

C J and V A Turnbull

28 June 2023

Secretary for Education

Iona Holsted

enquiries.national@education.govt.nz

Dear Ms Holsted

Please accept this letter as a complaint against District Manager – Southland, Christine Menzies when she represented the Ministry of Education during the Interagency Potential Mass Allegation Investigation ***Ruru School Allegations of Physical and Emotional Abuse*** in 2016-17.

Conflict of Interest

In accordance with Protocol and Memorandum of Understanding, Police, Ministry of Education, Education Council, CYFs acted together. Christine Menzies was the point of contact at the Ministry of Education.

1. Christine Menzies had a conflict of interest due to us having already raised concerns about evidence she provided during 2015 Ministry of Education Investigation. The Ministry of Education Investigator Terri Johnstone reported, she had spoken to Christine Menzies who viewed the room at Ruru Specialist School on 12 December 2014. She wrote, Ms Menzies reiterated that *the room did not have a lock*. However, when we met with Ministry officials in 2015, soon after the release of the Ministry of Education Investigation Report, we questioned Christine Menzies whether the door had a lock and she said, "I don't remember." We asked her, "Did you see a door handle on the inside?" She replied, "No."
2. Referenced below is Ministry of Education *Practice Guidelines for the Management of Serious and Challenging Behaviour*. These 2007 Guidelines addressed the issues of time-out and physical interventions/restraint within the parameters of New Zealand law. The intention of the Practice Guidelines, which were for Ministry of Education Special Education staff internal use only, was to support staff to reduce any inappropriate use of time-out in Early Childhood or School setting. Christine Menzies, District Manager – Southland, was responsible for those Ministry staff, therefore a conflict of interest existed. Not only was Ruru Specialist School found using a dark and grimy storeroom for seclusion, another Southland school self-reported it had a seclusion room during the 2016 Survey.

Withholding information requested by Police

Christine Menzies withheld, from Police, Ministry of Education 1998 Guidelines (current at the time) which stated ***Timeout rooms should not be used***. Instead, on 8 September 2016 Christine Menzies sent Police "draft" Seclusion Guidelines. These "draft" Seclusion Guidelines allowed for the use of seclusion in schools. The 'draft' was never promulgated and was scrapped soon after Christine Menzies provided it to Police.

In October 2016, the Ministry of Education issued new Guidance, replacing the 1998 Guidelines. The new *Guidance for New Zealand Schools on Behaviour Management to Minimise Physical Restraint* stated, "Seclusion should no longer be used in New Zealand schools." *Ref attachment 1.*

Not only did Christine Menzies withhold the Ministry of Education 1998 Guidelines from Police, she did not notify Police the scrapped "draft" Seclusion Guidelines were invalid – nor did she provide Police with the Guidance issued by the Ministry of Education in October 2016.

This deception from the Ministry of Education had a major impact on the Police Investigation.

Ref attachment 2. Timeline evidence.

We have been formally advised all schools were sent the 1998 Guidelines and subsequent updates. Ministry practitioners had access to the guidelines and were able to provide extra copies to schools and other Ministry staff supporting students. When we met with Ministry of Education officials in 2019 and suggested that the Chief Ombudsman was able to find Ministry of Education guidelines (when the Ministry of Education Investigator and Police were not), we were told by David Wales, "He didn't find them. We gave them to him!"

Also notable, the Bibliography in the 2007 *Ministry of Education Practice Guidelines for the Management of Serious and Challenging Behaviour*, which Christine Menzies discussed with Police, first references ***1998 Managing Extreme Behaviour in Schools*** by Ingrid Dunckley.

XY

Christine Menzies was involved with a secret witness (xy) because Police provided Christine Menzies with the witness's name and details. Shortly after this happened, the secret witness cancelled her planned interview with Police.

Police

In 2019, we notified Ministry of Education management that Christine Menzies provided Police false and misleading information to Police during the *Ruru School Allegations of Physical and Emotional Abuse* investigation. We would like matters rectified with Police immediately.

