

# Restraint and Seclusion in Schools (Scotland) Bill

## Summary of submissions

### Introduction

The Education, Children and Young People Committee is the lead committee during Stage 1 consideration of the Restraint and Seclusion in Schools (Scotland) Bill.

It issued a call for views (CfV) on the Bill on 28 May 2025 and the CfV closed on 11 July 2025. The Committee asked the following questions:

1. Do you agree with the Bill's approach? Why?
2. Do you think this timescale for informing parents is reasonable?
3. Do you agree this information should be recorded, collated and reported to Parliament annually?
4. What do you think about maintaining a list of training providers on the use of restraint and seclusion in schools?
5. Any other comments?

The Committee received responses from 57 organisations and 68 individuals.

This paper summarises some of the key observations of respondents to the Committee. The purpose this paper is to assist members of the Committee and other MSPs to scrutinise the legislation. The focus is on highlighting the variety of views on the Bill and associated issues expressed in the responses to the CfV. SPICe has not undertaken a detailed quantitative analysis of the responses.

### Themes

Most responses followed the questions set out above. Nevertheless, a variety of issues were raised under all of the questions, particularly the first and last questions which were general in nature.

Respondents agreed that, if used, restraint should be used as a last resort and for the minimum of time. Some respondents suggested that restraint should not be used at all, others that it is a necessary, if regrettable and small, feature of the school system. Views on seclusion were also mixed – some considered it unlawful and others considered it as part of the tools of the school to support positive behaviours.

A key debate was around the need for statutory guidance at this stage. A number of respondents argued that the Bill is premature in light of Scottish Government guidance being published in November 2024. Others considered non-statutory guidance has provided insufficient protection for children's rights and that statutory guidance would mean greater consistency of best practice across Scotland.

Respondents that were in favour of the Bill and its approach were likely to highlight the use of restraint and/or seclusion in relation to children with complex additional needs or disabilities, or children with care experience.

There were a number of comments around the definitions of restraint and seclusion in the Bill. Another concern was that the Bill would create a different regime for schools and other children's services.

In relation to the timescales for informing parents/carers of any incident, views were mixed. Some respondents thought that the timescales were too short (or potentially too short in some circumstances), others too long, and others agreed with the proposal.

The reporting and publishing data on the use of restraint and seclusion was seen as an accountability measure. Some considered this as a positive way of reducing the use of restraint/seclusion and others were concerned that, without context, this could lead to undue pressure on local authorities or schools. Standardising the recording of incidents was seen as beneficial by many and there were suggestions of what data should be recorded.

Some respondents saw the listing of approved training providers as a positive step to improve practice. Others expressed concern that the statutory guidance may create a mandatory element to training. Some local authorities questioned how the Government producing a list of approved training providers would impact on their procurement processes or internal training practices. Some respondents commented on what training should cover, such as preventative and de-escalation techniques. Some respondents expressed concerns that training in restraint and seclusion may inadvertently increase the use of such techniques.

## **The issue that is being addressed**

The Scottish Commission for People with Learning Disabilities reported that:

"We strongly support the policy intention of the Bill to ensure that restraint and seclusion are used in schools only as a last resort.

"We are aware of many testimonies from people with learning disabilities and their parents and carers which describe the trauma, distress and injury that the use of restraint and seclusion in schools can cause. Furthermore, we are concerned that children and young people with learning disabilities may be a group who are disproportionately at risk of restraint and seclusion, potentially involving multiple breaches of their human rights."

Responses from individual parents reported similar concerns. For example, one said:

"My son, only 5 years old and eager to start school, was restrained almost daily by various staff, including leadership, at a mainstream Edinburgh Council school, instead of receiving nurturing care. Now 8, he is still recovering from the trauma and has been unable to attend school since."

Another said:

"My experience is as a parent of teenager. She is autistic, dyspraxic, dyslexic, struggles with everything, but wants to succeed academically so is determined to go to mainstream high school. Seclusion has been used with her several times. Each time I have been informed by my child promptly and with full detail of the circumstances. I have also been informed by the school - not that seclusion was used, but that my child had behaved badly. ... My child does not

require seclusion at home or in any other of the many groups and activities they take part in. The school setting is the only place, because it is the only place where my child feels unsafe. This is mainly due to lack of training on part of staff who can escalate situations by use of sarcasm and casual verbal micro aggressions.”

The Challenging Behaviour Foundation reported that across the UK, “restraint was not always a last resort and that some pupils with SEND have long-lasting trauma due to their experiences of restraint and/or seclusion in schools.” Enable’s submission said:

“Far too often children, especially those with learning disabilities or other additional support needs, have been subjected to physical restraint or isolation as a routine response to challenging situations. These practices are distressingly common, yet until now there has been no statutory guidance, inconsistent training, and no requirement even to tell families when such incidents occur.”

