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Education, Children and Young People Committee

Restraint and Seclusion in Schools (Scotland) Bill - Stage 1 Report



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Education, Children and Young People Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Education and Skills and matters relating to the Historical Abuse Inquiry, redress and languages falling within the responsibility of the Deputy First Minister.



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Membership changes

1. The following changes to the Committee's membership occurred during the Committee's scrutiny:
 - On 10 December 2025, Paul O’Kane MSP replaced Pam Duncan-Glancy MSP as a member of the Committee.

Introduction

Overview of scrutiny and purpose of the Bill

2. The Restraint and Seclusion in Schools (Scotland) Bill ¹ was introduced in the Scottish Parliament on the 17 March 2025 by Daniel Johnson MSP, the Member in Charge. The Bill was accompanied by a Policy Memorandum ², Explanatory Notes ³, Financial Memorandum ⁴, and a Delegated Powers Memorandum ⁵. The Non-Government Bills Unit (NGBU) also produced an Equality Impact Assessment ⁶. The Bill was referred to the Education, Children and Young People Committee as lead committee on 26 March 2025 ⁷. Both the Finance and Public Administration Committee (in relation to the Financial Memorandum) and the Delegated Powers and Law Reform Committee considered aspects of the Bill and their views are detailed later in this report.
3. The Bill aims to minimise the use of restraint and seclusion of children and young people in schools and creates statutory guidance and duties in relation to its use in schools. The policy intention is to ensure that appropriate techniques of restraint and seclusion are used in schools only as a last resort.
4. The Bill defines restraint and seclusion and will create the following duties—
 - on Scottish Ministers to issue guidance on the use of restraint and seclusion in schools;
 - on schools to inform parents/carers if their child is subject to restraint or seclusion as soon as possible (no later than 24 hours after the occurrence of the incident);
 - to record and report on the use of restraint and seclusion in schools; and
 - on Scottish Ministers to maintain a list of approved training providers on the use of restraint and seclusion in schools.
5. As set out in the Policy Memorandum, the Member in Charge strongly believes that parents, carers and guardians must be informed of any incidents of seclusion or restraint as soon as possible and highlighted the substantial evidence of cases where parents, carers and guardians were not informed about their child's restraint or seclusion. The Policy Memorandum stated ⁸ —
 - ” The Member believes that existing resolution processes are not functioning as effectively, or being used as frequently as they should, partly because parents are often not informed of incidents of seclusion and restraint. The lack of information on such incidents, combined with a system that can be very challenging to navigate, results in a disproportionately small number of issues being pursued by parents at school, education authority level, or through formal processes with the tribunal or the SPSO compared to the scale of the issue.
6. The Bill contains the following 8 sections—

- Section 1 of the Bill defines “restraint” and “seclusion” establishing, in broad terms, the activities that are being regulated under this Bill. The definitions refer to things done by a member of staff “with the intention of” restraining or secluding a child or young person.
 - Section 2 requires Scottish Ministers to issue guidance to education providers about the use of restraint and seclusion in schools. The guidance will apply to publicly funded primary schools, secondary schools and special schools and independent and grant-aided schools (There are currently eight grant aided schools in Scotland, seven of which are special schools.) It sets out the matters that must be covered in the guidance and states that the guidance may “elaborate” on the definitions in section 1. It requires consultation before issuing guidance and lists the bodies and individuals who must be consulted. It also places a duty on education providers to “have regard to” the guidance.
 - Section 3 places a duty on a ‘responsible person’ for a school to inform the parent or carer of a child or young person subjected to restraint or seclusion about the incident and to provide details of it. The responsible person is the proprietor for independent schools, the manager for grant-aided schools and the headteacher or another authorised member of staff in schools run by the education authority.
 - Section 4 requires each education provider to record all incidents of restraint or seclusion in its schools. It requires Scottish Ministers to prepare a report on the number of incidences of the use of restraint and seclusion each year and to lay the report after the end of each year.
 - Section 5 requires Scottish Ministers to maintain a list of persons who provide training on the use of restraint and seclusion in schools along with details of courses or programmes of such training.
 - The last three sections deal with interpretation, commencement and the short title.
7. The Policy Memorandum commented that there will sometimes be circumstances where physical intervention is necessary to ensure the safety of the child and/or others. It stated⁹ —
-  The Member seeks clarity about how and when physical intervention is appropriate, and how that is monitored and overseen, whilst ensuring that recourse is available when needed.
8. The Committee launched a call for views on the Bill which ran from 28 May 2025 to 11 July 2025 and received 125 responses.¹⁰ The Scottish Government produced a memorandum on the Bill¹¹ following its introduction and the Scottish Parliament Information Centre (SPICe) produced a briefing on the Bill.¹² SPICe also produced a summary of responses to the call for views.¹³
9. The Committee took evidence at its meetings on 24 September 2025, 1 and 29 October 2025 and 12 November 2025 from the following witnesses—

24 September 2025

Panel 1

- Dr Simon Webster, Head of Research and Policy, Enable
- Kate Sanger, Family Carer and Co-creator of Communication Passport
- Suzi Martin, External Affairs Manager, National Autistic Society Scotland.

Panel 2

- Sarah Leitch, Director of Development, British Institute of Learning Disabilities
- Nicola Killean, Children and Young People's Commissioner for Scotland
- Ben Higgins, CEO, Restraint Reduction Network

1 October 2025

- Lynne Binnie, Service Lead for Inclusion, Edinburgh City Council and Co-Chair of the Inclusion Network, the Association of Directors of Education in Scotland (ADES)
- Tom Britton, Edinburgh Local Association Assistant Secretary, Educational Institute of Scotland (EIS)
- Dr Pauline Stephen, Chief Executive and Registrar, The General Teaching Council for Scotland (GTCS)
- Mike Corbett, National Officer, NASUWT
- Gavin Calder, Chief Executive Officer of Harmeny School, and Board Member, the Scottish Council of Independent Schools (SCIS)

29 October 2025

- Jenny Gilruth, Cabinet Secretary for Education and Skills
- Alison Taylor, Interim Director for Learning
- Stella Smith, Head of Supporting Learners Policy Unit
- Robert Eckhart, Supporting Learners Policy Team Leader, Scottish Government
- Nico McKenzie-Juetten, Head of School Education Branch, Scottish Government Legal Directorate

12 November 2025

- Daniel Johnson MSP, Member in Charge of the Bill
- Roz Thomson, Head of the Non-Government Bills Unit

10. On 10 November 2025, some members of the Committee visited the [Donaldson Trust](#) in Linlithgow as part of its evidence gathering on the Bill.

11. The Committee would like to thank all those who provided oral and written evidence as part of our consideration of the Bill.

Background to the Bill

12. On 19 June 2023, the Member in Charge lodged his draft proposal for a Member's Bill to "ensure restraint and seclusion of children and young people in schools is only used as a last resort where there is an immediate risk of harm and using appropriate methods".¹⁴ This draft proposal was accompanied by a consultation document¹⁵ and the consultation ran from 20 June 2023 to 29 September 2023 (extended from the original closing date of 12 September 2023). The consultation received 148 responses (134 responses were submitted via Smart Survey, while 14 were submitted via email) and a summary was produced by NGBU.¹⁶
13. The summary highlighted that a majority of respondents (just over 92%) supported the proposed Bill: 112 fully, and 16 partially. It said that a significant proportion of parents that responded to the consultation offered personal accounts of their families' experiences of the use of restraint and/or seclusion in Scottish schools which formed the basis of their support for the proposed bill and its aims.
14. It set out that the reasons given in support of the proposed bill included personal experience of the inappropriate use of restraint or seclusion in Scottish schools; that the aims of the proposed bill align with upholding human rights; and that making guidance statutory would lead to greater accountability and improve enforcement and clarity around the appropriate use of restraint and seclusion in school settings.
15. It highlighted that some respondents gave support to the principle underpinning the proposed bill while commenting on the adequacy of the Scottish Government draft guidance which the proposed bill seeks to make statutory. It said that those opposing the proposed bill raised questions on how it would work in practice. Those respondents highlighted the existing legislative and policy framework in Scotland in relation to children's rights which schools and local authorities must adhere to and noted that the range of national guidance including relating to restraint and seclusion, were already "underpinned by statutory provisions".¹⁶
16. The Member in Charge then lodged his final proposal on 17 September 2024 for a Member's Bill to "ensure restraint and seclusion of children and young people in schools is only used as a last resort where there is an immediate risk of harm and using appropriate methods by providing for statutory guidance for use in schools, which includes detail on: recording; reporting and monitoring; and professional learning". He secured the right to introduce a Member's Bill on 16 October 2024.