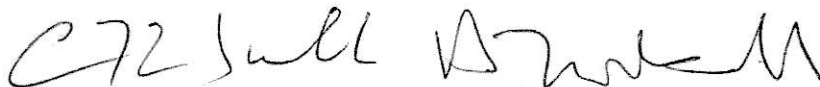
Police should be advised:

- During the interagency response Ministry of Education representative Christine Menzies had a conflict of interest.
- There was existing Ministry of Education guidelines at the time Police were investigating.
- The "draft" Seclusion Guidelines sent to Police by Christine Menzies (that Police referenced multiple times in the Police Report) was never valid and was in stark conflict to the existing guidelines at the time.
- Ministry of Education issued Guidance October/November 2016 (during the Police investigation) that stated, "Seclusion should no longer be used in New Zealand schools." Ref attachment 1.

The 2016-17 Police Investigation was flawed because of Christine Menzies involvement and actions. The paramountcy principle was not applied, instead wrongdoing at Ruru Specialist School was 'covered up'. Vulnerable children and young people remain at risk there.

Please provide acknowledgement and notification of your action.

Yours sincerely



Callum and Victoria Turnbull

cc j.tinetti@ministers.govt.nz

erica.stanford@parliament.govt.nz

Attachment 1.

From: "Ed Act Update" <EdAct.Update@education.govt.nz>
Date: Thursday, 22 March 2018 12:05 p.m.
To:
Subject: RE: Banning seclusion and creating a legal framework for physical restraint

Kia ora Victoria,

Thank you for your email regarding our fact sheets on the amendments relating to seclusion and restraint last year.

We are currently updating this material to clarify that the Ministry did not consider seclusion an appropriate tool in behaviour management prior to the law change.

Thank you for bringing this to our attention.

Ngā mihi,

Anna Kidd | Ed Act Update Mailbox | Ministry of Education |
33 Bowen St, Wellington

education.govt.nz | Follow us on Twitter: @EducationGovtNZ

We get the job done *Ka oti i a mātou ngā mahi*

We are respectful, we listen, we learn *He rōpū manaaki, he rōpū whakarongo, he rōpū ako mātou*

We back ourselves and others to win *Ka manawanui ki a mātou, me ētahi ake kia wikitoria*

We work together for maximum impact *Ka mahi ngātahi mā te tūkinga nui tonu*

Great results are our bottom line *Ko ngā huanga tino pai ā mātou whāinga mutunga*



MINISTRY OF EDUCATION
TE TĀHURHU O TE MĀTAURANGA

From:
Sent: Friday, 16 March 2018 2:14 p.m.
To: Ed Act Update <EdAct.Update@education.govt.nz>
Subject: Banning seclusion and creating a legal framework for physical restraint

Good afternoon

I refer to the Ministry of Education Quick Guide "**Seclusion of a child or young person is no longer an acceptable tool in behaviour management...**"

The wording in this overview of changes relating to the Education Act Update, is misleading and suggests that the use of seclusion has previously been acceptable, when this is not true.

I refer to the 1998 Ministry of Education Guidelines on Managing Extreme Behaviour in Schools, *Timeout rooms should not be used. They are not necessary and can result in teachers and schools being accused of using inhumane and cruel punishments*, and 2007 Ministry of Education Time-out and Physical Intervention Practice Guidelines, *The Ministry of Education, Special Education does not recommend any form of time-out procedure in an Early Childhood/School setting, which involves a child/young person being shut in a room, or screened area, by him or herself without any way of getting out unless someone comes to release them. This is a form of isolation (seclusion) and is not an appropriate practice in an Early Childhood/School setting.*

I suggest that just because there is no law against using a specific restrictive practice, that does not make that practice acceptable. In fact, the use of seclusion has been described as 'intolerable' by former Education Minister Hekia Parata, and Education Minister Hon Chris Hipkins recently wrote to me stating "The use of seclusion rooms is of course absolutely unacceptable in the 21st century."

Please review the wording in documentation, guides and overviews to reflect the point I have raised.

Thank you.

Victoria Turnbull

1998

Ministry of Education guidelines **Managing Extreme Behaviour in Schools** (I. Dunckley) was published and distributed to all schools.

Nov

1999

Ministry of Education guidelines **Managing Extreme Behaviour in Schools** (I. Dunckley) was revised.

July

2005

Ministry of Education guidelines **Managing Extreme Behaviour in Schools** (I. Dunckley) was revised and updated. The updated 2005 version of the guideline was sent to all schools in hardcopy. Hard copies of the publication were also distributed to Ministry staff and management.



