
Ymateb i Ymgynghoriad / Consultation Response

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Dyddiad / Date:	6 January 2020
Pwnc / Subject:	Guidance on reducing restrictive practices in childcare, education, health and social care settings

Background information about Estyn

Estyn is the Office of Her Majesty's Inspectorate for Education and Training in Wales. As a Crown body, Estyn is independent of the Welsh Government.

Estyn's principal aim is to raise the standards and quality education and training in Wales. This is primarily set out in the Learning and Skills Act 2000 and the Education Act 2005. In exercising its functions, Estyn must give regard to the:

- Quality of education and training in Wales;
- Extent to which education and training meets the needs of learners;
- Educational standards achieved by education and training providers in Wales;
- Quality of leadership and management of those education and training providers;
- Spiritual, moral, social and cultural development of learners; and,
- Contribution made to the well-being of learners.

Estyn's remit includes (but is not exclusive to) nurseries and non-maintained settings, primary schools, secondary schools, independent schools, pupil referrals units, further education, adult community learning, local government education services, work-based learning, and teacher education and training.

Estyn may give advice to the Assembly on any matter connected to education and training in Wales. To achieve excellence for learners, Estyn has set three strategic objectives:

- Provide accountability to service users on the quality and standards of education and training in Wales;
- Inform the development of national policy by the Welsh Government;
- Build capacity for improvement of the education and training system in Wales.

This response is not confidential.

Consultation Questions

Reducing Restrictive Practices Framework		
1. Are the aims and purpose of the Framework as set out in the Introduction clear and easy to understand?		
Yes <input type="checkbox"/>	No <input type="checkbox"/>	Unsure <input checked="" type="checkbox"/>
Please comment:		
<p>The introduction makes plain the Welsh Government's commitment to reducing restrictive practice. It sets out clearly the context for the framework, which takes due regard of the European Convention on Human Rights and the United Nations Convention on the Rights of the Child.</p> <p>However, the scope of the framework is less clear. The opening paragraph on page 2 and paragraph 3 of the introduction states that the framework is 'applicable across childcare, education, health and social care sectors'. Although this intention is clear, the introduction does not stipulate the groups of people to which it is referring within this context. As a result, the remainder of the document reads as if it should be applied to every person served by the organisations mentioned in this document, rather than those with specific needs. This distinction is important and is a recurring theme in our response to the consultation questions.</p> <p>We feel this document would benefit from a clear paragraph in the introduction designed to eliminate blurred lines between reducing restrictive practices and whole-school behaviour management. This could:</p> <ul style="list-style-type: none">• Identify clearly the people to whom this document refers (for example, those with learning disabilities or by defining clearly 'behaviour that challenges');• State that this framework does not replace Welsh Government information documents on behaviour management in the classroom, and signpost readers to them. <p>Estyn notes the requirement in paragraph 7 for us to 'consider compliance with the approach set out in the Framework when [we] carry our inspections'. When appropriate, we will evaluate the impact of any approaches that is intended to reduce restrictive practices, but require further clarification of issues raised in relation to the guidance in order to do so effectively. It would be beneficial for Welsh Government to signpost to providers, local authorities and regional consortia any organisations or groups that already have trained and qualified staff who can support the improvement and learning process. This will require a system-wide, strategic approach that ensures support for practitioners at the same time as guidance is published.</p>		

2. Does Chapter 1 set out information on a human rights framework for the reduction of restrictive practices in a way that is clear and useful?		
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Unsure <input type="checkbox"/>
<p>This section is clear and useful. It places the document into its legal context effectively, highlights important aspects of the Human Rights Framework for Restraint, and refers readers appropriately to the Equality and Human Rights Commission. It emphasises the expectations placed upon organisations in relation to policies and their implementation. It makes clear that each agency should ensure that they operate within the parameters of legislation and guidance relevant to them. It also identifies clearly that every person has rights.</p>		