Previous Committee consideration

17. The Committee previously considered national guidance on restraint and seclusion under petition [PE1548](#) by Beth Morrison. The petition called on the Scottish Parliament to urge the Scottish Government to—
 1. Introduce National Guidance on the use of restraint and seclusion in all schools; this guidance should support the principles of—

- Last resort - where it is deemed necessary, restraint should be the minimum required to deal with the agreed risk, for the minimum amount of time;
- Appropriate supervision of the child at all times, including during “time out” or seclusion;
- Reducing the use of solitary exclusion and limiting the time it is used for (e.g. maximum time limits);
- No use of restraints that are cruel, humiliating, painful and unnecessary or not in line with trained techniques;
- Accountability of teaching and support staff for their actions; this should include recording every incident leading to the use of seclusion or restraint and monitoring of this by the local authority;
- Regular training for staff in how to avoid the use of restraint;
- Where restraint is unavoidable training in appropriate restraint techniques by British Institute of Learning Disability accredited providers and no use of restraint by untrained staff.

2. Appoint a specific agency (either Education Scotland or possibly the Care Inspectorate) to monitor the support and care given in non-educational areas including the evaluation of the use of restraint and seclusion of children with special needs in local authority, voluntary sector or private special schools.

18. In October 2022, the Committee agreed to close the petition under Rule 15.7 of Standing Orders, on the basis that national guidance had now been developed which aimed to minimise the use of physical intervention and seclusion in Scottish schools and that the petition had achieved its key aim.
19. The Policy Memorandum provides information on [Calum's law](#) (named after Beth Morrison's son who sustained injuries in 2010 from being restrained at school), the Committee's consideration of the petition and the Children and Young People's Commissioner Scotland's 2018 report, '[No Safe Place: Restraint and Seclusion in Scotland's Schools](#)', as further background to the Bill. It stated ¹⁷ —

” This legislation is being brought forward as a result of sustained campaigning by numerous organisations and the efforts of individuals who seek change as a result of their own experiences and those of their families.

Overall views on the Bill

20. Most respondents to the call for views and witnesses giving oral evidence agreed that restraint and seclusion in schools should be used as a last resort and were supportive of the Bill. However, a number of concerns were raised on the definitions as set out in the Bill and other issues related to its implementation.

Current practice

21. The Committee heard conflicting views on the nature of current practice. Some parents and organisations said that restraint and seclusion is commonly misused and causes harm to disabled children in particular. However, the Committee also heard from teachers, unions and local authorities that such techniques are used appropriately and only as a last resort.
22. Both Beth Morrison and Kate Sanger provided personal testimonies and explained that they have been campaigning for over 15 years following traumatic experiences involving their children in relation to restraint and seclusion. The Committee heard how Beth Morrison set up a group called SHAME—Scotland’s Hidden Abuse Must End, to allow parents and professionals to share their experiences. Kate Sanger, Family Carer and Co-creator of the Communication Passport, told the Committee ¹⁸ —
- ” We heard from more than 600 parents who had had similar experiences to ours, and the only reason why they knew their children were being restrained was that they were coming home with bruises and cuts. They were never informed; it was always the injuries that sparked off the knowledge that their child was being restrained.
23. [Positive and Active Behaviour Support Scotland's 2025 report](#) highlighted concerns about the continuing use of restraint and seclusion. It said ¹⁹ —
- ” While these practices are intended to manage severe behavioural incidents and only supposed to be used as a “last resort”, the evidence is that they are used routinely, on a daily basis across the country as a first response and indeed commonly as a punishment. This raises serious concerns about children’s rights, emotional wellbeing, and inconsistent application across local authorities.
24. Kate Sanger said that, instead of being a last resort, restraint is happening as a “first approach in many instances” and argued that more could be done to train teachers on alternative options rather than resorting to restraint. She said ²⁰ —
- ” In 2025, about 259 families applied to join the group. It is worrying me that, since the schools went back in August, 81 families have contacted us in one month and shown us pictures and told us horror stories—yet again—of restraint.
25. She commented that the reasons given for the use of restraint included “non-compliance, children making poor choices, sensory overload, bad language and screaming”. She explained that some children and young people do not have language skills or verbal skills, and screaming is a way of communicating their needs. She said ²⁰ —
- ” Parents know what the screams mean. That is why I created the communication passport so that teachers and staff would have the information about the vocalisation that a child might make and what it means.

26. Suzi Martin, External Affairs Manager, National Autistic Society Scotland (NASS) echoed Kate Sanger's comments and said they regularly heard from families about the restrictive practice that their children are experiencing in schools. She said ²¹ —
- ” We know that it happens frequently and that when it is done, it is often done inappropriately and in unsafe ways.
27. Concerns over current practice were also expressed by respondents to the call for views. Paul Whiteman said ²² —
- ” 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.
28. The Challenging Behaviour Foundation reported that across the UK, restraint was not always used as a last resort and that some pupils with special education needs (SEND) and disabilities have long-lasting trauma due to their experiences. It stated ²³ —
- ” Due to parents raising concerns about the harmful use of restraint in schools through our UK wide helpline the Challenging Behaviour Foundation (CBF) has been working with others to address the misuse of restraint for a number of years. Our Protecting Rights; Eliminating Restraint group (formerly RRISC) has produced several reports evidencing psychological and physical harm to children and young people through the misuse of restraint and/or seclusion in schools.
29. The EIS reported however 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”. ²⁴
30. A number of individual teachers and others responding to the call for views also referred to an increase in the level of disruptive behaviours faced in schools. One teacher said that she supported the aim to reduce seclusion and restraint in schools, but that in the specialist additional support needs sector the use of restraint and seclusion can be necessary. She said— ²⁵
- ” In my 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.
31. A pupil support assistant echoed this point and commented that staff do not want to be in a situation where restraint is used but sometimes it is necessary to keep the child or young person, staff and other children safe from "extreme harm". They stated ²⁶ —

” 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.

32. UNISON Scotland noted that the issue of restraint and seclusion is wider than pupils with an identified ASN and highlighted the Scottish Government's [2023 Behaviour in Schools report](#). 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.” ²⁷

33. The Committee notes the conflicting views on the nature of current practice but was concerned to hear of instances of inappropriate use of restraint and seclusion in Scotland's schools, particularly in relation to children and young people with additional support needs or a disability. Within this context, the Committee has scrutinised this Bill and its aim to ensure the use of restraint and seclusion is used only as a last resort, and, when it is used, appropriate practices are adhered to.