It is important to avoid actions that are likely to be emotionally or physically distressing to a student. These actions are aversive and can place both students and staff at risk:

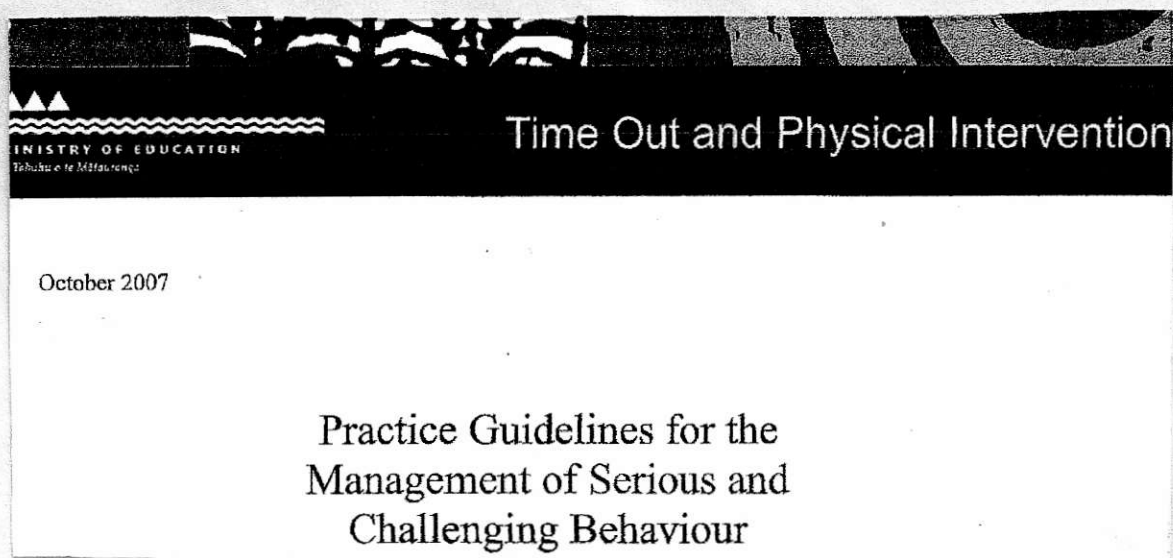
- shutting students into rooms where they can't get out

Timeout rooms should not be used. They are not necessary and can result in teachers and schools being accused of using inhumane and cruel punishments.

Oct

2007

Ministry of Education internal document – **Practice Guidelines for the Management of Serious and Challenging Behaviour** was available to all behaviour staff in the regions.



BIBLIOGRAPHY

In developing this paper, the RCBI consulted with a range of Ministry of Education, Special Education staff. The RCBI project would like to acknowledge and thank these parties for their support and guidance in the development of this paper.

Dunckley, I. (2006). Managing Extreme Behaviour in Schools. Ministry of Education, Special Education

ISOLATION (SECLUSION)

Sometimes when teachers refer to time-out, they are referring to a procedure, which involves removing the child/young person to a "time-out room". This is one type of time-out and is

discussed in these guidelines under the heading of isolation. Isolation involves placing the child/young person in an environment such as a room, by him or herself for a specified period. This type of time-out is sometimes used as part of a comprehensive home base parenting programme (See: parenting programmes below).

The Ministry of Education, Special Education does not recommend any form of time-out procedure in an Early Childhood /School setting, which involves a child/young person being shut in a room, or screened area, by him or herself without any way of getting out unless someone comes to release them. This is a form of isolation (seclusion) and is not an appropriate practice in an Early Childhood/School setting.

Types of Restraint

The following examples of restraint are included to demonstrate the definition. They are not listed as recommended practice, as in certain circumstances they would be considered aversive and therefore not recommended. Information in the following section based on the New Zealand: Restraint minimization and safe practice Standards (NZS 8141: 2001).

SECLUSION (SOLITARY CONFINEMENT)

A child/young person is secluded if he or she is shut in a room or screened area by himself or herself without any way of getting out unless someone comes to release them. The Ministry of Education, Special Education does not recommend any practices involving seclusion (solitary confinement) in Early Childhood/School settings.

27 Feb

2015

Ministry of Education receives Investigation Report from Terri Johnstone into complaints against Ruru Specialist School. The Report is forwarded to the National Office, then confirmation was given for the Investigation Report to be released.

4 Mar

2015

Dear Mr & Mrs Turnbull,

Re: Investigation – Ruru Specialist School Report

Attached is a copy of the Investigation Report received from the Ministry appointed investigator Ms Terri Johnstone who was engaged to investigate the concerns you raised with the Ministry in December 2014,

The report was received by the Ministry last Friday and is being released to both parties today.



