

SPSO decision report

Case: 201607679, The Moray Council
Sector: local government
Subject: primary school
Decision: some upheld, recommendations

Summary

Mr C, who is a solicitor, complained on behalf of his client (Miss A). He said that the council had unreasonably failed to comply with its policy on restraint and physical intervention. He also complained that the council were unreasonably using a restraint and physical intervention policy which is not specific for children. Miss A was unhappy with how staff at her daughter's school had responded to an incident involving her daughter.

In investigating the complaint, we received information from Miss A and the council about the incident, including statements from the staff involved and Miss A's daughter. The council also provided copies of their policies relating to behaviour management and physical restraint in schools.

We found that the council's policies mentioned three stages of good practice to deal with a critical incident at a school and the potential need for physical intervention. We found that the act of restraint used towards Miss A's daughter was appropriate given the council's policy. However, there is a clear emphasis in the policy on avoiding or de-escalating a potential incident in the first place and we found that the council did not act reasonably in line with their policy to stop the incident taking place.

We also found that there was a failure to document if Miss A's daughter was injured following the restraint, as is required by the council's policy. The council acknowledged that the preventative measures could have been better used and said that they have provided further training for the staff involved. We have asked for evidence of this training. We upheld this aspect of the complaint.

The council agreed that the restraint and physical intervention policy is generic but stated it was applicable in any situation where challenging behaviour occurs. We found that, whilst the policy could be more child-specific, it does refer to risk-benefit assessments and care/education plans which will be specific to an individual's situation. We felt this would allow the impact of the policy to be child-specific when implemented and we therefore did not consider the existing policy to be unreasonable. We did not uphold this part of the complaint.

Recommendations

What we asked the organisation to do in this case:

- Apologise to Miss A for failing to reasonably comply with procedures, and for the distress caused to both Miss A and her daughter. The apology should meet the standards set out in the SPSO guidelines on apology available at www.spsa.org.uk/leaflets-and-guidance.

We have asked the organisation to provide us with evidence that they have implemented the recommendations we have made on this case by the deadline we set.