their actions than we will, but we recognise that COVID has had a significant impact on their ability to take the work forward. Based on the discussion that you had earlier, the impact of COVID on teaching staff, schools and children has been significant. However, I think that there is a real commitment in the Department to undertake a root-and-branch review of the entire system and an openness to look at guidance, legislation and positive behaviour approaches and models that should be used in schools. We are keen to be part of that. We would also like to ensure that parents and young people are part of that process. The principles of partnership and parental responsibility that are linked to the Children Order are very clearly keen to have those with lived experience and who are expert by experience involved in a process. We absolutely support that.

We understand that there are two separate groups: a working group or party and an advisory group. We do not know the details of the membership of those groups at this stage, but we understand that we will be asked, as BASW Northern Ireland, to be part of the advisory group. It will also be important that teaching unions etc are involved in that group along with parents. It will be for the Department to decide the make-up of the working group, but it is important that it is inclusive and involves all the people who have a legitimate voice in the process.

The Chairperson (Mr Lyttle): That is great. Thank you for that helpful information.

Ms Mullan: Thank you very much, Carolyn and Andy. Carolyn, I know that you had technical difficulties, but we are all sitting here admiring your beautiful tree, so it made up for it [*Laughter.*] I am so jealous, because I do not have mine up yet.

Ms Ewart: Thank you.

Ms Mullan: It was great to finally hear from you both this morning. You covered everything in the briefing that you provided before the meeting and your presentation today. Most of my questions were covered in the answers given to the Chair's questions, so I just want to make a couple of statements.

As the Chair said, we have heard from a number of parents. It was a new issue for me, when I became my party's education spokesperson, and I was very shocked by some of the horrific experiences that their children had been through. I was also very concerned about the lack of standardised guidance and policies and how outdated they were. One of my questions would have been about what work the Department and Education Authority are doing on it, so it was good to hear

from you, in particular, Carolyn, that they are working, meeting and establishing the working and advisory groups. As you said, families have been to the fore, have done so much work and have provided so many solutions, and it is important that they are included.

I fully agree with all the recommendations that you have brought forward. As you said, there is a lot of learning from the other jurisdictions. It is all there; it is about implementing and changing it. As Andy said, we could get started on that now and do not need to wait for the policy and legislation to be changed. Training could be acted on immediately. I am an advocate for autism training, and I believe that mandatory autism training needs to go further and to include positive behaviour strategies. All school staff should be included and not just teaching staff. That could be acted on.

I believe that, in all this, we need to see accountability mechanisms being included. I have to say that I was really shocked that records were maybe not being shared and that parents were not being informed. I believe that our numbers here are higher than the Scottish numbers. We could start to change all that while we wait for the legislation and policy. I know that a motion is coming to the Assembly soon, so there will be a lot of debate on this then. Thank you both.

Mr Newton: I thank the two members of the organisation for coming before us today. It is extremely interesting and extremely relevant. I am sure that your own research has told you that the Committee in general has been extremely supportive of our special needs schools and, indeed, of the principals and staff in those schools.

I have a couple of questions, which will probably be fairly short. We were surprised to hear last week that there are areas of teacher training that do not cover aspects of the care situation. In our teacher training colleges, is autism covered in the curriculum?

Have you had any conversations with the school leadership group in the special educational needs schools? I think that Andy mentioned that you had tried to make contact with the teaching trade unions and had not had any response from them. When was that, and is that an ongoing matter for you?

Ms Ewart: Andy, do you want to pick up on the issue of communication with the trade unions? I will follow up on the other issues.

Mr McClenaghan: Yes, not a problem. I need to search back on that. I am not entirely sure when we wrote to the trade unions. It was a number of months back. Carolyn, can you address those other issues, and I will come in at the end when I pull that information out? Forgive me.

Ms Ewart: Andy, my sense is that that communication was around August or September, but I cannot confirm that offhand.