Scottish Government guidance

34. The current policy on the restraint and seclusion of pupils is set out in the Scottish Government's guidance, [Included, engaged and involved part 3: A relationships and rights-based approach to physical intervention in schools \(IEI3\)](#), which was published in November last year. Prior to that, the guidance on the use of "De-escalation and Physical Intervention" was set out in [Included, Engaged and Involved Part 2: A Positive Approach to Preventing and Managing School Exclusions](#). There is also wider guidance on the restraint of children in a range of settings in the 2005 (updated in 2014) guidance [Holding Safely](#).
35. IEI3 stated that it promotes best practice in ensuring all children and young people are safe and protected within a nurturing environment where additional support needs are provided for and well understood. It said²⁸ —
- ” The guidance outlines the preventative approaches that should be in place to minimise the use of restraint and seclusion and outlines alternative strategies that can be used in their place.
36. This guidance covers similar issues as the Bill, including—
- an emphasis on preventative, rights-based, trauma-informed approaches;
 - support for de-escalation and co-regulation techniques;
 - post-incident evaluation and support;
 - guidance on the reporting and recording of incidents; and
 - training of staff.
37. The guidance stated—²⁸
- ” The incorporation of the UNCRC and our children's rights focus means that our goal must be to improve relationships and behaviour in our classrooms whilst ensuring restraint and seclusion is only ever used as a last resort.
38. As outlined in the Policy Memorandum, the Member in Charge commented that the Scottish Government's current guidance includes "valuable content, meaning that much of the work required to produce statutory guidance under this Bill has already been undertaken".²⁹
39. Kate Sanger highlighted that both she and Beth Morrison were involved in developing the Scottish Government's guidance however she said it contained some "conflicting and confusing things" and also said that the guidance was not being implemented. She said³⁰ —
- ” We have had lots of discussions and I think that it is time to recognise that non-statutory guidance is not working and that we need a legal framework. The children and the teachers need it; everyone needs it.

Human rights approach

40. As set out in the Policy Memorandum, [the Education \(Scotland\) Act 1980](#) places several duties on education authorities, including the fundamental duty to secure the provision of education services. [The Human Rights Act 1998](#) enshrines the rights and freedoms guaranteed under the [European Convention on Human Rights](#), including in relation to freedom from 'inhuman or degrading treatment or punishment'.³¹
41. [The Equality Act 2010](#) places a range of duties on the responsible bodies of schools to prevent discrimination against pupils with protected characteristics. [The United Nations Convention on the Rights of the Child \(UNCRC\)](#) contains articles 3, 19, and 28 which are relevant to the use of seclusion and restraint in schools.³²
42. The Policy Memorandum stated that, by placing Scottish Ministers under a duty to issue statutory guidance on the use of restraint and seclusion and requiring that education authorities must have regard to it, the Bill "seeks to ensure that these practices are regulated and used only when absolutely necessary, prioritising the best interests of the child".³³
43. Kate Sanger spoke of the importance that all children and young people's human rights are supported and that policy and practice in this area aligns with their human rights. She said²⁰ —
- ” Having a learning disability, being autistic and being neurodiverse should not be a barrier to people having their human rights upheld. I want my daughter’s human rights to be upheld in the same way as everyone else’s.
44. She argued that upholding the human rights of children and young people is missing from the approach currently being taken to restraint.³⁴
45. Many respondents to the call for views spoke of the importance of upholding children and young people's human rights. CALM Training and Consultancy stated³⁵ —
- ” We support the emphasis on statutory guidance and believe it must centre human rights, embed trauma and attachment-informed principles, and align with the public health model: preventing distress wherever possible, responding compassionately and proportionately when it arises, and reflecting afterwards to reduce future need for intervention.
46. The Scottish Commission for People with Learning Disabilities (SCLD), whose submission was co-signed by the Human Rights Consortium Scotland, also supported the Bill and said it was an opportunity to provide "a positive, proactive and statutory approach to the elimination of misuse of restraint and seclusion in schools." It stated³⁶ —

- ” We believe this presents an opportunity for a legal framework which is aligned with the UN Convention on the Rights of the Child (UNCRC), UN Convention on the Rights of People with Disabilities (CRPD) and the Equality Act 2010 to protect all children in Scotland’s schools including children with learning disabilities who may be most marginalised and whose rights are most at risk .
47. Dr Simon Webster, Head of Research and Policy, Enable, spoke of the wider context and commented that, although measures in the Bill are important, work needs to be done towards the elimination of the use of restraint and seclusion in schools. He said restraint and seclusion are being overused as teachers and other staff are under extreme stress and are working with children and young people who are "experiencing extreme distress in a system that requires more investment".³⁷
48. Suzi Martin (NASS) said that the use of restraint and seclusion practices is "symptomatic of an education system that is not inclusive of children and young people’s support needs, particularly those of autistic children and young people." She argued for the need for an inclusive system with appropriate physical environments, training and specialisms in place within all settings, particularly mainstream settings.³⁸
49. Ben Higgins, Chief Executive Officer, Restraint Reduction Network (RRN) spoke of the need for clear guidance on when and when not to intervene and restrain a child or young person and said that it should be compliant with the Human Rights Act 1998. He highlighted the importance of the human rights link to ensure any use of restraint is proportionate, justified and the least restrictive approach is adopted. He said³⁹ —
- ” ...when you pull your children out of the road, you want to teach them not to run into the road in the future instead of your having to pull them out of the road every day. There is the learning opportunity, but there is a duty of care, and we need to be clear that teachers have such a duty, too. Then, we can make a human rights-based judgement about when it is okay to intervene, as opposed to when it is not okay.

Delay in legislation being introduced

50. Given the disturbing personal testimonies in relation to instances of inappropriate use of restraint and seclusion, the Committee explored reasons as to why legislation is only now being introduced, despite many ongoing campaigns having been running for over 15 years.
51. Dr Webster (Enable) was not clear as to why this was the case and said it was surprising that it had taken so long to introduce legislation in this area. He said³⁷ —
- ” Whatever the reasons why it has taken so long are, we at Enable are very glad to have got to this point. We are very glad that those who have experienced restraint and seclusion and those parents who have experienced not knowing what has happened to their child have had an effect and are being listened to by the Parliament.

52. The Equality and Human Rights Commission (EHRC) outlined its and the Children and Young People's Commissioner Scotland's (The Commissioner) engagement with the Scottish Government on this issue. EHRC reported that in 2019, they 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 ⁴⁰ —

” 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.

53. Dr Binnie (ADES) made the point that since the implementation of the current guidance published last November, local authorities have been working to improve policy, procedures and training in this area. She said ⁴¹ —

” Things are clearer and local authorities have updated their policies and procedures. I hope that there is much more understanding of the issue and better recording at the local authority level since the implementation of the guidance. I cannot fully comment on what went on before the implementation of the guidance, but I expect that the process was not as robust as it is now in local authorities.

54. The Cabinet Secretary for Education and Skills (the Cabinet Secretary) agreed that it had taken too long to introduce guidance in this area. The Cabinet Secretary explained that part of the delay in relation publishing the latest guidance was due to the pandemic. The Cabinet Secretary also highlighted that the current guidance had not yet been reviewed therefore there was a data gap in relation to its implementation and how it is working in practice. She said ⁴² —

” Originally, our view would have been that we would complete the review before considering whether statutory guidance was deemed necessary. However, the timelines for this Bill mean that that has not been the case.

55. The Cabinet Secretary highlighted that full implementation of the guidance is at an early stage and that the Scottish Government is committed to a one-year review of the guidance and that work on that "will begin shortly". ⁴³

56. The Member in Charge said that he did not believe "that we have seen the urgency of action that was called for back in 2019" and said that this was the reason why he introduced this Bill. He said ⁴⁴ —

” We certainly need clear recording so that we understand the situation, and that must be on the basis of law. Whenever someone's liberty is restrained, whenever someone is put in seclusion or whenever force is used against another individual, we need careful scrutiny of that. Fundamentally, that is what it boils down to.