3. Does Chapter 2 provide information about Positive behaviour support (PBS) in a clear and useful way?		
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Unsure <input type="checkbox"/>
<p>Estyn does not advocate specific approaches, but comes to a judgment on the effectiveness of practices that schools use in relation to the Common Inspection Framework. However, we agree that improving the quality of life for children and involving children in making decisions are important principles.</p> <p>Chapter 2 provides useful background information about Positive Behaviour Support (PBS). It provides valuable references to research in the field and explains clearly the four main components. The document is clear in explaining the importance of reviewing provision regularly and provides valuable advice in relation to training.</p> <p>However, a lack of clarity about the scope of PBS raises important issues, particularly in relation to mainstream schools. Paragraph 22 provides the first reference in the document to a specific group of people when it refers to ‘people who have behaviours that challenge, or who may be at risk of developing these’. This is the first indication that this document is not written with all service users in mind. Other sources are clearer about the scope of the PBS approach. For example, the Care Quality Commission describes PBS as ‘a person-centred framework for providing long-term support to people with a learning disability, and/or autism, including those with mental health conditions, who have, or may be at risk of developing, behaviours that challenge’ⁱ. Similarly, the websites of the Challenging Behaviour Foundationⁱⁱ and PBS Academyⁱⁱⁱ both clearly place the use of PBS into the context of people with learning disabilities.</p> <p>Without such distinctions, there would be significant implications for organisations in relation to managing behaviour, particularly for children who make inappropriate choices during their schooling, but who would not be classed as having learning disabilities. Welsh Government information</p>		

documents 'Practical approaches to behaviour management in the classroom' for primary^{iv} and secondary^v schools' set out valuable guidance for schools on promoting good behaviour. These draw heavily on systems based on rules, rewards and consequences that are widely used in schools throughout Wales. They refer to using sanctions effectively, including exemplifying the likes of removal from the group/class; withdrawal from a particular lesson or peer group; prevention from participating in non-curriculum activities; detention; and loss of privileges such as playtime. These seem at odds with the definition of restrictive practices given in this document, yet are an essential cornerstone of many schools' current practices.

In order to improve clarity, it would be useful for Welsh Government to consider referring to these documents in the text and explaining that Welsh Government continues to promote the information they contain for pupils who do not have diagnosed learning disabilities or for whom the 'behaviour that challenges' does not meet defined criteria.

4. Does Chapter 3 explain the principles for practice to support the reduction of restrictive practice in a clear and useful way?

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Unsure <input type="checkbox"/>
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The principles are outlined clearly and are gleaned from evidence-based research. They set clear expectations for organisation leaders, including firm expectations in relation to recording incidents. The section on training provides valuable detail for organisation leaders.

There are several paragraphs (for example 61, 81) that could be at odds with whole-school behaviour policies and could be misinterpreted by stakeholders unless the guidance has a clearer opening statement about the scope of the document. Please refer to our response to question 3.

The term that concludes paragraph 34, "are often found to be missing or corrupted in restrictive and abusive cultures" could be re-phrased as "are seen to be key when reducing restrictive practice" to be a more positive statement. The audience for this will be wide and varied and we would suggest using language that encourages learning and investigation of best practice. It will be important to support the guidance with appropriate training and by signposting practitioners to organisations identified as having effective practice.

5. Does Chapter 4 explain the principles of the use of restrictive practices in a clear and useful way?

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Unsure <input type="checkbox"/>
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This section raises many issues, particularly in relation to managing behaviour of children in mainstream schools for reasons outlined previously. Please refer to our response to question 3.

The guidance recognises that there is misunderstanding in different settings about what constitutes seclusion. Greater clarity of what 'secluded' means would help avoid too many different interpretations across the wide variety of education settings, age range and abilities.

In paragraph 86, the phrase 'not able to leave of their own free will' may confuse some practitioners of children and young people aged 4 to 18. A programme of effective professional learning and clear points of referral alongside the guidance, would help to avoid misinterpretation of the guidance.

Overall, paragraphs 83 to 89 have the potential to cause confusion for educational practitioners. Welsh Government could resolve this with a programme of effective professional learning. As previously noted, it would help to reference existing guidance about behaviour management to place the use of restrictive practices in the broader spectrum of approaches to managing behaviour.

6. Is the information included in the glossary and appendix useful?

Yes

No

Unsure

Overall, the information in the glossary and appendix is useful. Most of the definitions are clear and assist the lay reader in interpreting the body of the document well. However, one solution to the issues we have raised in relation to the scope of this document would be to add to the description of 'behaviours that challenge'. Similarly, the definitions used in this document for seclusion, enforced isolation and environmental restraint are not clear enough for schools to be able to distinguish between acceptable and unacceptable practices. It would be helpful to clarify the definitions and consider including more examples to aid practitioners' understanding.