I also contacted the Ministry of Education regarding the use of time out facilities or safe rooms and I have been unable to locate any MOE Guidelines about the use of these spaces.

9 April

2015

Ruru Specialist School lawyer writes to Turnbull's lawyer with knowledge that Ministry are writing new guidelines.

From: Tony Irvine |
Sent: Thursday, 9 April 2015 7:28 p.m.
To: Helen Coutts
Subject: Turnbull - Ruru School

Hi Helen

I have attached the response and comments to the report by Terri Johnstone sent to Murray Roberts for your information.

As you can see, the Ministry have written guidelines which have not been promulgated. However, at the

18 April

2015

18 April 2015

Murray Roberts
Regional Manager
Special Education Southern
Ministry of Education
Email: |
CHRISTCHURCH

Dear Murray,

Re: Jonathan H M Eaton QC 'Response to Investigation into Complaint Ruru School February Report'

said that the rooms themselves were either lawful, or unlawful. I have also been unable to find clear guidelines on the use of safe rooms on the Ministry of Education website. While I

and my concerns around the use of these rooms as well as the physical space itself, that I recommend a National Working Party to further investigate the use of such spaces and to develop a Code of Best Practice regarding the use of such spaces. I captured the experiences

Yours sincerely,

Terri Johnstone

Dec

2015

Turnbull's complaint to IPCA (against Police) upheld

31 May

2016

RURU SCHOOL ALLEGATIONS OF PHYSICAL AND EMOTIONAL ABUSE

INTERAGENCY MEETING CONDUCTED 31 MAY 2016 AT 1100hrs OFFICE OF THE MINISTRY OF EDUCATION, INVERCARGILL BRANCH.

PRESENT

Brian CAMERON --	Police
Christine MENZIES --	MoE
Jan OSTER --	CYFS
Phil STRAW --	Education Council (By phone)

1. Initial call for any conflict of interest to be declared -- none arising.

NZ Police
OIA Section
Private Bag 1024
Dunedin 9054

7. Discussion of MoE development of 'Guidelines' around restraint and Seclusion which will provide for a written definition of seclusion –not previously stated

31 May
2016

"Guidelines" - restraint
MOE 2007 - Seclusion.
now updated

MZ Police
O.M. Station
Private Bag 1824
Dunedin 9134

MoE - guidelines [no definition of seclusion previously.]

1 Aug
2016

From: CAMERON, Brian
To: Jan Oster; "Phil Straw"; Christine Menzies
Bcc: BOURNE, Richard (Rick)
Subject: RE: Ruru School Historic allegation of physical abuse - TURNBULLS
Date: Monday, 1 August 2016 10:44:00 a.m.

All,

To provide an update on this matter read as follows;

The Room

I have been unable to identify any legislation or industry guidelines that dictate how a Safe (or Seclusion) Room in an educational facility is to be set up or constructed. ***If any of you have information that would assist it would be appreciated.***

Further information sought

Christine &/or Phil

Can you provide a complete Staffing List for Ruru School since 2011

Can you provide any guidelines provided to Schools/ the Education Sector in general around Training links and/or packages/ Best practise for Schools around these areas (restraint seclusion) that were available at the time of these incidents

Are there any accredited trainers in these areas that you recommend Schools use regard the whys and wherefores of restraint seclusion?

Finally for Christine - Can you provide a draft for the general Guidelines currently under construction for National roll out regarding Seclusion and Restraint for attachment to the file please.

Any questions please come back to me.

Kind regards

Brian

Brian Cameron

Detective Sergeant | Queenstown/Wanaka | Otago Lakes Central Investigations | New Zealand Police

☎ 03 441 1625 | Ext 34625 | 📠 Queenstown CIU | PO Box 45 | Queenstown 9300 | New Zealand

10 Aug

2016

NZ Police
OIA Section
Private & 1029
Dunedin 9104

From: Christine Menzies
To: CAMERON, Brian
Subject: RE: Ruru School Historic allegation of physical abuse - TURNBULLS
Date: Wednesday, 10 August 2016 4:17:38 p.m.