57. When asked about the timing of the Bill and the fact that the current guidance has still to be reviewed, the Member in Charge acknowledged that the current guidance was only published last year but made the point that this issue has been a topic of consideration by the Parliament for more than a decade. He said ⁴⁵ —
- ” If the current guidance has not been out for a sufficiently long enough time for us to contemplate its effect, that is a question for the Government rather than for me. In 2019, a commitment was made to take urgent action and to provide written guidance. Five years ago, it was observed that it was likely that that guidance would need statutory underpinnings. We are now a whole parliamentary session on from that, so, if now is not the time to legislate, when will be?
58. He also highlighted that the Bill does not have a specific timeline for the Government to produce guidance, only that the Government must produce guidance and ensure that it is updated. ⁴⁵
59. The Member in Charge went on to say that the Bill might have been better progressed as a Scottish Government Bill as part of a more comprehensive package but there "is merit in it being a Member's Bill, because it is a way of ensuring that we are keeping pace". ⁴⁶

Statutory footing

60. As set out in the Policy Memorandum, it is expected that the Scottish Government's current non-statutory guidance would form the basis of the guidance to be produced under section 2 of the Bill. ²⁹
61. Respondents to the call for views had differing views on the need for statutory guidance at this stage. A number of respondents argued that the Bill is premature in light of Scottish Government guidance only having been published in November 2024. Others considered that the current non-statutory guidance had provided insufficient protection for children's rights and that statutory guidance would mean greater consistency of best practice across Scotland. ⁴⁷
62. The Commissioner spoke of the need to put the current guidance on a statutory footing and said that this would "increase protection for children and young people and ensure that all children and young people across Scotland have the same protections in law". ⁴⁸ She explained that the creation of non-statutory guidance had taken longer than expected and argued that it would not provide adequate consistency of approach to restraint and seclusion. ⁴⁹
63. Dr Binnie (ADES) was also in broad agreement with the guidance moving to a statutory footing given the need for public trust and transparency in this area but said it would not significantly change the work currently being done by local authorities in this area. She made the point that the guidance should cover all services for children and young people. ⁵⁰
64. Gavin Calder (SCIS) also supported making the current guidance statutory saying it will address the issue of parents and carers not being informed when an incident of restraint or seclusion has taken place. He said ⁵¹ —
- ” Fundamentally, SCIS is 100 per cent behind putting the requirement into statutory legislation so that every possible safeguard is in place to make sure that things do not go wrong.
65. The Committee heard concerns that by putting the guidance on a statutory footing, there is a risk that teaching staff could become more cautious and reluctant to intervene in situations where restraint may be the appropriate action to take. Tom Britton, Edinburgh Local Association Assistant Secretary, Educational Institute of Scotland (EIS) said that "a framework of context and understanding" is required to prevent this from happening. He said ⁵² —
- ” There would be fear about the bureaucracy and whether they would end up getting not only a complaint but a charge made against them. People are not going to use restraint. The fear is about the options for intervening if the use of restraint stops.
66. Mike Corbett, National Official (Scotland), NASUWT also raised concerns regarding the current guidance and the lack of specific information for teachers on how to deal with certain circumstances. He argued that it would be better to improve the current non-statutory guidance rather than move towards statutory guidance. He said— ⁵³

” If that were to be the case, much more debate would be needed, and our members would need much more reassurance about what they could and could not be expected to do in certain circumstances...That clarity could come from a revision of the 2024 guidance rather than placing the proposed guidance on a statutory footing.

67. Tom Britton (EIS) highlighted that not all local authorities are at the stage of fully implementing the current guidance and that time must be given to review how it is working.⁵⁰

68. Suzi Martin (NASS) argued that introducing clarity with statutory guidance will "reduce hesitation rather than increasing it". She said⁵⁴ —

” We are already in that space where staff do not know what to do and how to deal with such scenarios. More clarity and a supportive system for staff will reduce that hesitancy to intervene. It will give staff more confidence that they are able to intervene, rather than the opposite.

69. The Committee considered the possible need for detail and guidance specifically aimed at different groups of children and young people, such as care-experienced, disabled pupils and pupils with complex needs. Dr Webster (Enable) said that there may be a need for some specific guidance about particular groups, however the Bill should apply to staff in all settings. He pointed out that there may be important nuances between different groups of children and young people and that staff need to be resourced and equipped to provide trauma-informed care. He said⁵⁵ —

” When we create and resource the environments that children with disabilities need, in terms of sensory needs, staffing levels, and staff feeling supported and having clarity on what they can and cannot do through guidance, that is beneficial not only in reducing the need for restraint and seclusion or in creating a safer environment, but because it creates an environment that helps every child and young person to learn.

70. Suzi Martin (NASS) agreed that having guidance and ensuring that there is training on a trauma informed approach would be of benefit to all children and young people. She said that the Bill takes account of the needs of different groups and commented⁵⁶ —

” The guidance may touch on some specific groups that are at higher risk. We know that children and young people who are autistic or have learning disabilities are at higher risk, but those groups might also include care-experienced young people and some from other groups. The Bill takes account of that and says that guidance “may make different provision for different purposes, including different provision for different education providers or different schools”.

71. The Member in Charge argued that the current situation lacks clarity, hence the need to put the current guidance on a statutory footing.⁵⁷ He stated that there has been guidance for over a decade and it was time to have that on a statutory footing.⁴⁴ He said that this would provide clarity for parents, carers and practitioners. He said⁵⁸ —

” At the moment, there is a lack of statutory guidance, and there has been criticism of the current guidance from some quarters about the lack of practical help that it provides. If there are situations where practitioners need to use restraint or seclusion, it is really important that they have clarity about when it is appropriate to do so and, critically, what form that should take.

72. He said he did not understand the concerns that putting the guidance on a statutory footing would be problematic for the teaching profession. He stated ⁵⁹ —

” If the guidance is being followed, and because I do not foresee a huge change in the substance of that guidance, which would be revised but would not be altogether different, I do not understand why putting it on a statutory footing would be problematic.

73. The Member in Charge argued that there was no requirement for additional protection for disabled pupils, pupils with complex needs and pupils who are care experienced to be included in the guidance given that a majority of such incidents involve children with additional support needs. ⁶⁰

Consultation

74. Section 2 of the Bill requires that the guidance must be consulted on before being finalised, and also before any revised versions are issued. It sets out the following stakeholders who must be consulted regarding the contents of the guidance including—

- trade unions representing school staff;
- bodies representing the interests of parents;
- education providers;
- the Children and Young People’s Commissioner Scotland; and
- other voluntary organisations, such as children’s charities with a focus on additional support needs, and other advocacy organisations.

75. The Donaldson Trust said it was very supportive of the proposal to develop statutory guidance that governs the use of restraint and seclusion in schools however it argued that section 2(6) should be amended to make it a requirement to consult representatives of Grant-Aided Special Schools (GASS), in preparing or revising guidance. It stated ⁶¹ —

” We believe this would be appropriate in light of the experience GASS have in supporting learners with a significant level of support need – and the in-house expertise enjoyed as a result of that. GASS have existing representation in structures with responsibility for ASL policy in Scotland, such as the ASL Project Board.

76. The Scottish Government's memorandum on the Bill also suggested that consideration should be given to including children and young people themselves in the list of consultees on any guidance produced or updated. ⁶²

Application beyond schools

77. Dr Stephen (GTCS) cautioned against some consequences of having one aspect (i.e. restraint and seclusion) on a statutory footing when the overarching policy on child protection is not on a statutory footing. She commented that it would be a missed opportunity to "look holistically at the child protection landscape". She said ⁶³ —
- ” I would suggest that the overarching child protection policy should be made specific to the universal service that the majority of our children and young people experience by going to school...We think that that is where time would be best spent, and that restraint and seclusion should be considered as a component feature of keeping children safe at school.
78. The Centre for Mental Health Practice, Policy and Law Research, Edinburgh Napier University, who was supportive of putting guidance on a statutory footing, also supported the call for guidance to apply across all children's services. It stated ⁶⁴ —
- ” The Bill is restricted to educational settings. We support the call by CYPCS and others for comprehensive and consistent guidance across education, care and health settings. However, this Bill would not be an obstacle to such a development, and could act as a stepping stone to broader action.
79. In addition, Ben Higgins (RRN) and the Commissioner both spoke of the need for consistency across the sector in care homes and other children's services. The Commissioner said ⁶⁵ —
- ” There are opportunities already in the work that the Mental Welfare Commission does, and in the work to update the code of practice from the Scottish Government from a mental health perspective. The Care Inspectorate already has standards in place, so there is an opportunity to get the Bill through while ensuring that, in doing so, those conversations are happening in order to get consistency across the piece.
80. Ben Higgins (RRN) gave an example of when he was a headteacher of a school that was also a children's home. He said it was confusing and unhelpful to have different regulations according to the time of day or which setting they were in. He did say however, that the guiding legal principle of when to restrain and when not to restrain can be the same across both areas, and it made sense that the Bill relates to the education sector. ⁶⁵
81. The Care Inspectorate also called for greater alignment between practice expectations for education settings and care settings and explained that following the publication of the guidance last November, the children's sector has been working "to two different sets of definitions, standards, and reporting expectations". It stated ⁶⁶ —
- ” We know that children move between care and education settings, as do many staff, and we believe this lack of alignment is unhelpful, confusing, and unlikely to improve children's experiences.
82. This point was echoed by Barnado's Scotland who said ⁶⁷ —