Robin, it is an interesting question, and we do not know at this stage what the teacher training is. We represent and are involved with social workers, so I can talk lots about what social work training might involve. Unfortunately, I do not have that information. I think that it would be interesting to know that, and I am sure that, if this is an area that you choose to pursue, there will be many people whom you can call to give you information on that.

The whole-school approach is one that is really important. We have tried to say that, once the Department, which currently uses Team Teach, under the auspices of the review, makes a decision on what the best approach is and looks to set out the model that it will want to use, that will be up for discussion in trying to find the best model that really fits for Northern Ireland. To echo Andy's comments, I think that there is a real aspiration here, which we support, to say that we should have the best possible model for the children and young people at our schools. We make that based on evidence. We look at research and at what we know are the models that will provide the best outcomes for children that support them, nurture them and develop them and do not lead to trauma, mistrust and fear. The model that is picked and the training that is required needs to be a whole-school system. That is not just the teachers but the non-teaching staff, the cleaning staff and the ancillary staff who support the school through things like driving — all the individuals who come into contact with children. That, as we understand from the evidence, points to the best possible outcome for those children.

Mr McClenaghan: Mr Newton, the letters went out to the teaching unions on 25 September. Carolyn mentioned that the training provider is Team Teach. I point the Committee to resources online. The British Institute of Learning Disabilities is an organisation that certifies organisations that have

demonstrated that their training services comply with the Restraint Reduction Network training standards. It is a pretty rigorous process, and it is accredited by the United Kingdom Accreditation Service as meeting the International Organization for Standardization (ISO) standards for certification. You can check on its website for the organisations that have been certified in line with the Restraint Reduction Network training standards. Yesterday, when I checked, Team Teach was listed as an organisation that was working towards certification, not one that had received certification under the Restraint Reduction Network training standards. That is something that the Committee needs to be aware of when it looks at the training currently in place in special schools.

Mr Newton: Have you have had contact with the special schools' strategic leadership group?

Ms Ewart: A member is trying to set up a meeting for us with that group. We have not had contact with them at this stage.

Mr McCrossan: Thank you very much for your presentation. This is something that we all feel strongly about, and we recognise that there are issues. I have been lobbied significantly on this by people in my constituency and beyond, by Deirdre Shakespeare and Shaunagh Kane to name two. A huge amount of work is going on in relation to the motion that will come before the Assembly, which we will support.

I have a number of questions. Is guidance for schools being used in other jurisdictions that could be a template for standardised school guidance here?

Mr McClenaghan: The guidance that I cited earlier, Daniel, is produced by the UK Government, but it is just for England. It is cross-departmental guidance because it covers special schools and healthcare settings. It is for both the Department for Education and the Department of Health and Social Care. That guidance could be looked to as a template, but, as I mentioned, it has a number of shortcomings, most notably that it is non-statutory and that it does not apply in mainstream schools for kids in those schools who have special educational needs. I mentioned earlier that it puts too much emphasis on professional judgement and leaves it to teachers to decide situations in which restraint should be used. There needs to be a clearly defined list of examples of when restraint can be used, so that it is understood that it ought to be an absolute last-resort option. Finally, it places too much responsibility on teachers to stay abreast of developments in good practice. To ensure that we have good practice uniformly across schools in Northern Ireland, the Department of Education and the Education Authority need to take the lead in keeping staff up to date and ensuring that training is not just a one-off event.

That is a big issue. If staff are to be adequately trained, it will be a big resourcing issue. It is another job for teachers to take on; it is a vital thing for teachers to take on. As the professional body for social workers, we know that social workers are massively overburdened with their workload. We campaign about reducing the bureaucracy, so that social workers can get on with the work that they are trained to do, in supporting service users. I draw a comparison between social workers and teaching staff. Teaching staff need to be adequately resourced and to be freed up if they are going to get training. They need to be supported. I cannot imagine a scenario where any teacher goes into school in the morning and thinks, "I want to restrain or seclude children". That is not why individuals go into teaching. Teachers need to be resourced to provide an atmosphere and environment where kids are supported and enabled. There must be a needs-based approach, where children's needs are met.