7. We would like to know your views on the effects that the guidance would have on the Welsh language, specifically on

- i) opportunities for people to use Welsh; and
- ii) on treating the Welsh language no less favourably than English.

What effects do you think there would be? How positive effects could be increased, or negative effects be mitigated?

The guidance sets very clear expectations in relation to training. It will be necessary to ensure that there are sufficient trainers available to deliver sessions in Welsh to ensure that the Welsh language is treated no less favourably than English. Also, any supporting resources will need to be available in Welsh and English at the same time.

We would value consistency in translating the abbreviations of key terms e.g. the Welsh language version incorrectly uses English language abbreviations for terms such as PBS and ACEs.

8. The Welsh Government is interested in understanding whether the proposals in this consultation document regarding this guidance will have an impact on groups with protected characteristics. Protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation. Do you think that the proposals in this consultation will have any positive impacts on groups with protected characteristics? If so, which and why/why not?

Yes



No

This document has a clear emphasis on promoting the rights of those who may be subject to restrictive practices, including involving them in key decisions. This will often involve people with disability, and, as such, this document is likely to have a positive impact on this group in particular. It has the potential to secure collaboration with wider stakeholders and advocates. Ensuring that practitioners regard improving practice as a constant learning and refinement process will be very important. The end process should lead to no learner or practitioner feeling isolated and ensure that organisations aim for best practice and review their practices systematically. It also presents the opportunity to ensure responsibilities in preventing restrictive practices are clearly defined at every tier within the system. It should ensure that appropriate resources are in place and that all stakeholders understanding their responsibilities.

There is some potential for unfavourable outcomes or conflict. The rights agenda is applicable to all (p.6 18 'Human rights are for everyone equally'). Some of the behaviours that children and young people display may be deemed as preventing others from accessing their right to education. Some may benefit from attending a more suitable setting and this brings with it the associated resource and staffing implications. Unless managed carefully, this has the potential to cause conflict and concern amongst various stakeholders in a school setting. The conflict between the rights of each party could be difficult for schools and staff at the center of such debates to manage without the support of external agencies.

With regard to chemical restraint, there is no legal or contractual duty on teachers to administer medicine or to supervise a pupil taking it. This is a purely voluntary role and is recognised as such by Welsh Government. While teachers have a general legal duty of care to their pupils, this does not extend to a requirement to routinely administer medicines. Staff with responsibility to administer medication must be suitably trained. Some of the medication administered to learners to achieve key health outcomes has side effects. If it is possible that giving medication could be defined as a restrictive practice, then staff may be reluctant to do so. This could inadvertently have a negative impact and put additional pressure on health practitioners and families to administer medication during school time. It is important that this guidance is released to health, social services and other relevant external agencies at the same time as educational providers. Effective inter-agency work will help to ensure that vulnerable learners continue to thrive and receive the least restrictive provision possible.

Overall, Estyn welcomes this guidance. It has the potential, with prior strategic planning and ensuring that specialist trained staff are in place, to ensure all tiers and stakeholders work together to learn and constantly develop their practice. It will also support and dovetail into the principles of the ALN bill. It is important that the guidance is introduced sensitively and with appropriate support, as some schools will be working in isolation to interpret this at a time of significant change within the education system.

9. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Please enter here:

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

ⁱ Care Quality Commission (April 2017) Brief guide: Positive behaviour support for people with behaviours that challenge v4, 20180705 900824

ⁱⁱ <https://www.challengingbehaviour.org.uk/information/information-sheets-and-dvds/positive-behaviour-support.html> Accessed on: 30/10/19

ⁱⁱⁱ <http://pbsacademy.org.uk/> Accessed on: 30/10/19

^{iv} Welsh Government Information Document No: 117/2012 (2012) 'Practical approaches to behaviour management in the classroom, A handbook for classroom teachers in primary schools'

^v Welsh Government Information Document No: 086/2010 (2010) 'Practical approaches to behaviour management in the classroom, A handbook for classroom teachers in secondary school'