” However, we also think that it’s important to ensure that there is consistency between guidance provided for schools and guidance provided for other areas of children’s lives where restraint and seclusion can occur, such as residential care and services for disabled children and young people. This will allow for shared learning and joined-up best practice and ensure that children’s experiences are consistent across different settings.

83. The Cabinet Secretary agreed that the Bill was an opportunity to look at child protection more widely but that this was not provided for in this Bill. She said ⁶⁸ —

” It would be a far more extensive piece of legislation. We talk about legislative timescales, and we are all aware of how close we are to dissolution now, so I suspect that that might become a much more unwieldy piece of legislation. That is not to say that it is not important, because, in principle, I agree that there is an opportunity to look across the piste, but the Bill is quite focused.

84. The Committee is disappointed with the length of time it has taken to introduce legislation on restraint and seclusion in schools, despite the tireless work undertaken by stakeholder organisations and individual campaigners such as Beth Morrison and Kate Sanger over the last 15 years.

85. The Committee agrees that there is a need to place guidance on a statutory footing to provide clarity on the use of restraint and seclusion and ensure a consistent approach is adopted across Scotland's schools. The Committee welcomes the provision that the Scottish Government must consult various stakeholders when producing or updating the guidance and recommends that this should include consultation with Grant-Aided Special Schools and independent schools and direct consultation with children and young people.

86. The Committee notes the work undertaken on the current non-statutory guidance published by the Scottish Government in November 2024, and that this guidance will form the basis of the guidance required to be produced under the Bill.

87. The Committee agrees that there is a need to adopt a human rights approach to the guidance and notes that the current non-statutory guidance is set out in the context of a human rights framework. The Committee recommends that this approach is replicated under any statutory guidance produced, as required by the Bill.

88. The Committee notes that the post-implementation review of the current non-statutory guidance has still to be undertaken. Given the guidance published under the Bill will be based on the current non-statutory guidance, the Committee recommends that, should the Bill be passed, the future Act should not commence until the review of the current guidance has been undertaken.

89. The Committee agrees that the approach taken on the use of restraint and seclusion in schools must align with practice expectations across all children's services, such as care settings. The Committee notes that under this Bill, the guidance will not be applied to settings outwith schools. The Committee recommends that the Scottish Government outlines how it will ensure a consistent approach across all children's services is adopted, should this Bill be

passed.

Restraint and seclusion - definitions

90. The Bill would create legal definitions for both restraint and seclusion. These definitions are key to how the Bill would work in practice. They would determine the type of intervention that would be covered by the statutory guidance and the reporting duties under the Bill.
91. The scope of the Government's guidance and the Bill covers all pupils, however evidence heard by the Committee focused on the restraint and seclusion of disabled children and young people or pupils with other additional support needs. There is a separate regime for regulation of children's care services. This includes requirements to report incidents of restraint or seclusion to the Care Inspectorate.
69
92. The Bill provides the following definitions—
- “restraint” means anything done by a member of the staff of an education provider with the intention of restricting the physical movement of a child or young person, including restricting their freedom of movement or ability to move independently
 - “seclusion” means anything done by a member of the staff of an education provider with the intention of isolating a child or young person from other children or young people and preventing them from leaving the place where they are isolated
93. These definitions closely match the definitions in IEI3. The definitions of restraint and seclusion used in that guidance are—
- Restraint: “An act carried out with the purpose of restricting a child or young person’s movement, liberty and/or freedom to act independently”
 - Seclusion: “An act carried out with the purpose of isolating a child or young person, away from other children and young people and staff, in an area in which they are prevented from leaving”
94. The Bill provides that the statutory guidance would be able to “elaborate” on these definitions. The Policy Memorandum stated that further detail regarding the various forms of behaviour that constitute seclusion and restraint and what constitutes appropriate and inappropriate forms of restraint and seclusion will be set out in the statutory guidance established by the Bill. It stated ⁷⁰ —
- ” The intention is that these broad terms can be elaborated upon in the guidance, and the Bill provides a specific power for Scottish Ministers to do that. This means that any changes in language or approach can be reflected in later versions of the guidance, whilst maintaining statutory definitions on the face of the Bill.
95. The Committee heard concerns that the broad definitions of “restraint” and “seclusion” in the Bill could lead to legal ambiguity or unintended consequences. The EIS was concerned that the current definitions were too wide and that restraint could extend to actions designed to restrict physical movement to prevent harm to a

child or young person or may also include the use of specialist equipment, particularly in special schools, to restrict the ability to move independently where this would otherwise cause harm. It also expressed concern that the guidance could elaborate on the definitions as set out in the Bill. It said ⁷¹ —

” The use of the word ‘elaborate’ could suggest that guidance could develop these statutory definitions. We would question if this is the intention and suggest that the word ‘exemplify’ might be a more appropriate alternative.

96. Kate Sanger argued that the definition of restraint as set out in Bill should be made clearer and suggested that this could be done by providing examples of what does and what does not constitute restraint. She said ⁷² —

” It is a grey area, but I see only the simple idea of stopping someone from doing something or making someone do something. If something is being done to promote or safeguard a person’s life, I do not see that as restraint; I see it as a safeguarding issue.

97. Dr Webster (Enable) agreed it would be helpful to have specific examples of what type of restraint is acceptable. ⁷³ Suzi Martin (NASS) said there should be “no room for ambiguity” on what is defined as restraint, restrictive practice and seclusion but appreciated the challenge in setting out these definitions. She highlighted that there are forms of restrictive practice which may not be perceived to be harmful but, when carried out on an almost daily basis, are very harmful and are not supportive. She said ⁷³ —

” We hear of autistic children and young people having fidget toys and tools forcibly removed from them, or whose limbs—their wrist, arm, shoulder or leg—are touched or grabbed inappropriately in order to stop them stimming. We hear of autistic children and young people who are removed from spaces, perhaps not forcibly, but against their will and without their consent.

98. The Committee heard that some children and young people require a certain amount of support which, when applied to another person, would be a form of mechanical restraint. Kate Sanger explained ⁷⁴ —

” When a child is assessed by an occupational therapist, the occupational therapist might say that the child needs a particular chair to support their limbs and that the chair may have straps. That is okay, because it is something to support that child and to enable them to have a better life or, as I said, to make sure that they do not choke. However, we have found that a lot of chairs have been used for children who are mobile and who can run about. They have been strapped in those chairs with brace straps and ankle straps in order to keep them in the chair and stop them from running about the classroom in order to manage the classroom.

99. Nicola Killean (the Commissioner) did not give a view on the definitions as set out in the Bill but said it had to be clear where those practices can and cannot be used and should be consistent across different sectors. She said— ⁷⁵

” It is important to me that the definition is consistent and clear for practitioners, and that it is absolutely crystal clear when the legal benchmark, which meets international human rights standards, can be met. That will keep children safer, and it will keep professionals safer.