An individual told the Committee:

“I am somebody who has learning disabilities. I have had restraining practices happen to me at school. I was forced to eat my lunch. I had people making sure I was in my seat and people leering over me. It made me feel very angry and fearful of my situation. I do not want any other children to feel the way I felt.”

The National Autistic Society Scotland said, “Autistic children and young people may respond with behaviour that is perceived as challenging when they are confronted with situations or environments that they cannot easily cope with”. The LD CAMHS Network Scotland said—

“Many of the children and young people we work with show distressed and dysregulated behaviours at home, in school, or in multiple environments. School can represent a particularly complex social and sensory environment that can be challenging for children/ young people with intellectual disability and some children/young people do feel overwhelmed and distressed, and may show this through dysregulated behaviour. Responding to these distressed behaviours in school can present a significant challenge to education staff and we are aware, through our clinical involvement, that this can be associated with the use of restrictive practices such as restraint and seclusion. Children and young people with intellectual disability may be particularly vulnerable in these situations as they may not be able to understand what has happened to them, or to communicate with other people about their experiences.

“As such, we very much welcome the proposed Bill and hope that this will go some way to safeguard children and young people, as well as providing clarity for young people, their caregivers and for school staff about the appropriate implementation and reporting of such strategies.”

Clackmannanshire Council’s submission said that it agreed that “restraint should only ever be used as a last resort, where there is no other means to prevent harm” and that it supported trauma-informed practice and de-escalation training and positive behaviour approaches. The Association of Educational Psychologists said—

“We believe as educational psychologists that all use of restraint must be clearly regulated, carefully monitored, and subject to scrutiny, with the ultimate aim of further reducing its use over time. It is therefore vital that its use is strictly limited, monitored, and reviewed.”

Dr Brodie Paterson said:

“We have seen multiple instances of fatalities associated with the use of restraint in schools in other countries and repeated instances of physical injury to children during restraint in Scotland. At the present time there is nothing to stop anyone from any background with any or no qualifications providing training in how to restrain what are often medically vulnerable children. This is an obviously unsatisfactory and manifestly unsafe situation.”

EIS reported that teachers and school staff are “struggling to respond to an array of increasingly complex needs [and] increased levels of violence and aggression, much of which has emerged because insufficient levels of staffing and other resources have meant that the additional needs of children and young people are not being met”.

An individual teachers who responded to the Committee said that she supports “the aim to reduce seclusion and restraint in schools”, but that in the specialist ASN sector, “restraint and seclusion are used sparingly but are essential in keeping pupils and staff safe, particularly in the secondary sector where very distressed pupils pose a very serious physical threat to themselves and others as their developmental stage is often at odds with their physicality.”

A number of individual teachers and others responding to the consultation referred to an increase in the level of disruptive behaviours that they face. One said:

“I work in a Complex Needs Provision where a number of children have physical behaviour and I'm personally injured most days at work as are many of my colleagues but restraint is still only used as a last resort or in cases of emergency. There isn't the funding for all staff to receive this training. My own child also has complex needs and can be an extreme danger to himself and others. If the need for restraint is appropriate to the situation I have no issue with it being used and reported, however this must only be carried out by trained and accredited staff. Staff do not want to be in a situation where restraint is used but sometimes it's necessary to keep the child, staff and other children safe for extreme harm.”

Unison noted that the scope of the issue is wider than pupils with an identified ASN. It suggested that “fifteen years of austerity cuts, growing socio-economic inequality and the associated childhood adversities are key factors in rising levels of aggression and violent behaviours within the general school population.”

Coalition for Racial Equality and Rights noted that a primary concern behind the Bill is to provide additional protections for children with additional support needs; CRER said, “there may be specific race equality concerns requiring consideration - both intersectionally and in their own right”. It referenced research by the Mental Welfare Commission that found that “more people who were Black or of mixed or multiple ethnicity were perceived as a greater risk to themselves and others, whereas all categories of white people were more often perceived as a risk to themselves”. CRER argued that “this racialised perception of risk/threat is highly relevant to restraint within schools”. A joint submission from a number of Autistic disabled people's organisations said:

“Neurodivergent children (with or without a learning disability or other co-occurring disabilities) are one of the most at risk groups from have their rights breached, including being subjected to restraint and seclusion and approaches that inappropriately focus on neuronormative and the dominant culture behavioural goals, rather than wellbeing. This risk increases for neurodivergent

people with intersectionalities, in particular for those who are from racialised groups in the presence of inherent covert and overt racialised bias. An example of this is the adultification of Black children and young people where they are subjected to judgements not appropriate to their age as well as ‘anger bias’”

## **Timing**

The EHRC submission provided background on its and the CYPSCS’ engagement with the Scottish Government in 2019. EHRC reported that, at that time, those organisations argued that “without new guidance [the Scottish Government] was in breach of its human rights obligations to children.” The Scottish Government agreed that it would “produce human rights-based guidance on restraint and seclusion and review the effectiveness of that guidance ... consider statutory action should the guidance prove to be ineffective” and “develop and introduce a standard dataset to be implemented across Scotland to ensure consistent recording and monitoring of incidents”. The EHRC said:

“It was expected that guidance would be developed and published by 2020, with a review taking place a year after its introduction to test its effectiveness and to consider whether it should be placed on a statutory footing. Delayed by the pandemic, this was published in November 2024.”

