



The Human Rights Framework for Restraint

Rachel Fox: Principal - Strategy

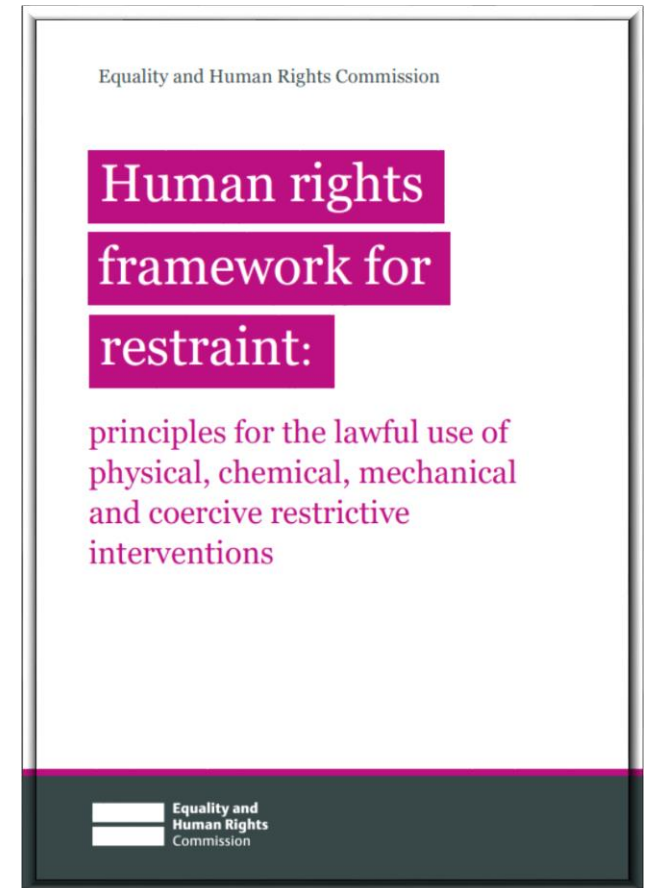
12 November 2019

1. Introduction and overview

- The Equality and Human Rights Commission:
 - An independent statutory body established by the Equality Act 2006, with unique powers
 - Great Britain's National Equality Body
 - An A-status National Human Rights Institution.
- Focus of this presentation: an overview of our Human Rights Framework for Restraint.

2. Why did we develop the framework?

- Concern about excessive use of restraint in prisons, youth detention, police arrest and custody mental health units, social care and education.
- Concern about inadequate procedural safeguards, including governance and oversight.
- UN Treaty bodies have repeatedly identified restraint as an important issue in their Concluding Observations on the UK.



3. Using the framework:

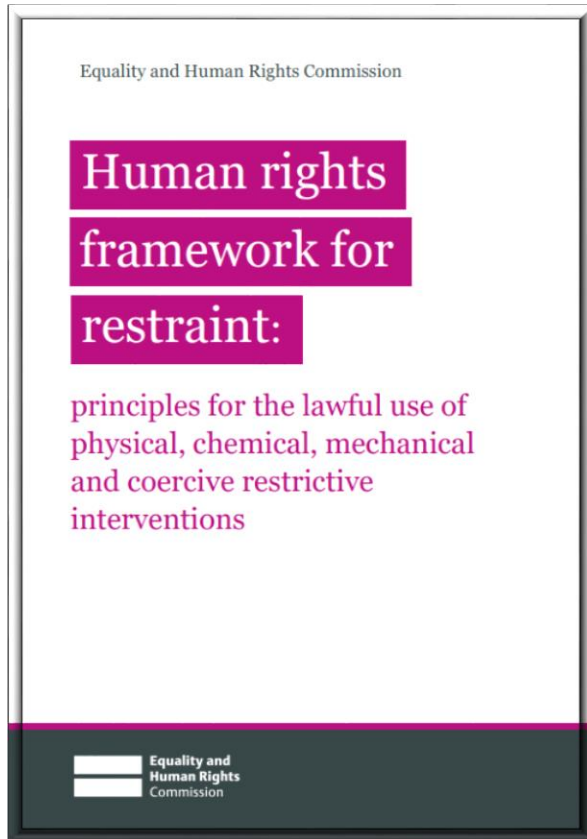
Intended to be used as:

- ✓ a basis for building shared understanding about the human rights principles concerning restraint,
- ✓ a starting point for developing more comprehensive sector-specific guidance on restraint, and
- ✓ a checklist to help evaluate compliance of law, policy and practice on restraint with articles 3, 8 and 14 ECHR.

Not intended to:

- ✗ set out the specific legal frameworks which govern the use of restraint in different settings,
- ✗ set out *all* of the regional and international human rights obligations and standards which relate to the use of restraint, or
- ✗ serve as a tool to guide frontline practice without supplementary guidance.

4. A brief tour of the framework



- Definition of restraint
- Decisions to restrain
- Safeguards
- Discrimination
- Effective rights

‘The principles in this framework serve to protect and respect the safety and dignity of people being restrained, as well as those around them...’

Decisions to restrain – sections B, C & D

- Is it lawful to use restraint in principle?
 - Situations in which it is never lawful
 - The need for a governing legal framework
- Is the actual use of restraint lawful? Special considerations for children.



Safeguards – section E

- Adequate training
- The need to plan and review
- Reasonable adjustments
- Taking into account risks to physical and mental wellbeing
- Consult and involve affected person as far as possible
- Proportionate recording
- Independent investigation of death or serious injury.



Discrimination – section F



‘The disproportionate use of restraint on an identifiable section of the population without justification is evidence that unnecessary discrimination may be occurring.’

Effective rights – section G

‘Appropriate assistance must be provided where necessary to ensure that the rights outlined in this framework are effective in practice’.



International Human Rights Treaties

- UN Convention against Torture
- International Covenant on Civil and Political Rights
- International Convention on the Elimination of All Forms of Racial Discrimination
- UN Convention on the Rights of the Child
- UN Convention on the Elimination of All Forms of Discrimination Against Women
- UN Convention on the Rights of Persons with Disabilities

5. Impact: how the Framework is being used

- Welsh Government Guidance on reducing restrictive practices in childcare, education, health and social care settings
- The Restraint Reduction Network Training Standards 2019
- The CQC interim report for the review of restraint, prolonged seclusion and segregation for people with a mental health problem, a learning disability or autism
- Use of framework by stakeholders to reinforce their submissions
- Informing submissions on restraint to consultations and UN examinations.

6. What's next?

- Strategic Plan with 6 Aims, including: *Rules and practice governing entry into, exit from and treatment in institutions respect equality and human rights standards.*
- We are committed to carrying out an **inquiry on restraint**, as set out in our business plan. Likely to focus on the recording and monitoring of restraint in a particular sector, and consider how this can be used to minimize its use.





**Equality and
Human Rights
Commission**