100. The Commissioner argued that the Bill should adopt the UNCRC Act definition of a child. She stated—⁴⁸

” We believe that, rather than referring to the 1980 act, the definition of a child can be lifted from the UNCRC and put into the Bill. That would be a straightforward way of ensuring that the Bill complies with the UNCRC, which is really important. If the Bill is not compliant, children will not be able to legally enforce their rights, so I am really hoping that the suggestion will be taken forward.

101. Ben Higgins (RRN) highlighted the difficulty in legally defining restraint as it depends on the individual circumstances. He made the point that the Bill as drafted only defines physical restraint, however there are other forms such as mechanical, environmental or chemical restraint. He commented that the Scottish Government guidance includes physical, environmental and mechanical restraint.⁷⁶

102. The Scottish Government's memorandum on the Bill expressed concerns regarding the broad definitions as set out in the Bill and stated that any clarification in the supporting statutory guidance may not allow certain practices to be excluded from the Bill's definition of restraint. It stated —⁶²

” ...such a broad definition of restraint in primary legislation could risk, in the Scottish Government's view, defining practices that are not of obvious concern as restraint (examples include holding a child's hand as they cross a road or the use of hoists or other 'moving and handling' equipment for children with complex healthcare needs). ...The Scottish Government therefore believes there to be merit in exploring whether a narrower definition of restraint that includes the practices of the highest concern, such as physical and mechanical restraint, would achieve the aims of the Bill.

103. The Cabinet Secretary reiterated the Scottish Government's view that the definitions in the Bill are too broad and the definitions of restraint and seclusion need to be clearer. On seclusion, the Cabinet Secretary said this was where a child would not be able to leave a room. She said⁷⁷ —

” That is quite different to approaches to behaviour and relationships in mainstream settings whereby a child might, for example, be asked to work elsewhere because there are challenges in the classroom, but that child might still be able to go to the toilet—their liberty has not been deprived of them. We need to be more careful with and clearer about our definitions of seclusion.

104. The Member in Charge was asked about the concerns raised by witnesses including the Scottish Government in relation to the definition of restraint in the Bill being too broad where instances such as a holding on to a child's hand to cross the road safely could be captured under the Bill. He said that that would not constitute restraint on the basis of the definition in the Bill and argued that the definitions in the Bill are in line with the current guidance and are narrower definitions than those in

the current guidance. He said—⁷⁸

” The Bill certainly does not define all physical contact as restraint. It is about physical intervention that deprives an individual of the ability to act independently. That is why I am not sure about the example of holding a child’s hand because, when you do that, the child can usually withdraw. There might be an issue when that is more forcible.

105. He also highlighted the fact that the Bill does not create any prohibitions or offences and that it was for school leaders and local authorities to ensure compliance with the Bill.⁷⁹

Use of seclusion

106. Concerns were expressed on the use of seclusion as defined in the Bill. The Commissioner said that any use of seclusion where a child is unable to choose to leave that space would be a deprivation of liberty. She said that there is under-reporting of the use of seclusion and a lot of confusion about what can be used. She commented that there can be good use of calming spaces and places that children and young people can choose to use as part of their plan to go to when feeling sensory overload or are upset and stressed. She said⁸⁰ —

” We would not expect to see a planned or timed break in a child’s plan if that was to be in a space that they could not choose to leave. We need to know if seclusion means being in a locked space or in one where they do not have the ability to move.

107. Ben Higgins (RRN) also raised concerns regarding the confusion around good and poor practice on seclusion in schools. He explained⁸¹ —

” There can be good practice when Johnny is distressed, leaves the classroom and goes to sit on the swings because that is what Johnny has chosen to do and he has taken himself away. That might be called “time out” or “seclusion”, but there are also “time out” or “seclusion” rooms to which someone is dragged against their will, which is highly distressing. Those rooms quite often do not have a toilet or access to water.

108. He said of the latter example that this is highly distressing for the child or young person and should only happen in extreme situations as such types of restraint and restrictive practice can be harmful.

109. Clan Childlaw called for greater scrutiny of the use of seclusion in school and all care settings with a focus on "consistent statutory safeguards across all settings being put in place". It argued that the lack of safeguards across the childcare sector in relation to the use of seclusion and isolation risks breaching children’s human rights and that any deprivation of liberty in a school setting would be unlawful.⁸² The Commissioner argued that by including the use of seclusion in the Bill, it provides an opportunity to understand what is and what is not appropriate. She said⁸³ —

” By including it in the Bill, there is an opportunity to ensure that it is covered by training so that people understand what they are doing; the impact that it has on children and young people where it is being inappropriately used; and that, if they choose to use it, it has to be reported and there would be follow-up action.

110. The Children and Young People’s Centre for Justice also called for a greater level of scrutiny on the use of seclusion and said that without clear statutory boundaries, the use of seclusion risks becoming “unregulated and inconsistent, with potentially serious consequences”. It stated ⁸⁴ —

” When used without legal authority, safeguards, or justification, it may breach a child’s rights under Article 5 (right to liberty) and Article 3 (protection from degrading treatment) of the European Convention on Human Rights. Following the incorporation of the United Nations’ Convention on the Rights of the Child (UNCRC) into Scots law in 2024, the Bill must address the legal duty to align with UNCRC articles, including Article 3 (best interests of the child), 19 (protect from all forms of violence), and 37 (cruel, inhuman or degrading treatment or punishment). The practice of seclusion also raises questions in relation to the Equality Act 2010, particularly in relation to disabled children who are disproportionately affected.

111. Gavin Calder (SCIS) and Tom Britton (EIS) both spoke of the importance of involving the child or young person in any seclusion techniques based on their plan. Gavin Calder said ⁸⁵ —

” I have spoken with some of the special schools that have children in wheelchairs, and they have seclusion in place. If the guidance is to be made statutory, it is really important that such children are included in the Bill, because seclusion is not just being sent away to a quiet room. Turning a wheelchair around to face a wall or putting a restraint on the wheelchair—unless the child wants that—also counts as seclusion.

112. The Member in Charge argued that the definitions in the Bill are there to provide a scope of behaviours within which there must be statutory guidance and that it is the guidance which will provide a level of clarity about what constitutes seclusion. He said ⁸⁶ —

” Seclusion is about putting a child in a space that is separate from other children in such a way that they do not have the choice as to whether to stay in that space. The definition makes that relatively clear. It is not just about a child being brought to the front of a class or put to a corner; it is about separating them from other children and putting them in a separate room from which they cannot remove themselves.

113. The Committee notes that the definitions of restraint and seclusion in the Bill closely match the definitions contained in the current non-statutory guidance.

114. The Committee shares the concerns that the broad definitions of restraint and seclusion contained in the Bill could lead to legal ambiguity or unintended consequences. Given the repeated calls for clarity in this area, which is essential

for both teaching staff and parents and carers, the Committee recommends that the Member in Charge works with the Scottish Government to refine these definitions in the Bill. This work must ensure practices of physical interventions that are not of obvious concern are not captured by the definition of restraint and provide clarity on the appropriate use of seclusion under the Bill, to ensure that it would not breach children and young people's human rights.

115. The Committee also notes that the Bill allows for the definitions in section 1 to be elaborated on under the guidance produced under section 2 of the Bill. The Committee recommends that the guidance should include examples of what does and what does not constitute instances of restraint and seclusion.

Communication with parents and carers

116. The Bill would create a duty on schools to inform parents and carers when their child has been subject to restraint or seclusion. The Bill specifies that the school must inform the parent or carer as soon as possible and no later than 24 hours after the incident. This is the same as the expectations set out in the current guidance.

117. The Policy Memorandum explained that the duties to inform and record instances of restraint and seclusion were not intended as a means of apportioning blame and associated processes. It stated⁸⁷ —

” The intention of the duty is to ensure that parents are informed about what happens to their children in school. The Member believes that more detailed communication on this issue will lead to more dialogue between the parents, the child and the school, which will, in turn, help ensure that any future uses of seclusion and restraint are not necessary.

