

The use of seclusion, isolation and time out

Related CAPBS information sheets:

1. Information sheet on the use of confined spaces and tents in classrooms
2. Ethical principles for locking doors in children's homes

What is seclusion?

Seclusion is defined as

'The supervised confinement and isolation of a person, away from other users of services, in an area from which the person is prevented from leaving.'

Department of Health, Para 87 P and P 2014

Seclusion as a human rights issue

Recent guidance published by the Department of Health on the use of seclusion and other restrictive practices in health and care settings has focused attention on the human rights of adults and children with mental health and / or learning disabilities in England and Wales. (DoH, 2014)

New guidance is being produced in Scotland to regulate the use of restraint and seclusion in special schools and protect the rights of children.

Any use of seclusion is likely to contravene Article 5 of the Human Rights Act: *The right to liberty and security* and its use in any setting should be questioned.

Seclusion should not be used as either a treatment or a punishment.

In the US, a recent Senate report documented the impact on the well-being of both disabled and non-disabled students who were secluded by teaching staff in schools. One 14 year old boy committed suicide after repeatedly being locked in to a 'prison cell'-like room. (Harkin, 2014)

The new Mental Health Act Code of Practice (2015) acknowledges the particular risks attached to seclusion:

“Seclusion can be a traumatic experience for any individual but can have particularly adverse implications for the emotional development of a child or young person.”

If a person is isolated and prevented from leaving a room of their own free will then this meets the accepted criteria for seclusion, even if it is called by a different name. Common euphemisms or alternative terms may be: time out, isolation, chill out, or single separation. There could be a number of methods that prevent someone from leaving a room including a perceived or real threat. It is for good reasons that the use of the seclusion in care and health settings for children and adults in England is strictly regulated.

Can seclusion be used in social and health care settings for adults?

Both the new Mental Health Act Code of Practice (2015) and Positive and Proactive Care (the post Winterbourne guidance from the Department of Health, 2014) give the same message - seclusion is to be used in emergencies only for those who are being detained under the Mental Health Act (1983) or subject to a Deprivation of Liberty authorisation, or Court of Protection order under the Mental Capacity Act (2005). There is clearly defined process with a hierarchy for authorisation, where and how the restriction is monitored. Outside of these specific circumstances seclusion should not be used.

Appropriate use should always be examined and approved by external clinical team, best practice panel or by a safeguarding review. The plan should be clearly written in a care plan or similar document

Can seclusion be used in social and health care settings for children and young people?

There are especially rigorous criteria for the management of the seclusion of those under 18 in mental health settings - an assessment of the potential effects is required by a trained child and adolescent clinician. It not recommended as either a treatment or a punishment.

Elsewhere in care services for children and young people, the Children Act (1989) states any practice or measure, such as 'time out' or seclusion, which prevents a child from leaving a room or building of his own free will, may be deemed a 'restriction of liberty'. Under this Act, the restriction of liberty of children being looked after by a local authority or accommodated by NHS establishments is only permissible in very specific circumstances, for example when the child is placed in secure accommodation approved by the Secretary of State, or where a court order is in operation.

Advice for staff working in children homes is that seclusion should not be used - if it is used as an unplanned response to prevent harm in an emergency, there should be an immediate review and risk assessment and the production of a plan that considers the use of proactive strategies and less restrictive options.

For guidance on locking doors to prevent children and young people from leaving the building see, the CAPBS' information sheet, *Ethical principles for locking doors in children's homes*.

What is the difference between a seclusion room and an isolation room?

Isolation suggests someone is in an area away from other people and is on their own, seclusion would mean they are isolated and also confined to that area.

Any child, adult or young person who is placed in seclusion or isolation should be under constant observation by an appropriately qualified person and there should be a clearly defined system in place to summon assistance informed by an up to date risk assessment and care plan. This would be particularly important if medication PRN is also given

Can seclusion be used in schools?