Hi Brian

I am still working on obtaining some further information. In the meantime I can advise as below

Can you provide a complete Staffing List for Ruru School since 2011

- The Board of Trustees will be able to provide you with this information

Can you provide any guidelines provided to Schools/ the Education Sector in general around Training links and/or packages/ Best practise for Schools around these areas (restraint seclusion) that were available at the time of these incidents

- The previous guidelines that I referred to in our face to face meeting were, as I have discovered, an internal draft for Ministry employees only, so Ruru School staff and Board did not have had access to them

Can you provide a draft for the general Guidelines currently under construction for National roll out regarding Seclusion and Restraint for attachment to the file please.

- I will send this documentation on to you separately from this email but I am attempting to obtain the latest draft for you. Further work is occurring on these at the moment which means that it will be only a draft. Please let me know if will be helpful to have the draft or you wish to wait until the final document is available

Thanks Christine

11 Aug

2016

NZ Police
OIA Section
Private & 1024
Dunedin 9104

From: CAMERON, Brian
To: "Christine Menzies"
Subject: RE: Ruru School Historic allegation of physical abuse - TURNBULLS
Date: Thursday, 11 August 2016 10:54:00 a.m.

Hi Christine,

That has been most helpful thank you.

In regard the Draft v final -- I am happy with a draft but if the final is not far away it can wait. I have been advised that the school staff have elected to engage a Solicitor who is now out of NZ and unavailable to offer advice until early September, so if the document will be finalised within the next 8 weeks or so it can wait.

Kind regards

Brian

Brian Cameron

Detective Sergeant | Queenstown/Wanaka | Otago Lakes Central Investigations | New Zealand Police

☎ 03 441 1625 | Ext 34625 | [redacted]

📧 Queenstown CIU | PO Box 45 | Queenstown 9300 | New Zealand

8 sept

2016

From: CAMERON, Brian
Sent: Thursday, 8 September 2016 12:30 p.m.
To: Jan Oster; 'Phil Straw'; Christine Menzies
Cc: BOURNE, Richard (Rick)
Subject: RE: Ruru School Historic allegation of physical abuse - TURNBULLS

In the meantime Christine -- I am still awaiting the information from your Office per our prior emails -- are you able to provide any update please?

From: [Christine Menzies](#)
To: [CAMERON, Brian](#)
Subject: RE: Ruru School Historic allegation of physical abuse - TURNBULLS
Date: Thursday, 8 September 2016 3:01:43 p.m.
Attachments: [FINAL with all signatures - Seclusion Guide 24 August.docx](#)
[FINAL with all signatures - Physical Restraint Guide 24 August.docx](#)

Hi Brian

Please find attached the two guidelines which are still in draft form. It is expected that these will be provided to schools later this month but there is no confirmed date as yet. If there is specific information you still require please let me know. There were a couple of other matters I was checking but I have no update as yet.

Regards

Christine

Christine Menzies | District Manager

Transitional guidance for New Zealand schools as we work towards the elimination of seclusion

FINAL Draft version

updated 2 August 2016 (Di)

Guidance if you have to use seclusion

- Seclusion should be justifiable in the circumstances and it should be proportionate to the level of risk.
- When a student has been placed in seclusion, work towards getting them out of seclusion as soon as possible.
- Only permit designated staff members who are trained in physical restraint and seclusion procedures, and in emergency first aid, to seclude a student.
- A staff member must monitor the student's physical and emotional wellbeing continuously. They must be able to see and hear the student at all times.
- Offer water to the student during and after seclusion.
- End seclusion as soon as the conditions or behaviours which caused the need for seclusion stop, and the imminent danger is no longer present.

The seclusion room

In rare situations, when seclusion is part of an Individual Behaviour Plan, the room used for seclusion must provide for the student's welfare.

8 Sept

2016

- The seclusion room must have an unbreakable observation window so the student can be monitored, watched and heard continuously. It must have adequate ventilation and lighting.
- The room must be reasonably sized, have soft, fixed furnishings and be free of potential safety hazards.

Page | 6

Transitional guidance for New Zealand schools as we work towards the elimination of seclusion

Oct

2016

Minister of Education Hekia Parata directs the Ministry of Education to end the work on Seclusion Guidelines.

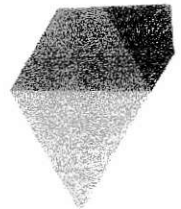
3 Nov

2016

Education Minister Hekia Parata announces that she is proposing to make the use of seclusion in schools illegal.

