

L. Hiscott

QUESTION ON NOTICE
Question No. [40] of 2023
Legislative Council

*Tabled and
incorporated into
Hansard L. Hiscott
12. 12. 23*

*Member for Nelson
AYDC LOCKDOWN/
ISOLATION INFO*

ASKED BY: Hon Meg Webb

ANSWERED BY: Hon Leader of the Government

Noting section 133 of the Youth Justice Act 1997 defines 'isolation' to mean locking a detainee in a room separate from others and from the normal routine of the detention centre; and further noting, in answers received in the Legislative Council on 28 September 2023 on the use of lockdowns at Ashely Youth Detention Centre (AYDC), the Government's response refers to 'restrictive practice' rather than the term lockdown or isolation, would the Leader provide information in relation to:

QUESTION:

(1) The dates and number of any uses of isolation at AYDC, as defined in s133 of the Youth Justice Act 1997, from 1 January 2023 to 1 October 2023.

ANSWER:

I am advised by the Department for Education, Children and Young People that the below is a record of the instances of individual 'isolation' as defined in S.1333(2)(a):

- 1 – 31 January 2023 – There were 39 uses of isolation for the month with an average of 27 minutes per period of isolation.
- 1 – 28 February 2023 – There were 14 uses of isolation for the month with an average of 26 minutes per period of isolation.
- 1 – 31 March 2023 – There were 19 uses of isolation for the month with an average of 52 minutes per period of isolation.
- 1 – 30 April 2023 – There were 25 uses of isolation for the month with an average of 52 minutes per period of isolation.
- 1 – 31 May 2023 – There were 23 uses of isolation for the month with an average of 31 minutes per period of isolation.
- 1 – 30 June 2023 – There were 21 uses of isolation for the month with an average of 43 minutes per period of isolation.
- 1 – 31 July 2023 – There were 25 uses of isolation for the month with an average of 49 minutes per period of isolation.
- 1 – 31 August 2023 - There were 26 uses of isolation for the month with an average of 40 minutes per period of isolation.
- 1 – 30 September 2023 - There were 31 uses of isolation for the month with an average of 30 minutes per period of isolation.
- 1 October 2023 – To date in October, there has been 1 use of isolation for a period of 28 minutes.

I am advised by the Department for Education, Children and Young People that previously, the recording of data for instances of 'restrictive practice' were recorded for individual young people only, not in an aggregated format (see also the answer to Question 7). I am further advised that from 20 November 2023, a comprehensive electronic solution has been implemented whereby any instances of a young person being placed in their room during the daytime prompts Youth Workers to conduct and capture 15-minute observations, and appropriately records the times in which a young person is in their room.

QUESTION:

(2) The Department's definition of 'restrictive practice' within the AYDC setting, including an explanation of the difference between restrictive practice and isolation as defined in the Youth Justice Act 1997.

ANSWER:

I am advised that the term 'isolation' is used in accordance with S.133 (2)(a), where it is considered that:

- a young person's behaviour presents an immediate threat to his or her safety or the safety of any other person or to property; and
- all other reasonable steps have been taken to prevent the detainee from harming himself or herself or any other person or from damaging property but have been unsuccessful.

With regards to 'restrictive practice', I am advised that for the safety of the young people at AYDC and staff, there are required staffing ratios to be met which are assessed prior to each shift. I am advised that the term 'restrictive practice' is an internal definition and practice, which takes a Centre-wide approach to managing the overall security of the site, including the safety of staff and young people when these staffing ratios cannot be met.

I am advised that AYDC operates under 'restrictive practice' when all young people are out of their rooms for fewer than 10 hours per day. When 'restrictive practices' are in place, young people at AYDC still participate in activities, and are moved between spaces in a controlled, rolling basis. Young people can access education, phone calls, medical and psychological appointments – including those conducted outside AYDC, and out of room exercise.

QUESTION:

(3) When and on what basis was the terminology 'restrictive practice' first adopted and the practice first used within the AYDC setting?

ANSWER:

I am advised by the Department for Education, Children and Young People that the term 'restrictive practice' was first implemented on 20 June 2022 due to staffing shortages and, as previously stated, is only used when necessary and to ensure the safety of young people and staff.

QUESTION:

- (4) Are there any standard operating procedures, guidelines, protocols or policies that relate to the use of 'restrictive practice' at AYDC and please provide those documents?

ANSWER:

I am advised by Department for Education, Children and Young People that the policies and procedures relating to 'isolation' for the AYDC are currently under review and will incorporate restrictive practice.

QUESTION:

- (5) How would a youth worker or other relevant staff member employed at AYDC distinguish between the use of isolation, as distinct to the use of restrictive practice, in the course of their work activities?

ANSWER:

I am advised by Department for Education, Children and Young People that AYDC staff are advised of any 'restrictive practices' at the commencement of each shift. Any changes are communicated throughout the day across the commencement of each shift. Any changes are communicated throughout the day across the Centre. 'Restrictive practice' is responsive to the changing safety and staffing levels across the day.

Instances of 'isolation' are communicated by the Operations Coordinator directly to staff in the unit as they occur.

Noting that the Youth Justice Act 1997, s133(5) requires that a detainee placed in isolation must be closely supervised and observed at intervals of no longer than 15 minutes, and s133(6) requires that every use of isolation must be recorded in a register established for the purpose; and further noting an answer provided in the Legislative Council on 28 September 2023, which stated "*Procedures are in place to ensure that young people are observed during Restrictive Practice*", would the Leader provide information in relation to:

QUESTION:

- (6) Under the current definition and practice at AYDC, what specific requirements are in place for regular observation/supervision of detainees placed under 'restrictive practice'?