NASUWT’s submission included a briefing on the development of , “Included, engaged and involved part 3: A relationships and rights-based approach to physical intervention in schools” (IEI3), which it described as being “completely unfit for purpose”. NASUWT was a member of the Physical Intervention Working Group, which was tasked with developing the current guidance. It reported that “consensus agreement [within the working group] to proceed to publication via the working group was not reached”.

A number of local authorities noted that the Government had intended to review IEI3 after a year. The current guidance was published in November 2024 and COSLA’s submission indicated that a review is expected to take place from November 2025. Falkirk Council’s submission said, “There has been very little time to embed IEI Part 3 and that more time should be given for this to be embedded rather than make this statutory at this time.”

AHDS described the aim of creating statutory guidance and adding further requirement at this stage as “premature”.

## **Statutory guidance**

Highland Council’s submission said that it would welcome clear guidance. Stirling Council said that the current guidance, IEI3, is “detailed and useful and covers many of the areas outlined in the [Bill’s] proposal”. Children in Scotland support the Bill and also reported that “parents, carers, and professionals have found [IEI3] helpful in navigating challenges relating to the use of restraint and seclusion in schools”.

EIS argued against putting guidance on a statutory basis. It suggested that doing so could undermine efforts to create cultures of openness and partnership between schools and pupils and their families. It said:

“Reports from our members strongly suggest that teachers and school staff are already afraid or reluctant to intervene in some situations, for fear of potential legal or disciplinary consequences, particularly if the escalation of the incident was sudden and unexpected with no apparent trigger. Incidents of this nature can escalate quickly, are emotionally charged and traumatic for all involved.

However, failure to act could also leave the teacher or member of staff in a precarious position. If the Bill is enacted, then a culture of fear and anxiety will inevitably become entrenched and lead to defensive practice which will do nothing to deliver meaningful outcomes for children and young people or to foster the positive relationships between teachers, school staff, pupils and their families, central to GIRFEC policy and an Empowered School system.”

A number of submissions supported the introduction of statutory guidance to provide for more consistency and best practice. The Scottish Commission for People with Learning Disabilities said:

“The current non-statutory guidance has proved an inadequate framework for regulating and reducing the use restraint and seclusion in schools. We believe that introducing guidance on a statutory footing can strengthen implementation and provide greater levels of accountability and more effective scrutiny.”

The Centre for Mental Health Practice, Policy and Law Research, Edinburgh Napier University noted that statutory guidance had been explicitly called for by the UN Committee on the Rights of the Child in 2023. It continued:

“Even if the current guidance were adequate in terms of its drafting, statutory guidance is preferable to non-statutory guidance. Statutory guidance creates a clear set of expectations in law that guidance will be taken fully into account, with potential redress through legal action or inspection if it is not. Non-statutory guidance does not have the same weight – as is evidenced by the failure of local authorities to date properly to monitor and record the use of restraint and seclusion.”

In Control Scotland argued that duty to have regard to statutory guidance is too weak and there should be a clearer duty to comply with such guidance.

## **Content or coverage of the guidance**

The EHRC highlighted the Human Rights Framework for restraint and it suggested that any guidance should use this framework as a starting point and the Bill should more fully reflect this. EHRC explained that its framework:

- defines key terms
- sets out circumstances in which restraint is not lawful
- explains the need for use of restraint to be grounded in a legal framework with an authorising power
- identifies principles which will underpin lawful restraint
- lists key procedural safeguards
- notes the risk of disproportionate use of restraint against certain groups, which may amount to discrimination
- highlights the need for support, such as independent advocacy, to ensure that rights are effective

Aberlour also said that the guidance should “include legal justifications for restraint or seclusion - it could then give examples of scenarios that would or would not meet this”.

The National Autistic Society Scotland also made suggestions for the content of any future guidance. It suggested that the guidance include:

- A focus on avoidance, as opposed to minimisation or 'safe' use
- Provide clear definitions
- Be written in formats accessible for teachers, autistic pupils, and their parents
- Include a description of 'autism', the autistic experience in the classroom and information on sensory and communication needs.

