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Ministerial statement

Scottish Government's response to the Independent Review of the circumstances surrounding the death of Bailey Gwynne

Deputy First Minister John Swinney

Scottish Parliament

31 January 2017

There can be no greater tragedy for a parent than the loss of a child. I cannot imagine what the last year has been like for Bailey Gwynne's family but I want, on behalf of the Scottish Government, to express my heartfelt sympathies to them and to acknowledge the resilience and dignity they have shown since Bailey's death.

I know his school and community have also been deeply affected. Incidents like this have a profound and lasting impact and it is important to continue to support Bailey's friends and fellow pupils as they come to terms with their loss.

I want to thank Cults Academy, Aberdeen City Council and Police Scotland for the prompt and appropriate action taken immediately following Bailey's death and since. In particular, Aberdeen City Council has responded effectively and swiftly, commissioning a review into the issues which gave rise to this incident and also, in taking forward recommendations from that independent review.

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As that report makes clear, Bailey's death at school, whilst very rare, was a shocking and tragic incident. It was an unplanned and spontaneous conflict from which we must learn, to minimise the risk of it happening to other children and young people. The resilience of schools in addressing the threat posed by weapons and violence is key and I now wish, to set out the Scottish Government's response to recommendations 11 and 12 from the Review.

Both recommendations have been considered carefully and Ministers have been mindful of the need for a response that addresses what happened to Bailey and his family, but also would impact on all of Scotland's teachers, children and young people.

I want to be absolutely clear the safety of our children and young people at school is paramount. The possession of weapons in schools is absolutely unacceptable, as are threats and violence towards pupils and staff.

I will respond to recommendation 12 first, on behalf of the government with the Cabinet Secretary for Justice's full support. That recommendation asked us to explore further legislative controls that can be brought to bear on the purchase of weapons online.

Presiding Officer, I can confirm that we are doing so. The Scottish Parliament has the ability and indeed has legislated to provide additional controls on the possession and sale of knives and offensive weapons.

It is already illegal in Scotland to possess a knife in a public place without reasonable excuse.

In March 2016 we increased the maximum penalties for offences of handling offensive weapons and knife possession from 4 to 5 years. Schools are included within the enforcement of these laws.

It is also illegal to sell knives or similar products with blades or points to anyone under 18, except the sale of knives for domestic use being permitted to those over 16.

A local authority licence is required to supply knives to the general public not for domestic purposes. This licensing scheme - which has no equivalent in England and Wales - aims to ensure that those who sell such knives do so responsibly. Anybody selling a knife to somebody below the minimum legal age risks a fine of up to £5,000.

However, we know that in the case of Bailey's death, and indeed, in the sale and purchase of many weapons these days, all those legal requirements and processes were circumvented through internet activity.

We can act to change the law in Scotland on the purchase of knives. But as the purchase and delivery of knives crosses the borders of all UK countries, it is clear that the impact of a change only in Scotland would be limited.

The most effective way to ensure more robust controls are in place would be through UK wide action.

Accordingly, the Cabinet Secretary for Justice has written to Sarah Newton

MP, the UK Government's Minister for Vulnerability, Safeguarding and Countering Extremism, to seek agreement to a UK-wide approach to address concerns about the online sale and delivery of knives.

I hope Parliament will agree with and support this approach and the Cabinet Secretary for Justice will update Parliament once a response is received.

Turning to recommendation 11, I want to reiterate that our approach to education places the health and wellbeing of children and young people at the heart of our curriculum. This begins with a whole-school ethos which emphasises the importance that positive relationships play in maintaining and building resilience, providing a protective environment, supporting vulnerability and addressing adversity.

It is worth noting that the OECD review of Scottish education published in December 2015 identified that "Scottish students are resilient" as one of its positive developments in terms of those performing in the top quarter of international achievement.

While our approach, backed by tough enforcement when necessary, is working, we must be prepared to do more.

In the rare instance that violence does occur we take these cases extremely seriously. The safety and wellbeing of everyone in our schools is our top priority and where concerns are identified, robust action will be taken.

I have sought stakeholders' views to inform our response to recommendation 11 and I can advise Parliament that I will include new guidance on violence and weapons in schools within our refreshed guidance on school exclusions. This will be published this Spring.

The new guidance will make clear that any incident must be monitored and recorded at a local level – indeed, Aberdeen has undertaken exemplary work to put such processes in place already. Monitoring and recording will enable local authorities to review, and improve, local policies.

This Government's approach to the issue of violence has been consistent: by investing in early intervention, we can deter and divert people from harmful behaviours and can encourage positive relationships founded on respect, tolerance and inclusion.

We have already invested significantly – and will continue to do so – in activity delivered in partnership with schools and a range of agencies and organisations. These will continue to be freely available to all schools.

Since 2007, we have invested over £10.5 million in activity to reduce violence among young people, including over £3 million for "No Knives, Better Lives", and over £7.6 million since 2008 in the National Violence Reduction Unit, including delivery of the Mentors in Violence Prevention Programme. This Programme seeks to give young people the skills and confidence to safely intervene and speak up to protect themselves and friends against violence and abuse.

We are now accelerating expansion of the MVP programme to reach an

additional 30,000 young people in another 93 secondary schools across Scotland by March 2018. A total of 108 schools across 18 Local authorities are currently engaging with the programme.

Recommendation 11 also asked the Scottish Government to give consideration to amending the law in relation to searching pupils. I want to assure Parliament that I have given very careful consideration to this point and listened to advice from key stakeholders, especially teachers and their representatives.

I can advise Parliament that I will not be taking this recommendation forward.

Schools and local authorities in Scotland already have robust processes in place to address concerns about violence and weapons. These take into account health and safety issues and are based on risk assessments which enable staff to deal appropriately with situations where a weapon is suspected.

In such circumstances, teachers may ask to carry out a consensual search. Changing the law would confer statutory powers on teachers, allowing them to compel a young person to be searched. Currently, outside of the prison system, this power is held only by the police. We would therefore be placing teachers on the same footing as police officers if we were to change the law.

This would radically change the teacher/pupil relationship – which is often fundamental to encouraging young people to change challenging behaviour – and, potentially, damage the school ethos and commitment to positive relationships that currently exists in Scottish schools. Given the recent debate on stop and search powers for Police Scotland in relation to children and young people, and the necessary safeguards that are now in place, it is important that we take that consistent position into our schools and communities.

We will continue with the current approach, while strengthening and clarifying the position in our refreshed guidance on school exclusions. The guidance will be clear that consensual searches can continue but if a teacher is uncertain or a young person will not co-operate by showing their belongings, then the Police must be called immediately.

Presiding Officer, I want to reassure Parliament that the Justice Secretary and I have given careful consideration to these two recommendations. We have sought advice and listened to a range of views and experiences. We have taken seriously our responsibility to provide an adequate and appropriate response on behalf of government to the changes recommended to us.

Most importantly of all, throughout our deliberations, we kept at the forefront of our minds, that a young man lost his life in one of our schools. We recognised it was incumbent upon us to respond in a way which not only minimised the risk of that happening again but also acknowledged all the circumstances which led to Bailey's death and the harm and hurt caused to his family.

Taking all of this into account, I believe the response I have set out to

recommendations 11 and 12 in the independent review is the correct one. It is a response that demonstrates this Government's – and I believe, this Parliament's – absolute commitment to ensuring the safety and wellbeing of all our children and young people in the schools of Scotland.

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