118. Despite the current guidance, the Committee heard disturbing evidence of instances where parents and carers were not told when their child or young person had been restrained or secluded. Witnesses also spoke of exceptional circumstances where child protection issues had to be considered when informing parents and carers. Kate Sanger told the Committee⁸⁸ —

” I cannot believe that that is happening, but it is. The families know about it only because of the bruises, and the school would have to then backtrack. It is a safeguarding issue, and I do not know how they have got away with it for so long. Our children can be injured during restraint and we are never notified.

119. Dr Binnie (ADES) said that some of the challenges in implementing the current guidance are around the definitions of seclusion and restraint which might lead to instances in which parents and carers are not automatically informed. She was confident that procedures are in place to ensure that parents and carers are informed of every incident of seclusion and restraint. She did say, however, that there may be instances across Scotland where this may not be the case.⁸⁹

120. Dr Webster (Enable) agreed it was not clear why parents and carers are not routinely informed of instances where their child or young person had been restrained or secluded despite Enable conducting research in this area. He said—⁸⁸

” That could be an important question to ask education professionals. There may be a cultural issue behind that and I think that it would be important to understand why, not least for the implementation of any act that is passed.

121. Sarah Leitch, Director of Development, British Institute of Learning Disabilities (BILD) said it may be that parents and carers are not routinely informed as schools are not mandated to do so. She said⁹⁰ —

- ” Some of the parents who come to BILD and talk to us—and some of the parents whom we know through Beth Morrison and Kate Sanger’s campaign—have told us that they have to take the initiative, so they find out too late. I do not know why that is happening. I think it is maybe because it is not mandated in school policy, but sometimes it is maybe about custom and practice. Schools expect some of those children to get restrained every day, so they do not see it as an unusual event.
122. Kate Sanger said that that parents should be notified straight away if a child has been restrained that day, as soon as it is possible for the teachers to do so. She said—⁹¹
- ” I would not expect everything to be written up. However, the family should be notified straight away about a child having been restrained.
123. This point was echoed by ADES who said that the statutory guidance should ensure same day contact with parents regarding an incident "even if actual investigation or recording can't happen on the same day."⁹²
124. Dr Webster (Enable) agreed that immediate notification should be the expectation, "particularly when a child might need medical support or support to process something that was highly traumatic".⁹¹ Suzi Martin (NASS) said was also important to have an outside time limit set in legislation which could be before the start of the next school day. She said⁹³ —
- ” That is in acknowledgement that if an incident occurs towards the end of the school day, notification within a 24-hour period might mean that the child is back in school before their parent or carer is notified. We would want families to have the opportunity to talk to the child or young person ahead of the following school day to assess the psychological and physical safety of the child going back into school, and to make a decision about whether the child is in a position to do that.
125. The Committee considered circumstances where an incident happens on the last day of term before the summer holiday which would mean a significant period of time before the next school day. This point was raised by the Association of Headteachers and Deputes in Scotland (AHDS) who said⁹⁴ —
- ” ...this short timeframe for notifying parents may result in inadvertent breaches, particularly in relation to relevant situations at the end of the school week or school term. 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”.
126. The Commissioner agreed and said⁹⁵ —

” As we have heard, because of the impact and trauma of an incident, it is essential for a parent or carer to have the particular ability to support their child over a weekend or into holiday periods, because the level of anxiety can develop.

127. Dr Webster (Enable) made the point that, given the Bill aims to "increase the partnership and trust between school and home," it is vital that parents and carers are informed as soon as possible and that this unawareness ends.⁹⁶

128. Ben Higgins (RRN) agreed that parents and carers should be informed on the same day their child had been restrained or secluded. He said⁹⁷ —

” With any form of physical or psychological harm—and restraint is by its nature harmful and traumatic—parents have a right to know what has happened, and to know the same day that it happens. I think it is good practice that when a child falls over and gets a scratch, a mark, a bump or a bruise, the parents are informed. Why would that not apply in the case of restraint or seclusion?

129. He argued that the Bill should be amended to require parents to be notified the same day that an incident happens, he said⁹⁷ —

” ...so that when their child—who might be non-verbal— comes home distressed, they understand what has happened and can empathise with them. That would be a critically important amendment.

130. Both Kate Sanger and Ben Higgins (RRN) acknowledged the difference between recording incidents and reporting them to parents; Ben Higgins (RRN) suggested reporting could take place by the end of the next day to allow time for the incident to be recorded correctly. He said⁹⁷ —

” If a child runs into the road, they need to be pulled out of it—we are not saying “Never use restraint”—but the routine use of restraint is a concern, because it represents a missed learning opportunity. Allowing some of the recording to happen the next day so that we can get that reflective practice and learning will be critical. In short, then, reporting to parents has to happen the same day, with recording potentially happening the next day.

131. The Commissioner spoke of the importance of the child's plan; that there are some children who may need some form of mechanical restraint or supportive equipment which would be incorporated into their plan therefore certain instances of restraint are already anticipated. She said⁹⁸ —

” However, I note that one thing was missing from the non-statutory guidance: it does not note explicitly that the parent or carer has also been informed and has agreed with the plan. The Government's review of that, which is happening at the moment, is a useful opportunity to be clear about how informed parents must be about what is being used with their child.

132. Mike Corbett commented that while NASUWT agreed that parents and carers should be informed of instances where restraint and seclusion have been used, he said, based on casework across the UK, that there may be cases where contact

with the parents or carers may not be appropriate. He said ⁹⁹ —

” For example, if a pupil is at risk, their social worker might say that when the school advises the parent or carer that restraint has been applied, that parent or carer might blame the child and ask what they have done wrong. There is that need for caution in some individual cases.

133. Gavin Calder (SCIS) also made the point that in some circumstances, it may not be the parent or carer who should be informed but whoever is responsible for the child or young person such as a social worker. ¹⁰⁰

134. Dr Binnie (ADES) commented that it was not acceptable that parents and carers were not informed of instances of restraint and seclusion. She said ⁸⁹ —

” ADES is very clear in the principles that are outlined in the current guidance. Parents and carers should be informed within 24 hours—in practice, that should happen immediately—of any instances of physical restraint or seclusion.

135. Dr Binnie explained that since the current guidance has been in place, all 32 local authorities now have policies and procedures for dealing with restraint and seclusion in schools. When told about the evidence heard that parents and carers were not informed when their child or young person was restrained and secluded, she said ⁸⁹ —

” Significant work is happening in local authorities to ensure that the policies and procedures are communicated to school staff. I encourage any parents who find themselves in that unfortunate position to contact someone in their local authority immediately.

136. The Cabinet Secretary highlighted that the current guidance requires schools to report by the end of the school day and said the Scottish Government supports the provision for that to happen within 24 hours. ¹⁰¹ The Cabinet Secretary agreed there could be issues with requiring schools to report by the next school day in relation to weekends and holidays. ¹⁰²

137. When asked who is accountable when parents and carers are not informed where restraint and seclusion has taken place, the Cabinet Secretary said it was the local authority and that it should have practices in place to ensure this does not happen. The Cabinet Secretary commented ¹⁰³ —

” The national guidance sets out the Government's expectation that parents are notified by the end of the school day, so if a school did not do that, that would run contrary to the national guidance. However, the guidance is not statutory, which is why we are discussing legislation.

138. The Member in Charge also could not say why parents and carers are not routinely informed on instances where restraint and seclusion has taken place and said that parents and carers must be informed as quickly as possible. ¹⁰⁴

139. On concerns raised regarding questions about whether 24 hours is too long to inform parents and carers, the Member in Charge said it "would be perfectly within

the gift of the guidance to specify a shorter period than that". He said ¹⁰⁵ —

” I cannot quite come up with an example, but there are circumstances, particularly around the recording of the incident rather than the informing element, in which a period of reflection or bringing together all the perspectives might be required before the recording can be completed. I expect to see context and other considerations properly included as functions of the guidance, but they are certainly not things that can be included in the Bill.