As noted above, NASUWT is critical of the current guidance. It suggested that the current guidance should be improved in a number of ways, including:

- clear and agreed definitions of seclusion and restraint/physical intervention;
- take into account the duty of care to all in the school community by ensuring rights are not viewed exclusively through the lens of the child who may be the subject of an intervention;
- be considered through an intersectional equality lens, taking, for example, appropriate cognisance of the impact of gender-based violence and racism;
- be supported by access to training and investment in sufficient resources for local authorities, schools, headteachers and teachers.

Some respondents would prefer the Bill to be more explicit in an aim to reduce the use of restraint and seclusion. CLAN Childlaw said the Bill represents an improvement but that more needs to be done, for example "there needs to be a focus in the Bill on reduction of the use of restraint and seclusion, and the Bill requires to prioritise prevention measures and training."

CRER reported that "Members of the Racism and Racist Incidents Subgroup of Scottish Government's Anti-Racism in Education Programme have raised concerns that some young people from adversely racialised backgrounds may find contact with Campus police distressing". It asked how the Bill "can address restraint and seclusion within schools where the responsible authority is not the school or education authority, but police or other relevant agencies."

## **A rights-based lens**

The Centre for Mental Health Practice, Policy and Law Research, Edinburgh Napier University said:

"The law, and its implementation and practices of public bodies in Scotland, including state and independent educational establishments, must respect and give effect to the rights of children of all ages. These rights are identified in the European Convention on Human Rights (ECHR) and UN Convention of the Child (CRC), which rights are legally enforceable in Scotland. They are also identified in the UN Convention on the Rights of Persons with Disabilities (CRPD) which rights are not yet legally enforceable in Scotland but are influential and should be read into ECHR and CRC rights interpretation insofar as it is possible. The CRPD applies to children with physical and mental

disabilities (including mental illness, learning disability, neurodiversity, brain injury and other related conditions)."

A key aspect of rights-based approaches is access to redress. Children in Scotland's submission said—

"We remain concerned about the potential overcomplication of routes to redress in cases of children and young people being subjected to improper or overuse of restraint and seclusion. ... We understand that most children and young people subjected to restraint and seclusion in school have additional support needs as defined in the Education (Additional Support for Learning) (Scotland) Act 2004. It has also been recognised that restraint and seclusion in schools is a human rights issue, with routes for redress via the UNCRC (Incorporation) (Scotland) Act 2024 and the Equality Act 2010. This would mean that most children, young people, and families looking to raise concerns relating to restraint and seclusion could use several routes for redress.

"To prevent this Bill from further complicating a system which we know can be challenging to navigate, it is important that routes for redress are made clear and accessible in updated guidance."

Connect said that its research has shown that "effective parent-school relationships and clarity around parents and children's rights is vital to building trust and respect". Connect said that schools should seek the consent of parents/carer and children on decisions to utilise restraint or seclusion. At a policy-development level, Aberlour said:

"We would advocate strongly that children, young people and families' voices are heard throughout the Bill's journey through parliament and is evidenced in any agreed statutory guidance. We have heard from our children, young people and families the toll it takes on them when their lived experience is not properly considered and we need to ensure that any guidance is made in conjunction with the families with children and young people who are the most vulnerable and oftentimes are more likely to face restraint and seclusion such as care-experienced and disabled children and young people."

One of NASUWT's criticisms of the current guidance on restraint was that it views rights "exclusively through the lens of the child who may be the subject of an intervention" rather than also "taking into account the legitimate interests of other rights holders (i.e. other students and staff)".

## **Wider change**

Enable's submission said that "the success of this legislation will be measured by a change in culture: a shift to truly inclusive, safe learning environments". CALM Training and Consultancy said argued that the policy focus should be on "culture change, not just compliance" with an emphasis on leadership and support. It said:

"We must approach restraint and seclusion not as isolated practices but as part of a wider ecosystem of support, culture, and care. For this reason, we advocate strongly for a whole-organisational approach that supports prevention, response, and recovery; before, during, and after an incident, aligned with the public health model of reducing distress."

CELCIS' submission said:

"We urge the Scottish Parliament to view this draft legislation, and the process around the passage of this Bill, not as an endpoint, but as a foundation for



deeper systemic change. Any new legislation should be accompanied by a national strategy to reduce restraint and seclusion, with clear targets and investment in inclusive education. Restraint should only ever be used as a last resort, even then, it must be carried out relationally and with care. It should only occur when there is a risk of serious, imminent harm to the child or others, and when all other de-escalation strategies have failed or there is not time to attempt these.”

A number of submissions also suggested that the workforce must also be supported. For example, the Promise said, “in order to reduce restraint, Scotland must ensure that the workforce is nurtured and supported, recognising that children may exhibit challenging behaviours that may at times make them feel scared”. Unison’s submission stated:

“[There is a] lack of support and understanding for workers who have to make difficult choices around whether or not to implement restraints, who are then subject to allegations and complaints, and as a result of appropriate support and a transparently fair process, may feel let down by their employers, with the result that colleagues may be hesitant to apply restraint techniques, which may place them and service users at risk.”

