



Llywodraeth Cymru
Welsh Government

PUBLICATION

Reducing restrictive practices framework: children's rights impact assessment

We assessed how the guidance on reducing restrictive practices in childcare, education, health and social care settings affects a number of areas.

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1. Describe and explain the impact of the proposal on children and young people

The 'Reducing Restrictive Practices Framework' is intended to promote measures and practice that will lead to the reduction of restrictive practices. The framework also seeks to ensure that where restrictive practices are used this is informed by person centred planning, within the context of the service setting and in a way which safeguards the individual, those whom they interact with, and those who provide services to them. For children this means child-centred planning and this is set out in the framework.

The framework sets out the Welsh Government expectation that the use of restrictive practices should be within the context of the European Convention on Human Rights and in line with the principles described in the human rights framework on restraint produced by the Equality and Human Rights Commission.

The approach set out in the framework and seeks to promote the rights and principles set out in the United Nations Convention on the Rights of the Child (UNCRC).

Restrictive practices are sometimes used in childcare, education, health and social care settings. Disabled children, children with ASD, children with

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additional learning needs, children with mental health difficulties and care experienced children are much more likely to experience restrictive practices than their peers partly because they use settings and services where restrictive practices can be lawfully used. They are also more likely to attend the settings and services that the framework applies to.

The proposals are intended to help ensure that restrictive practices are only used as a last resort, in order to prevent harm to the child or others. The proposals are intended to benefit all children using settings and services but are likely to have the greatest impact on disabled children, children with ASD, children with additional learning needs, children with mental health difficulties and care experienced children. Children in these groups are more likely to be subject to individual plans for their support and the Framework promotes a child-centred approach to planning with and for children and their families to help them realise their rights. Restrictive practices are used in response to what has been described as 'behaviours that challenge'. Child-centred planning and support helps to reduce the incidents when children use behaviours that challenge as a way to communicate their needs and feelings, by supporting their well-being and meeting their needs. The framework does refer to this but efforts have been made not to overuse the terms 'challenging behaviour' or 'behaviours that challenge' as this might be interpreted as a direct rationale for the use of restrictive practices.

The Children's Commissioner for England **published a report in 2019 on children with learning disabilities and autism living in mental health hospitals and found they were subject to poor and restrictive practices.** The Equality and Human Rights Commission has also set out that the use of restrictive practices can be particularly harmful to children as they develop.

The Office of the Children's Commissioner for Wales was represented on the advisory group that informed the development of the framework. A young person's version of the framework was issued as part of formal consultation package. The Framework is intended to inform more detailed guidance for each sector/service/setting and provides advice about involving people who use services in the review and development of policy and practice.

The framework seeks to reduce the use of restrictive practices, which are

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traumatic and in some cases lead to the physical injury of a child. The framework sets out the ways in which child-centred planning and practice can reduce the incidents where restrictive practices are used and support a child's well-being.

Child-centred planning and practice means, putting the rights and best interest of the child first; considering their views, wishes and feelings; promoting and respecting their dignity; respecting their characteristics, culture and beliefs and providing appropriate support to help them participate in the decisions that affect them.

2. Explain how the proposal is likely to impact on children's rights

The framework seeks to promote the rights and principles set out in the United Nations Convention on the Rights of the Child (UNCRC) Especially:

Article 3 (best interests of the child)

Children are developing physically and psychologically which makes them particularly vulnerable to harm. There are potentially serious implications of restrictive practices on the well-being of children. The framework sets out expectations for child-centred planning to reduce the use of restrictive practices and support child well-being. The framework is clear that restrictive practices must only be used as a last resort, to prevent harm to a child or others. The framework includes advice that organisations should:

“ ensure that practitioners have access to training, supervision and support that will assist them in working in a rights based, person-centred way and trauma informed way. ”

Article 12 (right to be heard) / article 13 (right to

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information)

Children and their family/carers need information about their rights in relation to the use of restrictive practices and on how to raise concerns and this is set out in the framework. The framework promotes person-centred planning with and for people and the people who matter to them, the advice sets out that for children this means child-centred practice. The framework also includes information on advocacy.

Information about the framework for people and the people who matter to them has been developed for issue with the framework and a youth friendly version of this has been commissioned. We will work to ensure this information is promoted across sectors.

Article 19 (protection from physical or mental violence and abuse)

Restrictive practices can cause physical and psychological harm. The framework is clear in setting out that they should only be used as a last resort, to prevent harm to the child or others. The framework sets out that ‘children are vulnerable by virtue of their age, they are developing physically and psychologically, which makes them particularly vulnerable to trauma and harm as a result of restrictive practices’.

A clear organisational commitment to human rights is important to support a culture where everyone is treated with dignity and respect and where people feel safe to speak out if this is not happening.

The framework states that

“ Where there is any indication that restrictive practices are being used inappropriately this must be reported as a safeguarding concern. ”

The framework also includes advice on recording and monitoring the use of

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restrictive practice and post-incident learning and support following the use of a restrictive practice. Advice on ensuring that practitioners understand their safeguarding responsibilities/how to raise a safeguarding concern and whistleblowing policies for the organisation is included.

Article 23 (disabled children)

The framework sets out expectations for childcare, education, health and social care settings. Disabled children are more likely than their peers to attend settings and be supported by services covered by the framework. Learning disabled children and children with ASD are more likely than their peers to respond to situations where they do not feel safe or comfortable in a way that can be perceived as 'behaviours that challenge' practitioners. Restrictive practices are often used in response to this.