You mentioned being lobbied by parents. A number of parents have been incredibly articulate and vocal on this issue. Carolyn mentioned that it is important that there is parent representation on the Department of Education's advisory group. However, the approach that we are advocating needs to go beyond that. If we are talking about positive behaviour support, part of that is an empowerment of the child or young person. When a support plan is developed for that child or young person, it needs to be developed not just by the teaching staff but in collaboration and cooperation with the child or young person and with their parent or guardian. Parents have a role right through this whole process. We do not just want parents to shape the guidance; we want them to be actively involved in shaping their children's positive behaviour support plans.

Mr McCrossan: You have touched on a critical point. Whilst I agree with everything that you have said, in reality, making that workable is an entirely separate issue. We could train teachers very well, but resourcing is a factor. We can have some of the best trained teachers in the county, but, without the necessary resource to back up the situation in the classroom, that proves very difficult. Training is essential, and we are in full support of that — I would like it to be mandatory. The issue is about

having the resources to enable the teacher to make use of that training, when a particular circumstance arises, and the need to have someone else in the classroom for the remaining 29 children. There are issues with that.

Mr McClenaghan: There are. The counter of that argument is that the whole focus of a positive behaviour support approach, which is trauma-informed and needs-based, is the reduction of incidents of behaviours that challenge. It is not simply a different way of handling challenging behaviour; it is a way of essentially trying to avoid incidents arising where restraint or seclusion would otherwise be used. It is resource-intensive, but the resources are entirely at the other end of the process. They are not resources that are focused on dealing with a crisis; they are focused on preventing a crisis arising. With that in mind, it will improve the situation, not only for the children involved but for the other children in the classroom and the teacher. You will have a situation where those traumatic experiences are not occurring as frequently. It is about avoiding the occurrence of those scenarios.

Mr McCrossan: That touches on a question that I had about how you see it operating in a classroom, where there are 30 children and only one classroom assistant to support a child in that circumstance. You have touched on that very well. Do you believe that all school staff will need special training?

Mr McClenaghan: Carolyn touched on this earlier. Any school staff who have a direct engagement with children should be trained. We need to bear it in mind that not every child in a special educational setting demonstrates challenging behaviours. Many children in the special educational context will not require a positive behaviour support plan. This is not a blanket approach for every child. In any context, taking a blanket approach is wrong. Every positive behaviour support plan that is introduced for a child in Northern Ireland needs to be tailored to meet that child's individual needs. I am not suggesting for a second that this is where you are coming from, but some will have a notion that every child with a learning disability is the same. They are entirely different individuals and have entirely different needs. There will be a commonality at times, but every positive behaviour support plan needs to be tailored to the needs of the individual child. The needs of a child with an autism spectrum disorder may differ significantly from, for example, those of a child who has Down's syndrome. It needs to be individually tailored and specific.

Mr McCrossan: I am just trying to get my head around this. In practical terms, if a teacher is fully trained and is in front of a classroom of 30 children and an issue arises, there is a problem. The teacher's attention must divert to that child. What happens to the other 29 children? This is all important; there is a serious issue that needs to be addressed, and I fully recognise that. We can talk about all the great plans, but, unless there are the necessary resources to back the plans up, it is unworkable. It will actually add further pressure and stress to teachers. In a very diverse society, where we have more and more children with special educational needs in mainstream schools, we are seeing those challenges compounded every day and the stress on teachers. Teachers have effectively, in many instances, become social workers. They have adapted and changed, and that is what teachers do. However, in practical terms, how can this be workable without resource? Training is essential, necessary and very important, and I am in full support of it. However, if, on a normal day, there are 30 children, one child has an issue and the teacher's attention diverts to that child, what happens?

Mr McClenaghan: It would be beyond our competence to start trying to develop what the positive behaviour support plan would need to be. We need to think about who the child is and what their needs are. However, you are kind of answering the question by asking how this can be addressed without resource. My response is that we need resources to address this problem.