ANSWER:

I am advised by Department for Education, Children and Young People that prior to 29 November 2023, when children and young people were placed in their rooms under restrictive practice, they were observed every 20 minutes. I am advised that since 20 November 2023, children and young people placed in their rooms under restrictive practice are observed every 15 minutes in accordance with s 133 of the *Youth Justice Act 1997*.

Please refer to the media release issued by the Secretary of the Department for Education, Children and Young People on 29 November 2023, '*Improving Practices at Ashley Youth Detention Centre*' (attached).

QUESTION:

- (7) Please provide details of the way in which records are currently kept on the use of 'restrictive practice' at AYDC, including:
- (a) who is responsible for record-keeping?
 - (b) what details/data are recorded and how frequently?
 - (c) who has access to the information/data recorded?
 - (d) what oversight mechanisms are in place for the information/data that is recorded?
 - (e) how often any oversight mechanism is provided with the information/data recorded?
 - (f) whether the information/data is published and publicly available?

ANSWER:

I have been advised that previously, AYDC 'restrictive practices' were recorded on a database by the Operations Coordinator. Other details recorded included:

- The name of the young person
- Their Unit
- How many hours the young person is out of their room.

I have further been advised by Department for Education, Children and Young People that as of 20 November 2023, all movements around the centre, including instances of young people being in their room during the daytime (08:00am – 08:00pm), for how long and for what reason, are being recorded for each young person. A comprehensive and automated spreadsheet prompts youth workers to conduct and capture 15-minute observations, and appropriately records the times in which a young person is in their room for reasons such as isolation, 'restrictive practice', quiet time (a period of 45 minutes after lunch where young people are in their rooms), or upon voluntary request by young people.

I am advised that this is consistent with the requirements of the *Youth Justice Act 1997*.

I am also advised that if 'restrictive practices' are in place, they are recorded on the daily Situation Report that is provided to key stakeholders, such as the Custodial Inspector and Commissioner for Children and Young People. Publicly available information is available in the Custodial Inspector's Annual Report and is also reported through the Report on Government Services (ROGS).

Noting the answer provided in the Legislative Council on 28 September 2023, which said, "Further recruitment is underway to meet the operational requirements of the AYDC and to reduce the incidence of Restrictive Practice", and further noting the Keeping Kids Safe status update as at 31 July 2023 that indicates: Action 2.1: Development and implementation of Youth Justice Services Workforce Strategy, in development since at least December 2022; Action 2.3: Staff appointments to supplement AYDC staff completed October 2022; Action 2.4: AYDC Youth Worker Recruitment completed October/November 2022; and Action 2.5: Retired Police Officer Secondment completed September 2022, would the Leader provide information in relation to:

QUESTION:

- (8) What is the current status of staffing levels at AYDC in regard to meeting operational requirements?

ANSWER:

I am advised by Department for Education, Children and Young People that currently there are 35 Youth Workers to fill four shifts, and four Youth Workers acting in the Operations Coordinator positions. The Centre also employs eight casual staff members. This includes nine participants from a recent induction course, subsequent to a recruitment campaign.

Another recruitment round is just about to be finalised and it is projected that there will be up to 12 successful applicants. The next induction course commences on 11 December 2023.

QUESTION:

- (9) Please provide details of all periods of time from 1 January 2022 to 1 October 2023, during which it would have been regarded there were sufficient staff employed to reliably meet the operational requirements of AYDC.

ANSWER:

I am advised by Department for Education, Children and Young People that currently AYDC still require a number of Youth Workers to meet full operational needs per shift, which is why the Department has been and is continuing to undertake proactive recruitment rounds.

QUESTION:

- (10) When is it anticipated that recruitment activity will meet the operational requirements of AYDC and result in a sustained reduction in the incidence of Restrictive Practice?

ANSWER:

I am advised by Department for Education, Children and Young People that as AYDC continues to increase the Youth Worker workforce, the use of 'restrictive practice' decreases. AYDC will continue to recruit staff until satisfactory numbers are sustained.

QUESTION:

- (11) What is the definition of 'unsafe staffing levels' that triggers the use of restrictive practices?

ANSWER:

AYDC are required to provide a safe workplace for staff and a safe environment for young people in detention.

The safe level of staffing depends on matters such as:

- An individual young person's characteristics,
- The experience level of individual staff members;
- The dynamics between the young people in the Centre.

Generally, a ratio of at least two staff members are required for two to three young people. The Centre must also ensure there is capacity for available staff to respond to any incidents that may arise throughout the shift.

Noting the answer provided in the Legislative Council on 28 September 2023, which said, "Generally, Restrictive Practice will operate on a rotational basis, allowing limited numbers of young people out of their rooms for equal amounts of time within numbers that staff can safely manage.", would the Leader provide information in relation to:

QUESTION:

- (12) When young people are allowed 'out of their rooms', what does that mean specifically, e.g what areas do they have access to?

ANSWER:

I am advised by Department for Education, Children and Young People that when young people are out of their rooms, they have access to:

Common areas

- Common areas
- Courtyards in the external unit area
- Ashley School
- Other routine activities, such as programs and leisure activities.

QUESTION:

- (13) During the time young people are allowed 'out of their rooms', are they always provided with access to open air/fresh air?

ANSWER:

I am advised by Department for Education, Children and Young People that yes, there is a courtyard attached to all but one of the units. For those in a unit without a courtyard, they are able to access a courtyard if needed.

APPROVED/NOT APPROVED

Hon Roger Jaensch MP

Minister for Education, Children and Youth