Acting Secretary for Education issues Guidance for New Zealand Schools and sends a letter to all schools to make the expectation clear that no school should be using seclusion.

The new Guidance replace existing Ministry of Education 1998 guidelines – Managing Extreme Behaviour in Schools.



Guidance for New Zealand Schools on Behaviour Management to Minimise Physical Restraint

October 2016

What is seclusion?

3 Nov

Seclusion is when a student is involuntarily placed alone in a room, at any time or for any duration, from which they cannot freely exit. The door may be locked, blocked or held shut.

2016

This may occur in any room that is lockable or, even if not locked, where a level of authority or coercion leads to a student believing that they must not or cannot exit the room in which they are confined.

When used in this way, seclusion has no therapeutic value nor does it promote mental and physical wellbeing. It also creates serious health and safety risks if a child cannot leave a locked or blocked room if there is an emergency such as a fire. In the event of something like this occurring this action would be a serious breach of the Health and Safety Act.

Seclusion has been associated with trauma and injury (sometimes self-inflicted). All staff should be aware of the possible effects of seclusion on a student's wellbeing. They should also understand that seclusion can no longer be used.

2 Dec

2016

From: CAMERON, Brian
To: Christine Menzies; "Phil Straw"; Jan Oster
Bcc: BOURNE, Richard (Rick)
Subject: Ruru School - INTERAGENCY UPDATE
Date: Friday, 2 December 2016 1:14:00 p.m.

I am aware that this matter is now one of several complaints across the Country as regards restraint and seclusion and would ask that if any of you have received any information that may either impact on, or be relevant to, this inquiry, you make contact with me to discuss.

Kind Regards

brian

Brian Cameron

Detective Sergeant | Queenstown/Wanaka | Otago Lakes Central Investigations | New Zealand Police

☎ 03 441 1625 | Ext 34625 | 📧 [redacted] | 📬 Queenstown CIU | PO Box 45 | Queenstown 9300 | New Zealand

11 Jan

2017

From: CAMERON, Brian
To: Christine Menzies; "Phil Straw"; Jan Oster
Bcc: BOURNE, Richard (Rick)
Subject: Ruru School - inter agency update
Date: Wednesday, 11 January 2017 10:57:00 p.m.

All,

I hope you have enjoyed your break. Sorry for not contacting you sooner in the month.

I am writing to advise that the Police investigation into this matter is at an end - subject to a review of my final (DRAFT) report - which will be submitted on Monday 16th Jan to my Supervisor.

March

2017

Police Report refers to "draft" seclusion guidelines, for the Police Investigation, which were never promulgated. Police ended Report stating – *it should be acknowledged that without their (Turnbulls) determination, it is entirely possible that National Guidelines developed for the Education Sector, in regard to the use of seclusion (as at 14.) may have yet remained a notion still to be acted on.*



NZ Police

POL 258 06/16

REPORT FORM

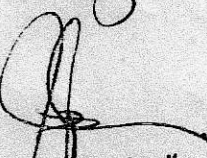
SUBJECT: RURU SPECIALIST SCHOOL

ADDRESS: 19 RURU STREET, INVERCARGILL

TEXT: REINVESTIGATION INTO ALLEGATIONS OF ASSAULT AND UNLAWFUL DETENTION

D/Insp Wood
Crime Manager
Southern:

This is a Comprehensive report that covers the investigation carried out by SAs Cameron.
I do not intend to go through the report, but agree with his conclusion that the file can be cleared as a K3.
For your information and recommendation.


Malcolm Inglis
Det S/Sgt MI6145

8.13.17

13.3 Ministry of Education – Christine MENZIES – District Manager, Southland identified that, at the relevant time, no National Guidelines were in existence with regard Restraint and Seclusion and that individual Schools were responsible for establishing their own Policies as determined by their Board of Trustees. Any breach of Policy was thus a matter for the individual School.

14.3 The document in regard Seclusion provides (at page 5) for guidance in the continued use of Seclusion as well as a clear design for any room used for that purpose (as at page 6) whilst clearly expressing the desire for the eventual elimination of the practice.

Aug

2017


MINISTRY OF EDUCATION
TE TĀHĪHU O TE MATAURANGA

Guidelines for Registered Schools in New Zealand on the Use of Physical Restraint

AUGUST 2017

The guidelines also make it clear that under the legislation seclusion is prohibited and must not be used in New Zealand schools.