Mr McCrossan: That is what I wanted you to say *[Laughter.]*

Mr McClenaghan: OK. When I came to this first, my, perhaps naive, understanding was that the Scottish Government produced guidance because they were super-duper progressive. The Scottish Government produced the guidance because their hand was forced by a judicial review supported by the Scottish Equality and Human Rights Commission. A similar situation could well arise in Northern Ireland. My recommendation is that the Department and the Minister get ahead of this while it is an issue that they can address voluntarily and before it becomes an issue that must be addressed.

Mr McCrossan: Yes. You have said what I wanted you to say: resources are essential.

Mr McClenaghan: I got there eventually.

Mr McCrossan: Thanks very much. From personal experience — I am an uncle of a five-year-old non-verbal child — I see the huge challenges that my sister and her family go through in trying to get her child the support that he so desperately needs at times. I also recognise fully the work of schools in those circumstances. However, it has been compounded by COVID; I want to put that firmly on the record. I appreciate what you have said. Resources are key.

Ms Brogan: Thanks, Andy and Carolyn for your update. This is all new to me. This is only my second week on the Education Committee, so it is really interesting to hear all of this. It is obviously so important. I can only imagine what the parents and children who experience this go through.

Andy, your last point was about the Scottish Government and their taking an approach around the human rights of the child. Can you advise of the human rights and children's rights impacts of the current departmental position on this issue here? *[Interruption.]*

The Chairperson (Mr Lyttle): I reiterate the need for anyone who is not speaking to be on mute. Carolyn, there might be a bit of interference from you. That seems to be OK now though. Nicola, do you want to reiterate the final point of your question?

Ms Brogan: Yes. You were discussing the Scottish Government and the human rights of the child. Can you advise of the impact on human rights and children's rights of the current departmental position on the issue here?

The Chairperson (Mr Lyttle): Did you guys pick that up OK?

Mr McClenaghan: Yes, no problem at all.

Thank you very much for the question, Nicola. I do not know if we can speak directly to how the existing situation in Northern Ireland sits in relation to various human rights legislation and international treaties. However, I will point out that the Children and Young People's Commissioner's report highlighted shortcomings in relation to the UN Convention on the Rights of the Child, the UN Convention on the Rights of Persons with Disabilities and the European Convention on Human Rights — I am sorry: my little boy, who is about to go out to nursery, just walked past the window and distracted me; this is what working from home is like, isn't it?

We are not experts in human rights issues. The Children's Law Centre works on issues relating to the UN Convention on the Rights of the Child. The Northern Ireland Human Rights Commission will be able to speak to issues relating to the European Convention on Human Rights. To get a really detailed assessment of how the guidance in Northern Ireland, or lack of guidance, intersects with human rights law, it would be worth reaching out to one of those organisations that can speak with a lot more competence.

I will speak to one issue that is interesting. There are four significant Department of Education documents, one of which goes back to 1998. That is a 1998 circular entitled 'Promoting and Sustaining Good Behaviour in Schools'. There is a 1999 circular, 'Pastoral Care: Guidance on the Use of Reasonable Force to Restrain or Control Pupils'. There is a 2001 document, 'Pastoral Care in Schools: Promoting Positive Behaviour'. Then, there is the 2004 'Regional Policy Framework on the Use of Reasonable Force/Safe Handling'. When I was reading through that document — I only came to be aware of it quite recently — I saw that it requires:

"All incidents involving the use of reasonable force must be recorded in the schools agreed pro-forma ... The school (Principal) will keep an accurate up-to-date record of all such incidents."

It also requires that, immediately after an incident, there must be engagement with the family to ensure that they are kept up to date. That does not seem to be happening. The issue with the use of restraint and seclusion is that all the guidance from the Department is on the use of reasonable force in a disciplinary context; restraint and seclusion should never be used in a punitive or disciplinary way. I do not quite understand why, where restraint is being used under that 2004 regional policy framework, parents are not being informed that that is happening, given that it explicitly states that:

"Parents/carers should be contacted as soon as possible and the incident explained to them. This must also be recorded in the "Record/Report Of The Use Of Reasonable Force" as defined in the school policy."