EIS expressed concerns that references to increased uses of complaints procedures in the Bill’s accompanying documents indicates a move to a more adversarial approach.

## **Resources**

AHDS said, “if a school is inadequately resourced or if a pupil is placed in an inappropriate setting, sadly, there is an increased likelihood that restraint or seclusion will be employed.” The LD CAMHS Network Scotland said, “the use of restraint and seclusion is often indicative of a mismatch/discrepancy between the level of demand and the level of resource, both in terms of physical environment and skilled staffing within the school to meet these needs.”

EIS said that resourcing is the “major barrier to implementation of effective practice in this area”. It continued:

“Guidance alone will not deliver the changes needed to realise the policy ambition of preventing or minimising the use of restraint and seclusion in schools. The Scottish Government must commit to the allocation of sufficient staffing, time and resources to support the implementation of early intervention measures and restorative practice, to allow for effective multi-agency and parental cooperation, to facilitate professional learning and collaboration and to ensure sufficient time is available for teachers, families and other professionals to build the meaningful relationships, which will be key to successful implementation of this approach. Given the importance of de-escalation and early intervention strategies, in the context of increasing volume and complexity of need in children and young people and against a backdrop of rising incidents of violence and aggressive behaviour in schools, additional investment is needed as a matter of urgency.”

The Heads’ Conference said that the Bill’s measures would put “additional administrative burdens on schools, particularly smaller institutions that may not have dedicated resources for such reporting and compliance measures”.

## Definitions

EHRC said that the definitions should reflect that restraint should only be used only be used: when necessary; and proportionately, with no more force, and for no longer than is required by the circumstances. Positive & Active Behaviour Support Scotland said that clear definitions are essential. It said:

“Our work with families has revealed a pattern of euphemistic terminology used by education staff that distorts the reality of these interventions. Terms like ‘support,’ ‘caring cuddle,’ ‘quiet room,’ or ‘calming space’ are frequently used to describe acts that may involve physical force, isolation or solitary confinement. This kind of fluffy language sanitises practices that can be deeply distressing and traumatic, falsely implying that they are therapeutic or child-friendly.”

In the context of what should be reported by schools, some local authorities wanted to see clarity on what would need to be reported. For example, Highland Council asked “Where is the dividing line between a child being taken by the hand and guided to an area and a physical restraint?” South Lanarkshire Council said that its local reporting processes include, “includes incidents such as breaking up fights where a staff member has intervened” and that there should be clarity over whether the Bill intends to cover such incidents.

AHDS suggested that the definitions are drawn too broadly and “risks interpretations which would create unsustainable bureaucratic demands and appear to cut across wholly normal and non-contentious techniques used to respond to specific incidents and help to support children to learn and grow as part of their school experience”. It said:

“The definition set out in the draft Bill is so expansive such that it would include situations which need not be reported to parents (as it is common in schools to take a child to another part of the school to manage behaviour or reflect on a situation – this would be considered to be seclusion under the current definition and would frequently be wholly unnecessary to report to parents.)”

Unison also said that the Bill’s definitions are broad, highlighting that the definitions rely on the intent of the members of staff to, in the case of the definition of restraint, restrain the movement of the pupil. An individual expressed concern that “the simple act of ‘guiding and turning’ a young person to avert them from a life threatening situation would be considered restraint and staff may feel guilty or demonised for using restraint in the act of keeping the young person safe.”

Some organisations also suggested that the Bill’s definition of a child should mirror the UNCRC, rather than the Education (Scotland) Act 1980.

The Challenging Behaviour Foundation recommended that “mechanical restraint and chemical restraint are specifically included as additional definitions” in the Bill.

## Coherence across children’s services

The Care Inspectorate suggested that there is a need for “greater alignment between practice expectations for education settings and care settings”. It highlighted that currently different sectors use different pieces of guidance, standards and reporting expectations. SSSC also said that any guidance covering schools should “reflect the current arrangements in place for care services”. The Promise Scotland agreed, it said:

“All settings where children spend time must be subject to the same definitions, statutory guidance, and reporting requirements, not just education. The implementation of this Bill must therefore align with a broader piece of work to develop a statutory framework around restraint in all settings for children and young people. There must be work to establish a clear and universal definition of ‘restraint’ and ‘seclusion’ and centralised mechanisms for training, monitoring and recording so that the promise can be kept.”

South Lanarkshire Council questioned why the focus of the Bill is only on schools and does not include other settings, such as residential care, secure care, justice and mental health settings. ADES suggested that any statutory guidance should apply across “all settings where children and young people could potentially experience restraint”.

The Children and Young People's Commissioner Scotland expressed disappointment that the Scottish Government has not used opportunities to create a consistent legal framework covering restraint and seclusion in all settings, for example through the current Children (Care, Care Experience and Services Planning) (Scotland) Bill.

