

Jayne Bryant MS

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Wednesday 26 April 2023

Dear Jayne,

Subject: Follow up from meeting with the EHRC Wales

Thank you for meeting with us at the end of last month to discuss our CRC report. As discussed, please find below more information on our concerns regarding restraint in schools, which we hope is helpful in drafting a letter to the Minister for Education and Welsh Language.

Our inquiry

In June 2021 we published our [Restraint in schools inquiry: using meaningful data to protect children's rights](#). One of our key findings was that there is no reliable data in Wales or England on the extent to which restraint is used disproportionately on protected groups of children.

A key recommendation within the report was for the Welsh Government, and

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The Commission welcomes correspondence in Welsh or English.

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the UK Government, to have national minimum standards set for recording the use of restraint in schools. These should include, for example, the type of restraint used, the reason(s) for the use of restraint and the protected characteristics of the child ((including age, sex, disability – broken down by impairment type – and race) .

A further recommendation was for the Welsh Government to set a national priority with the aim of minimising restraint and reducing its disproportionate use. It was recommended that this should be based on national data about the use of restraint in schools in Wales. We highlighted that the data would be made available by adopting our recommendations about recording, monitoring and reporting.

Welsh Government response

We welcome both Welsh Government's Reducing Restrictive Practice Framework and the formal response we received from the Minister, which stated there will be specific guidance for the education sector. The Framework does mention using data to improve to improve practice and the need for a system for collecting the range and extent of restrictive practice. However, this

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is not mandatory and our inquiry evidence would suggest that it should be.

UN Convention on the Rights of the Child report

Welsh Government has a long standing commitment to the United Nations Convention on the Rights of the Child (UNCRC). Our [CRC report](#), published in January 2023, shows we continue to be concerned that schools in Wales are not legally required to record the use of restraint. Due to this lack of standardised recording and monitoring it is still not possible to fully assess the prevalence of restraint, including any disproportionate use on children with certain protected characteristics. This makes it very difficult for schools and Welsh Government to monitor restraint usage or minimise it.

Recommendations we made for Welsh Government in our CRC report were to:

- Ensure that restraint against children is used proportionately, and as a last resort, in line with our Human Rights Framework for Restraint. This includes prohibiting, in all settings, the use of restraint for disciplinary reasons and techniques that deliberately inflict pain on children.
- Collect, collate, publish and analyse data on all forms of restraint in schools, including by protected characteristics. This data should be used

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to identify and address any disproportionate use of restraint against certain groups of children.

- Develop training standards for restraint. These standards should take a human rights approach to minimising the use of restraint and draw on existing resources, such as the [Restraint Reduction Network training standards](#).
- Consider making any guidance related to the Reducing Restrictive Practice Framework statutory for schools.

Widening gap

Last year the UK Government announced commencing primary legislation, contained in the Apprenticeships, Skills, Children and Learning Act 2009. This will make the recording and reporting of physical force mandatory in schools and ensure it a legal duty to inform parents when it has been used. The UK Government has also committed to making it compulsory for all schools to have a restraint policy covering recording.

We are concerned that Wales is falling behind what is being proposed by the UK Government and children in Wales will not be protected in the same way.

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Furthermore, this is at odds with the focus in Wales on Children's Rights and the Children (Abolition of Defence of Reasonable Punishment) (Wales) Act 2020.

We would welcome the support of the Children, Young People and Education Committee in further scrutinising the Welsh Government on this issue. We hope the information provided is helpful, if you require any further information please let us know.

Yours sincerely,

Rev Ruth Coombs
Head of Wales
Wales | Cymru

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