I do not think that that has been covered yet.

Ms Brogan: Absolutely. I agree with you, Andy. You would imagine that that would be the first port of call after an incident. Is that recommendation from 2004 mandatory?

Mr McClenaghan: The regional policy framework applies across schools in Northern Ireland. I do not think that it is statutory guidance. As for it being mandatory, I do not know the answer to that. I do not know; I am sorry.

Ms Brogan: No. It is OK.

Ms Ewart: My understanding is that it is not in legislation. It is there as guidance under a departmental circular. My understanding therefore is that it is not required under the law. Again, those are interesting questions to ask.

Andy referenced the need to link in with the Human Rights Commission. There are very clear human rights set out in governance and practice around this. We will absolutely be advocating, as I am sure many others will, that the principles of human rights inform all the work that the Department is taking forward on this. Article 3, which is about freedom from treatment or punishment that is inhumane or degrading, absolutely speaks to the relevance of the issue. Article 5 is on the right to liberty and security, article 8 is on the right to respect for family and private life, and article 14 is on the prohibition of discrimination, including against a disabled person. Those are very fundamental rights that should be applied, and we will absolutely be advocating that those principles inform all the work that the Department leads on in that regard.

Also, it may be useful for the Committee to consider speaking with the Children's Commissioner to get some feedback on the work that she is doing on the issue. I imagine that she is taking a very human rights-based approach to that.

Ms Brogan: That is great. I thank both of you for those answers.

Mr McNulty: Thank you, Andy and Carolyn, and thank you for your important work in this field. Like Daniel, I have been in touch with Shaunagh Kane and Deirdre Shakespeare, who are two great champions and advocates for the concerns that we are discussing today. Is the Association of Social Workers taking a position to inform and shape guidance and legislation with the Department of Education?

Ms Ewart: We, as a committee, have produced a paper. We are very keen, and we have expressed to the Department our willingness to be involved in consulting on and shaping the work that we do. Unfortunately, we do not have the power or authority to set government policy, but we certainly hope to be one of the many stakeholders that will influence the work that the Department is taking forward.

Mr McNulty: Anything further, Andy?

Mr McClenaghan: I would focus on learning from the context elsewhere. As I said, the English guidance is a starting point from which the Department can work, but it needs to be vastly improved upon. New Zealand has legislated to prohibit the use of seclusion completely. That is an interesting example to look at. I hope that the Scottish guidance will become available early next year; it has been delayed because of COVID. That will also be a really useful template for the Department of Education to work from. It is always important that we strive for the highest standards and that we do not simply copy what has happened elsewhere if it can be improved upon. We should look at what has happened elsewhere and always think about how it can be improved to make sure that the children and young people in the education system have their needs met to the best standards.

Mr McNulty: What is the Association of Social Workers' role in safeguarding children with special educational needs? There are safeguarding gaps that need to be closed. You have talked about social workers in health and education. Who does the responsibility lie with when parents raise concerns?

Ms Ewart: As we mentioned in our original brief, social workers have lead responsibility on safeguarding concerns. We note from previous reports that there was some criticism around the communication between education authorities and Health and Social Care (HSC). When we spoke to the Department, we were given assurance that there would be representatives in the groups from

social work, as the agency with lead responsibility. If there are safeguarding concerns, they clearly sit with social work; it would take the lead on that, and there are joint protocols with the police, if required. Those procedures are very clearly set out in the regional child protection guidelines, with which all authorities have a responsibility to comply.

There needs to be a really open discussion with parents, young people and the various stakeholders about developing guidance around how to manage complaints when they first arise and trying to resolve those issues. If there are clear child safeguarding concerns, that responsibility lies with social work.

Mr McNulty: Could any proposed training be incorporated into the agreed ASD training to cut costs?