The framework provides advice on the use of tools to find out the meaning for the individual child and guidelines to ensure people's needs are understood and met in safer ways. The framework is clear that restrictive practices should only be used as a last resort to prevent harm to the child or others.

Article 24 (healthcare)

Children with mental health difficulties are more likely than their peers to respond to situations where they do not feel safe or comfortable in a way that can be perceived as 'behaviours that challenge' practitioners. Restrictive practices are often used in response to this. The **Children's Commissioner for England found poor practice and use of restrictive practices in mental health settings for children with learning disabilities and ASD**. The framework covers health settings, this would include mental health settings. The advice contained in the framework is intended to reduce the use of restrictive practices as part of child-centred planning. The framework is clear that restrictive practices should only be used as a last resort to prevent harm to the child or others. The child-centred approach to planning support with and for children, is likely to support better health and well-being outcomes for all children subject to

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individual plans.

The UNCRC Committee's General Comment on Article 24 of the UNCRC: Restraint or force can be used only when the child poses an imminent threat of injury to himself or herself or others, and only when all other means of control have been exhausted. Restraint should not be used to secure compliance and should never involve deliberate infliction of pain. It is never to be used as a means of punishment. The use of restraint or force, including physical, mechanical and medical or pharmacological restraints, should be under close, direct and continuous control of a medical and/or psychological professional. Staff of the facility should receive training on the applicable standards and members of the staff who use restraint or force in violation of the rules and standards should be punished appropriately. States should record, monitor and evaluate all incidents of restraint or use of force and ensure that it is reduced to a minimum.

The framework sets out expectations that the use of restrictive practices must always be lawful and used as a last resort to prevent harm to the child or others. The Framework is clear that restraints that cause pain should not be used and that seclusion should not be used for children. The framework also includes advice on training for practitioners to reduce restrictive practices and ensure where they are used this is as a last resort and done safely and on the recording and monitoring data on the use of restrictive practices.

Article 28 (school discipline)

The **EHRC has conducted an inquiry** into the recording and monitoring of the use of restrictive practices in schools in England and Wales which is due for publication, the inquiry was launched because of concerns about the extent of use of restrictive practices in education settings and a lack of data to monitor use.

The framework is intended to reduce the use of restrictive practices in education settings and to promote child-centred planning for individual children so they can receive an education that promotes their dignity and human rights Article 37 (protection from torture, cruel, inhuman or degrading treatment or punishment).

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The framework includes information that children may be especially vulnerable to harm as a result of restrictive practices, some consultation responses asked that we make this more explicit and text has been added to the final draft. The framework sets out that: Restraint should only ever be used within the principles of least restrictive and last resort. That is the least restrictive method with the least amount of force (proportional to the risk) for the minimum amount of time. They should only be used if absolutely necessary (if there is a genuine belief that harm is likely to occur to the individual or others if it is not used, and if other less restrictive methods have been tried and have failed). Restraints that cause pain intentionally should never be used.

The framework also explains seclusion: Sometimes practices that are referred to as time out, chill out or isolation, including the use of sensory tents, meet the definition of seclusion if the child or adult is put in a room and not able to leave of their own free will. Further advice sets out that 'it is not recommended that children should be secluded in any setting'.

The UNCRC 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 framework sets out expectations that the use of restrictive practices must always be lawful and used as a last resort to prevent harm to the child or others.

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The framework is clear that restraints that cause pain should not be used and that seclusion should not be used for children. The framework also includes advice on training for practitioners to reduce restrictive practices and ensure where they are used this is as a last resort and done safely and on the recording and monitoring data on the use of restrictive practices.

Conclusion

The overall policy intent of the proposals is to reduce restrictive practices, promote the well-being of children through individual child-centred planning for their support and to help ensure that where restrictive practices are used as a last resort to prevent harm this is done in a way that respects the human rights of children under the UNCRC.

The Welsh Government will fund an awareness raising communications campaign to support initial implementation of the framework across sectors and to make those using settings and services aware of the ambitions to reduce restrictive practices set out in the framework.

The Welsh Government will consider the expectations set out in this framework when reviewing or developing relevant policy and guidance. This includes policy and guidance which is sector or service specific to set out how these expectations can be met in each policy area/sector/service. This work will include due regard to the UNCRC.

The Welsh Government expects commissioners and providers of services operating across childcare, education, health and social care settings to review their policies, workforce development arrangements and practice to identify any changes and measures that are necessary to support the implementation of this framework. The framework sets out that in doing this work there should be a consideration of the promotion of children's human rights under the UNCRC.

In the period between publication on 19 July 2021 and 31 March 2022, officials in relevant Welsh Government Divisions will engage external stakeholders in those sectors that the framework applies to, childcare, education, healthcare and

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social care. Working with sectors, commissioners and providers to raise awareness, and to consider and agree any work needed to support implementation through specific policy and support for practice in the period 1 April 2022 to 31 March 2023 and beyond.

The framework includes advice that effective recording and data collection can highlight equality and diversity issues, inform decisions about further workforce development and identify individuals where the current approach to their support needs to be reviewed and improved. The framework suggests that as a minimum the data collected should include recording the protected characteristics of people subject to restrictive practices in the setting or service including their age.

In due course we will ask Welsh Ministers to approve a review of the implementation of the Framework and its impact in 2024 wherein the assumption is this Integrated Impact Assessment will be revisited.

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