### **Informing Parents/Carers and debriefs**

Respondents agreed that schools should inform parents/carers of any incident. There was some disagreement over the timescales proposed which in the Bill is as soon as possible, but no later than 24 hours after the incident.

Some agreed with this approach (e.g. CALM Training and Consultancy, Connect). Others considered the timescale to be too short and others considered 24 hours as challenging in certain circumstances.

Govan Law Centre said—

“We believe that schools should be aiming to inform parents on the same day as the incident, but that limiting that timescale to a maximum of 24 hours ensures that information is relayed in a timely manner.”

A number of respondents drew a comparison with an incident where a child is injured when, they suggested, parents/carers would be informed on the same day. The Centre for Mental Health Practice, Policy and Law Research, Edinburgh Napier University said:

“We believe the timescale should be tightened. 24 hours is an unreasonably long time, and would mean a traumatised child may have returned home and been sent back to the place where they were traumatised without the parents having any knowledge of what has happened.”

The LD CAMHS Network Scotland argued that parents/carers should be informed the same day and “preferably prior to the child returning home”. It continued:

“There is also significant potential for young people to sustain injury (including the possibility of undetected injury) when restrained or secluded in a heightened state of distress; therefore, caregivers require this information at the earliest possible opportunity in order to appropriately monitor the young person’s health and wellbeing.”

Positive & Active Behaviour Support Scotland said the “24-hour reporting window [is] inadequate”. It said:

“A 24-hour window allows time for staff narratives to be constructed, while children may be sent home with visible injuries and no explanation. This risks eroding parental trust, delaying medical or emotional support, and perpetuating a culture of secrecy and avoidance.”

Some respondents said that there may be rare occasions when reporting incidents to parents/carers could create a risk of harm to the pupil (e.g. NASUWT and the Promise). Where this is a concern, NASUWT suggested that the timescale of 24 hours may be challenging to meet.

Unison suggested that there might be practical barriers to meeting the proposed deadlines, for example if the staff directly involved (e.g. classroom assistants or transport escorts) do not have access to IT equipment or are given time to complete a report. AHDS said that there is a risk of inadvertent breaches in the proposed timescales should an incident occur “the end of the school week or school term” It also said that the incident would need to be investigated before being reported to parents/carers:

“Incidents need to be investigated so that school leaders fully understand events before relating them to parents – these issues are often complex and multi-faceted. Instead, a more reasonable timescale would be ‘as soon as possible after investigation, normally by the end of the next working day’”

East Dunbartonshire Council’s submission drew a distinction between the timescale for reporting any incident to parents/carers and completing any relevant reporting or reflective documentation. The latter, it argued, could be completed over a longer timescale. ADES said:

“The timescale for informing parents is reasonable and in line with the approaches adopted in the majority of Local Authorities. ADES would suggest any statutory guidance ensures same day contact with parents regarding an incident even if actual investigation or recording can’t happen on the same day. A robust approach is required to ensure effective management of any follow up actions.”

Govan Law Centre disagreed. It said:

“We consider that the full incident report should be required to be completed within the same timescale and that the full incident report should be made available to parents. ... Requiring the full incident report to be made available to parents ensures that the schools are adopting a transparent approach when informing parents about the use of restraint or seclusion. It prevents parents having to complete Subject Access Requests for the provision of such information. We have seen, in a recent case, a Subject Access Request for the provision of such information being outstanding for more than 2 years.”

The Scottish Commission for People with Learning Disabilities suggested that prompt communication with parents/carers would build trust and allow them to be part of any post-incident follow-up to help prevent future incidents. It also said—

“We believe that it is important this duty does not perpetuate a blame culture. The purpose should be to ensure parents are fully informed, to help to foster positive relationships between parents and schools as well as to enable parents to raise concerns about any inappropriate and/or harmful practices and seek redress where necessary.”

Unison’s submission highlighted the importance of post-incident processes. It said:

“We believe that statutory guidance is required not only for reporting and recording, but also for debriefing and post-incident welfare, as these areas remain patchy and inconsistently supported. It is vital that appropriate support is available to staff after a restraint incident. Debriefing is sometimes not enough.”

The level of information that ought to be disclosed to parents/carers was discussed in submissions. NASUWT argued that a member of the senior leadership team should contact the parent/carer. It reported that there have been incidences where “members of staff have used restraint or force reasonably and lawfully, yet found themselves subject to reprisals from parents”. NASUWT said that details of the member of staff who used restraint should not be disclosed. In contrast, Scottish Autism said—

“Parents should be advised of what has occurred; which staff members were involved; how long their child was restrained or secluded for and in what manner; whether any injuries were observed; and what steps were taken afterwards, and will be taken in future, to prevent further escalations.”

## **Recording and reporting incidents**

The Bill would require education providers to record all incidents of restraint or seclusion. It also provides that Scottish Ministers annually report on this data.