Ms Ewart: Those questions will have to go to the Department. We are making recommendations around what best practice would be, and we are giving our view of how things should develop. In terms of the practicalities of how that is agreed, it will, no doubt, involve complicated conversations around time available and release from time. Andy and various members have already discussed the need for and the implications for resources. If there is to be a wholesale new education programme, it will, undoubtedly, have implications, and how it will be rolled out would need to be agreed.

Mr McNulty: I note your terminology in your communication and positive behaviour support strategies. Is "conflict management" an appropriate term to use when you are dealing with children with special educational needs?

Mr McClenaghan: Was that "conflict management", Justin?

Mr McNulty: Is that appropriate?

Mr McClenaghan: I do not think that that is an appropriate term. It is not one that we have used.

In terms of positive behaviour support, there is a really tremendous organisation called the Challenging Behaviour Foundation. It has done some really interesting research that looks at the use of restraint and seclusion across the UK. It has some really useful guidance about what positive behaviour support interventions look like. None of it is really difficult stuff; a lot of it is very obvious.

I will take you through one example. The Challenging Behaviour Foundation suggests that positive behaviour support interventions need to be informed by a functional assessment to determine the reason for an individual's behaviour. Once you have determined the reasons behind an individual's behaviour, factors can be altered to reduce that challenging behaviour. For example, elements of a child's environment can be changed, such as noise levels in the case of someone with heightened sensory awareness. A child can be taught new skills. If a child is non-verbal, for example, and is throwing a plate at the end of a meal to communicate that they have finished, it would be a case of teaching that child to sign, "I am finished". That would result in a more effective and acceptable behaviour and would benefit the emotional well-being of the child.

In contrast, a restrictive response to those behaviours would be to shout at a child with heightened sensory awareness, to place a child who is throwing a plate in seclusion or to place a child who is biting in restraint to prevent them from biting. Those approaches can traumatise the child but can also reinforce the behaviour, as the child is not being given an alternative way to communicate. It is about addressing the need and enabling the child to communicate if it is the problem at the root of the situation.

Mr McNulty: OK. This is my last question. How will documentation be managed and regulated? Will that be managed at a school level or by the EA or the Department?

Mr McClenaghan: I think —. Sorry. Go ahead, Carolyn.

Ms Ewart: Go ahead, Andy. You are OK.

Mr McClenaghan: You would call for guidance; the Department needs to produce guidance that is aimed at reducing the use of restraint and preventing the use of seclusion. There needs to be departmental guidance.

On the reporting, it is really important that it is done consistently across schools so that, if there is an incident in which restraint has to be used, a report is provided to the parents so that they are aware of it and there can be a follow-up and discussion about how the incident occurred and, vitally, what will be done to prevent those sorts of incidents occurring again in the future. That is really important so that parents are aware of what is happening to their children.

So that you have a good idea of what is happening across the sector and an understanding of how many incidents are happening, it is vital that those reports go to the schools' boards of governors, the Children's Commissioner — we proposed that — and the Education Authority. A big problem at the moment is that, because there is no mandatory reporting, we are aware of isolated incidents, but we do not know how frequently they are happening. We know from the parents who have been very vocal in campaigning what their situations are, but we do not know where incidents are happening and they are either unknown to parents or known to parents and are not being collected centrally. We need to have that central collation of all incidents in which restraint or seclusion has been used so that we have a really good understanding of the problem.

Mr McNulty: OK. Andy and Carolyn — I think that Carolyn has dropped off the line — thank you very much for your contributions. I commend your expertise and commitment. Well done, guys. Thank you.

Mr McClenaghan: Thank you, Justin.

Mr M Bradley: What medical background does the BASW have to make those recommendations to teachers?

Mr McClenaghan: I will field that because Carolyn is not here. We represent social workers, Maurice. Social workers have a key role in safeguarding the well-being of children and young people. That is not a medical issue; it is a social issue and is about preventing harm. You do not need to have an understanding of medicine to say what is appropriate and inappropriate in the use of restraint and seclusion for a child or young person's emotional and physical well-being.