Guidance for special schools, health and care settings (DoH, DfES, 2002) classes seclusion as a Restrictive Physical intervention and therefore only for use in an emergency situation

The most recent non statutory advice, *Advice for Head teachers and staff in all schools* (DfE, 2014) suggests schools could adopt a policy which allows disruptive pupils to be placed in an area (an isolation room) away from other pupils for a limited period. It says use of this strategy as a disciplinary measure should be clearly stated in the school's disciplinary policy. The advice adds that only in an exceptional

circumstance should any use of isolation that prevents a child from leaving of their own free will be considered.

It is not clear what those exceptional circumstances are, as the context of the use of isolation is disciplinary rather than safety. There is no clear guidance as to how isolation should be managed by education staff, and this is dangerous. Some students (with and without learning disabilities) are likely to feel secluded even if they are not locked in - as a threat or the presence of staff outside the door may be enough to keep them from leaving of their own free will. There a clear risk in some circumstances within schools that isolation can become seclusion and schools must act lawfully.

The *SEN Code of Practice* (2015) advises that reasonable adjustments should be made to ensure that expectations of students with disabilities are developmentally appropriate and fair. It would not be fair, for example, to isolate a child with ADHD or other special needs because they were not able to sit still when required to do so.

Other settings and countries

Residential Special Schools

Children attending residential special schools in England are protected under the *Children Act* (1989) through the *National Minimum Standard* (2013): 'no school should restrict the liberty of a child as a matter of routine or provide any form of secure accommodation'.

Scotland

There is minimal guidance currently available to schools in Scotland, but the use of timeout, seclusion and isolation is widespread - over 90% of surveyed schools admitted to using one of the above (Paterson et al 2011).

Wales

Welsh guidance issued in 2005, *Framework for Policy and Practice*:

Paragraphs 22, says that under no circumstances should restrictive physical intervention be threatened or used as a disciplinary sanction, and practices should not be used in health, education or care settings that are contrary to the *Mental Health Act Code of Practice* (2005)

More recent behaviour guidance for all schools in Wales issued by the Welsh Government, (*Practical approaches to behaviour management in the classroom*, 2010) supports the reasonable adjustment caveat in the *SEN Code of Practice*.

Time out or time away

Isolation, seclusion and time out are terms often confused by professionals, who use them inconsistently. Time out is a punishment based behaviour modification technique. It uses the theory that if you remove something positive from someone when they display an unwanted behaviour, they will learn over time to change that behaviour. It should only be used in very special circumstances under the direction of an appropriately qualified professional where a best interests and consent have been carefully considered alongside a functional assessment of the behaviour.

Time out should not be used as a matter of course. It is not usually the least restrictive approach, and if it meets the definition of seclusion it would be considered to be a restriction of liberty as well.

This could include putting adults or children with learning disabilities or autism in a sensory room or tent that they cannot easily leave or are being actively discouraged by staff from leaving (see *CAPBS Information on the use of confined spaces and tents in classrooms*, 2015). The recent NICE guideline (2015) recommends that sensory rooms should only be used if the person has had a sensory assessment that identifies their specific sensory needs. Planned access to a sensory room as part of a care plan should include guidelines that ensure that the person is constantly observed for signs of distress or wish to leave.

For pupils with AS, ADHD, LD and other attentional or sensory differences the use of isolation or time out as punishment is difficult to justify – it would be better to programme-in breaks or teach a child how to manage themselves and request time away or a sensory break when things get tough for them. It may be clearer to refer to these proactive strategies as ‘time away’ or ‘positive engagement in distraction activities’, rather than time out.

Key points

- Outside of an emergency situation where staff need to exercise duty of care to prevent harm, seclusion is not acceptable and is likely to be a breach of Human Rights and criminal law, i.e. false imprisonment
- Any emergency use of seclusion should trigger a review
- Any Deprivation of Liberty needs legal authorisation (outside of legal detention)
- Seclusion is not therapeutic and is likely to cause psychological harm

- Schools should issue clear guidance to staff on the use of isolation and punitive responses to children with special needs and review blanket policies .
- Time out is a psychological intervention. It should not be used as a matter of course. Staff should be clear about the difference between time out and the use of time away as a proactive strategy

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December 2015

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