EHRC supported the provisions in the Bill. It said:

“The reason for recording, analysing and monitoring data is to better understand what is happening at school, education authority and national level, in order to identify opportunities to improve practice and support for children and young people and for staff.”

Enable said:

“MSPs and the public will be able to see year-on-year how many incidents are happening, in what contexts, and whether the numbers are going down (as they should, if guidance and training are effective). This creates a powerful incentive for local authorities and schools to actively reduce the use of these practices. No one will want to be identified as an outlier with unusually high numbers. It also enables identification of trends or areas needing support. For example, if one type of setting or region has higher incidents, the government can investigate why and support schools to address it.”

Midlothian Education Service welcomed the proposals saying, “consistency in recording and reporting would allow for greater collaboration and learning across local authorities”. Glasgow City Council also welcomed the Bill’s proposals, saying that “it will ensure compliance across all local authorities”. CALM Training and Consultancy said—

“We also strongly support the Bill’s commitment to audit and oversight. As echoed in both domestic reports and international human rights recommendations, we cannot reduce what we do not record. Meaningful change begins with robust data, clarity of responsibility, and independent scrutiny.”

Some respondents, including some local authorities were concerned that the publication of national data would create ‘league tables’ without this data being contextualised. Aberdeen City Council said that the “additional layer of accountability ... is unlikely to improve outcomes locally” and it would prefer reporting to be to local

committee structures. South Lanarkshire Council said, “the figures in isolation suggest that physical intervention is always a negative when it may be the only option to prevent injury to other pupils or to avoid police intervention”.

Children and Young People’s Centre for Justice warned that “the recording of the number of incidents without detailed and context specific analysis could prove meaningless at best and at worst give a skewed perception of the experiences of children, young people, and the workforce.” It suggested that qualitative data would be required to “provide a more comprehensive picture of how restraint and seclusion is being used and its impact”.

A number of submissions highlighted an investigation by the EHRC in England and Wales on the data collected on restraint and seclusion. The EHRC made recommendations as to the what schools should record. These included:

- the type of restraint
- the reason(s) for the use of restraint
- where and when the restraint was used
- the length of the restraint
- the impact on the child, including any injuries, and any risks to their physical or mental wellbeing
- the protected characteristics of the child (including age, sex, disability – broken down by impairment type – and race)
- the outcome of any incident review, including any measures that will be taken to avoid or minimise restraint and the risk of harm in future
- the pupil’s involvement in the review, and
- when the parents were informed.

National Autistic Society Scotland called for “data on incidents that were deemed unnecessary (and outside of statutory guidance) ... so there is a clear picture of how effectively guidance is being implemented”.

ADES said that it would welcome “minimum reporting expectations that are made explicit in any future guidance to ensure reporting mechanisms does not increase staff workload”. ADES suggested the following approach for reporting nationally:

“ADES would like to suggest that any data to be collected by an independent regulatory body which has oversight of all data collated about children and young people’s experiences of physical interventions. This would enable follow up visits to schools and local authorities, ensure consistency of approach within and across education and other settings, and allow the data to be analysed in order to support and challenge practice.”

Regulated care services report incidences of restraint, seclusion or restrictive practice to the Care Inspectorate. In its submission the Care Inspectorate agreed that “information should be recorded, collated and reported externally”, and it continued:

“From our experience with the care sector, our recommendation would be that this is done on an ongoing basis (rather than annually), to an external body with an appropriate level of expertise to maintain robust oversight. ... Currently the expectation for regulated care services in Scotland is that any instance of physical restraint, seclusion, or restrictive practice ... be reported to us by care service providers through our ‘eForms system’ within 24 hours. ...

“Where we have concerns, we can follow up on this accordingly, for example by a telephone call to the manager, an inspection visit to the service, or by proceeding with enforcement.”

The Care Inspectorate noted that it currently has a short-term agreement to pass on concerns in relation to education settings to Education Scotland.

The Association of Educational Psychologists suggested that there should be thresholds that would trigger reviews at different levels: internally at the school; by the local authority; or by the inspectorate.

The Bill proposes that independent schools report incidences if restraint or seclusion to the local authority in which they are situated. A number of organisations, particularly local authorities, questioned whether this is appropriate (e.g. Falkirk Council). SCIS said—

“Most SCIS member schools have children within them from several different local authorities and are registered as independent with the Registrar of Independent Schools or with the Government as Grant-Aided Special Schools. It therefore it is not the most appropriate model for SCIS schools to be reporting into individual local authorities, which have no jurisdiction with regards to those schools (except in the case of some partner provider nurseries). ... [We] suggest that instead of reporting to a local authority, it might be more appropriate to widen the remit of the Care Inspectorate or to make this a function of the newly independent HMIE.”