Mr M Bradley: I am concerned that you have not yet had any feedback from the unions or any engagement with the special schools. That is a big concern. We are hearing the presentation without their thoughts being conveyed to you, or to this Committee.

Mr McClenaghan: I appreciate that. It is a process, and we are working with the Department. Next, we plan to engage with the special education sector.

It is regrettable that, having reached out to the unions in September, they did not take up our offer to meet them to discuss the issue, because they will have issues with it. We know that we are putting extra demands on their members. We are a member organisation, so we saw it as entirely appropriate for a professional body to reach out to a trade union to offer those meetings in the first place. Unfortunately, they did not get back to us. I would love to have been able to come to the Committee today and say that we have sat down with the five unions and discussed this issue. It is not for the want of us trying.

Mr M Bradley: Have you also had no engagement with special needs headmasters?

Mr McClenaghan: No. That is something that we plan to do. I understand that that is an entirely legitimate concern to raise. We are a membership body, and we are informed by the views of our members. Social workers will work across Northern Ireland and, I mentioned, many in schools. They will have knowledge of these issues and will have engaged with special educational sectors. So, we have had those views fed through to us from our members who are working at the coalface on the issue.

Mr M Bradley: I have one final comment. I have had feedback from parents in my constituency who recommend an overhaul and a root-and-branch review of the social worker system, and yet, you are at a loss to take that on board, but you see a need to review special schools, secondary schools and primary schools.

Ms Ewart: Folks, I am just back in again. Can you hear me again?

The Chairperson (Mr Lyttle): Yes.

Ms Ewart: Sorry, I lost my internet connection. I have just come back in and picked up on Maurice's last question there. If I am right, there was some concern that we are asking for a root-and-branch review of the education system and not the social work system. Am I right?

Mr M Bradley: Yes.

Ms Ewart: We said in our presentation that we got involved in this issue initially because some parents who had direct experience made contact with one of our members who had been involved in writing the document, 'Three Steps to Positive Practice', around restrictive practices. It was a parent who brought the issue to us and asked us to look at social work responses to human rights issues. That is the approach that we have taken. We are not here to be critical of our teaching colleagues or to say that there is wholesale engagement in poor practice. That is absolutely not our position. We have made it quite clear that we are very supportive of the teaching profession, recognising the extreme challenges within which they work ordinarily, and let us highlight once again the even more extreme circumstances that they worked in through COVID. So, we are not here to be critical of them. We are not here to say that we think there is a tremendous level of poor practice.

What we have done is look at this issue as social workers who have knowledge and training about children. We have looked at it from the children's point of view. This has always been about a person-centred approach. In the conversations that we have had, there has been very open acknowledgment from the Department that the existing guidance is woefully outdated. That was our starting point.

The guidance that looks at approaches is more than 25 years old and is no longer fit for practice, and that is what we are calling for a review of. The EA and the Department of Education have been very open to that suggestion and, indeed, are agreed that they want to look at that. We are not presenting ourselves as experts in teaching. We are saying that, as one professional group that needs to be involved in this process, we want to be part of that. However, if the system is to be reviewed, and it is with the best interests of children at its heart in how children are developed, supported and nurtured, that is the focus that every group will have in that approach. We are one part of that. We are by no means the only voice, and we absolutely encourage all who have views and a stake in this situation to be actively involved in that process. Responsibility to ensure that all those people are involved rests firmly with the Department.

Mr M Bradley: I would still like to hear the response from the unions, special needs providers and the schools before making any further comment.

The Chairperson (Mr Lyttle): Thanks for that, Maurice. The BASW NI has emphasised that stakeholder engagement is absolutely key to that. As the participants from the BASW have acknowledged, it has been an unprecedented, challenging time for our school sector in recent months, so, hopefully, that engagement can take place in due course.

Andy and Carolyn, that was an extremely helpful presentation this morning. We are really grateful for all the work that you are doing on this important matter and for all the work that will have gone into your evidence to the Committee today. We look forward to staying in touch with you on this important matter and to seeing the outcomes that we need to achieve put in place as soon as possible. Thank you.