The Donaldson Trust also suggested that Grant Aided Special Schools should report directly rather than via the local authority.

## **Training**

CALM Training and Consultancy agreed with proposals for the Scottish Government to maintain a list of training providers. It said:

A publicly available list of accredited training providers ensures that schools have access to high-quality, evidence-based, and ethical training. It helps education providers choose training courses that align with the values of safety, dignity, and respect for children’s rights, while also offering a transparent and accountable system of professional development.

The Restraint Reduction Network noted that its training standards provide a quality assurance function. It argued that—

“The proposal should be amended as there needs to be caution about standardising training as it is not a one size fits all. It is important training is proportional to the needs of the school. Certified training requires a training needs analysis (TNA) to ensure this is the case.”

The Restraint Reduction Network suggested that while some elements of training should be taken up by all schools, such as training on learning disability & autism and prevention, de-escalation & rights, training in restrictive practices such as physical

restraint should be for “teachers and schools that really need it”. NASUWT supported a “standardised training programme”. It said it is important to ensure that practitioners understand “when the use of force is reasonable” and to include de-escalation techniques. It argued that any training should be voluntary.

SCIS said:

“In SCIS residential schools there is a high level of training from approved providers. Only staff fully trained in using those techniques taught are permitted to ‘hold’ children safely. It is the position of SCIS that this should be the case in primary and secondary schools in Scottish education with a list of approved trainers such as CALM available, and mandatory, for identified staff in schools.”

Unison suggested that classroom assistants and ELC staff should receive appropriate training. It said:

“It is school support staff and early years workers who are most in contact with and who primarily hold the relationship with children presenting or with the potential to present with dysregulated and complex challenging behaviours. The Government’s 2023 Behaviour in Schools report confirmed this. These are also the staff with the lowest pay and status and least access to training and support. Yet these are the staff who are held directly accountable.”

Some local authorities questioned how the proposals might impact on their own procurement processes. They also noted that some local authorities use a ‘train the trainer’ approach and questioned how the proposals might affect this approach. (e.g. Falkirk Council). COSLA’s submission said, “this provision appears to potentially remove the ability of schools and education authorities to determine which training providers they use and potentially prevent in house training”.

Some expressed concern that increased training may lead to increased use of restraint. For example, Barnardos said:

“Our primary concern with providing full restraint training for the wider staff population is that this could potentially contribute to an increased use of restraint and make it more complex to monitor and report on incidents.”

## **Seclusion**

Children and Young People’s Centre for Justice said that seclusion requires a greater level of scrutiny. It said:

“If a child is removed and isolated, the rationale, duration, supports in place and impact must all be clearly understood and recorded. We know from the secure care and residential care sectors that seclusion is treated as a significant restriction of liberty and used only under strict conditions and with oversight. The lack of any similar statutory parameters in education raises a significant gap. We would urge that the Bill or its accompanying guidance explicitly define seclusion, its risks, and the conditions under which it is never acceptable.”

The Challenging Behaviour Foundation also called on the Bill to be amended, as in its view, “seclusion should never be used in schools unless there are exceptional circumstances such as a threat to life.” CLAN Childlaw was also particularly concerned with seclusion. It said:

“A deprivation of liberty can occur where a person is confined to a place that they cannot leave. The definition of seclusion in both the Bill and the Guidance specifically includes the condition that the child must not be able to leave the



place that they have been isolated in. There is no legal process for authorising a deprivation of liberty within the school context. This means that every time a school chooses to place a child in isolation (in whatever form that takes) they risk depriving a child or young person of their liberty, in a manner not prescribed by law – thus breaching the child’s fundamental human rights. Despite the serious nature of the decision making there are no external safeguards or protections suggested by the Bill or in the current guidance that would ensure procedural fairness in the decision making around this issue.”

The question of clear definitions was again highlighted in respect of seclusion. The LD CAMHS Network for Scotland said:

“There will be young people for whom planned low arousal time is a proactive strategy for managing their arousal level. Some young people may require this to be in a room by themselves. This may have similarities to seclusion but is different in its use, which is planned and time-limited. This would be incorporated into the young person’s timetable where there is a recognised need for that individual, such as to reduce sensory stimulation or give structured breaks from adult demands in an otherwise structured timetable. We would be apprehensive that schools may feel unable to continue the use of this as a proactive strategy, unless this can be clearly defined and distinguished in some way within the bill. This could have the unintended consequence of increasing distress for young people who currently benefit from this.”

**Ned Sharratt, SPICe**

**Date: 09/09/2025**

Note: Committee briefing papers are provided by SPICe for the use of Scottish Parliament committees and clerking staff. They provide focused information or respond to specific questions or areas of interest to committees and are not intended to offer comprehensive coverage of a subject area.

The Scottish Parliament, Edinburgh, EH99 1SP [www.parliament.scot](http://www.parliament.scot)