140. In response to the suggestion that reporting could be done on the next school day and the associated risk of parents and carers having no information over a weekend or a holiday period, the Member in Charge said that this would be inappropriate. He said ¹⁰⁶ —

” I think that it should be 24 hours for good reason. If you were a parent, the very latest that you would want to know is the next day. Your parental responsibilities span the weekend, and the consequences of an incident such as that might be germane, because they might result in your child being distressed and unable to articulate why. The very longest time that a parent should have to wait before knowing that something has occurred is 24 hours.

141. When asked whether the Bill should be amended to say that parents and carers should be informed on the day the instance occurs and reported on within 24 hours, the Member in Charge said that argument "has a lot of merit and is compelling" but questioned whether that level of detail would be more appropriately set out in the guidance. He said ¹⁰⁶ —

” I have a small hesitation in saying that it would be appropriate for that to be in the Bill but, as a matter of practice, what you have set out is absolutely how things should be done.

142. The Committee agrees that it is imperative that all parents and carers, or appropriate persons, are informed of instances where restraint and seclusion have taken place. The Committee believes that this must take place on the same day and should be reported on no later than 24 hours after the incident has occurred. The Committee believes that there should be an expectation that parents and carers not being informed on the same day should be exceptional and recommends that the Member in Charge, in consultation with the Scottish Government, considers how the Bill should be amended to provide for this.

Recording and reporting

143. Section 4 of the Bill would require education providers to record all incidents of restraint or seclusion. It would require independent and grant-aided schools to report the number of incidents to the local authority in which they are situated. Local authorities would be required to report to the Scottish Government the number of incidents of restraint or seclusion in all schools in their area (i.e. local authority schools and independent schools). The Scottish Government would be required to report on this data every year.
144. The current non-statutory guidance states that that restraint and seclusion should be recorded locally and monitored at education authority level. There is currently no requirement for education authorities, independent or grant-aided schools to report the use of restraint and seclusion at a national level. The guidance includes details of how incidents relating to restraint and seclusion should be recorded. It states ¹⁰⁷ —
- ” The use of restraint and seclusion should be reported to the education authority, the managers of the grant-aided school or the proprietors of the independent school within two working days, with the full written record shared within five working days.
145. The Policy Memorandum stated that the requirement to report an incident of seclusion or restraint will particularly benefit children and young people with additional support needs, but will apply equally to all pupils. ¹⁰⁸
146. The Policy Memorandum commented on the lack of a standardised approach to reporting which meant that there were significant discrepancies in how incidents of restraint and seclusion are reported, with many education authorities not recording data at all. It stated ¹⁰⁹ —
- ” Without such data, it is challenging to identify problematic practices and to address them whilst ensuring that de-escalation becomes the main focus. The Member believes that published data is needed to enable parliamentary scrutiny and to ensure that third sector organisations and others with advocacy or investigatory roles, such as commissioners, can conduct evidence-based work where issues persist.
147. The Scottish Government's memorandum on the Bill suggested that there were two issues regarding the reporting provisions in the Bill that may have to be considered—
- whether grant-aided and independent special schools should report to the local authority which placed the child in the school, which may not be the local authority in which the school is situated; and
 - how to manage any possible dual reporting of residential care accommodation and secure care accommodation services - i.e. the reporting envisaged in the Bill in addition to duties to report to the Care Inspectorate.
148. The reporting and publishing of 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 and 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. ¹¹⁰

149. Suzi Martin (NASS) highlighted the need to better understand "the scale of the problem" of restraint and seclusion in schools and highlighted the lack of data in relation to this. She commented that, despite the work being done by the Commissioner, Enable, Beth Morrison and Kate Sanger, it is still largely "an invisible problem". She said ²¹ —

” That is why it is important that we start to collect that data, otherwise it will continue to be an invisible problem and children and young people’s human rights will continue to be violated, particularly those of autistic children and young people and those with learning and other disabilities.

150. She explained that, given that currently there is no requirement to report, record, and monitor this issue, creating a legal framework should help address the problem of these cases going unreported. ¹¹¹

151. Suzi Martin (NASS) also pointed out that the recording and reporting provisions in the Bill establish lines of accountability where schools notify parents and record instances where restraint and seclusion have been used and this information is provided to education authorities, the Scottish Government and the Scottish Parliament. She told the Committee ¹¹¹ —

” If we lift the lid on the problem, schools will take action to prevent it from happening. That is not to say that individual schools are not doing that work—some are—but we know that unsafe and inappropriate use of those practices is happening and will continue to happen until we start to collect the data and lift the lid on the issue, which Beth Morrison rightly described as a hidden shame.

152. The Member in Charge said the Bill will address the lack of data and clarity in relation to the incidences of restraint and seclusion in Scotland's schools and provide "a national understanding of the issue". He highlighted the findings of the 2018 Commissioner's report which found that there were 2,674 instances of restraint but that only 18 local authorities were reporting on that. He said ¹¹² —

” Only 18 authorities—but not the same 18—were able to provide data; only 13 of those 18 could actually provide the number of children restrained and only 12 could provide any insight into the use of restraint for pupils with additional support needs.

153. The Member in Charge highlighted the usefulness of the recording and reporting provisions in the Bill for clarity and precision. He explained ¹¹³ —

” When things are vague, they are not guided by clarity but driven by speculation. I am doing everything that I can to increase clarity.

154. Tom Britton (EIS) highlighted that, when recording instances of restraint and

seclusion, due to a lack of resources, post-incident reviews are not routinely carried out. He said ¹¹⁴ —

” With the best will in the world, local authorities will have structures and policies that should kick in after an incident, but time and financial pressures and a lack of staff and resources mean that those things are often left undone. That is criminal considering that, in the ideal scenario, there should be a focus on the young person, the relationships and the wellbeing of everyone in the setting.

155. Mike Corbett (NASUWT) suggested that recording and reporting on restraint and seclusion should include feedback from teachers. This should include details on whether they had a debrief and any lessons were learned from the incident. He argued for safeguards to be applied to the recording and reporting duties. He commented ¹¹⁵ —

” The only hesitancy that we have about national reporting is that there should not be an opportunity for individual schools, teachers or, indeed, pupils to be identified, so there would need to be some safeguards for that. However, we think that the practice would be helpful and would help us to have a national approach to the debrief situation.

156. The Committee heard concerns 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. ¹¹⁶ 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”. ¹¹⁷ The 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”.
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157. The Cabinet Secretary said that the Scottish Government would support the idea that school-based data would not be published. ⁴² The Cabinet Secretary highlighted the need to collect school-based data in a sensitive way and said ¹¹⁸ —

” We will continue to engage with Mr Johnson on this at stage 2, because we need to reassure local government that authorities are not going to be measured against one another and that national data will help inform better practice.

158. On whether data-gathering and reporting could improve post-incident support, the Cabinet Secretary said ¹¹⁹ —

” I am happy to consider that as part of our discussions at stage 2. However, what that would look like would vary according to the individual incidents and individuals in the schools.

159. When asked about the concerns that the reporting duties in the Bill could result in

league tables showing that a certain school or local authority uses restraint far more than others, the Member in Charge said it should be reported on at local authority level rather than school-based information to avoid these concerns and eliminate any risk of "jigsaw identification". He stated ⁵⁸ —

” My Bill is not prescriptive on precisely how those figures would be reported. It is important to point out that collection would take place at local authority level. Local authorities would be required to provide those figures to Scottish ministers, and it would be up to Scottish ministers how the data would be provided.

160. He commented that he was "very open to tightening up the definitions, especially around the reporting requirements, to make that more precise." ⁵⁹

161. The Committee considered the risk of dual reporting in some settings given the different policy frameworks across different services, including schools and care settings. The Scottish Government's memorandum on the Bill noted the contrast between the school reporting position and residential care accommodation and secure care accommodation services. It stated ¹²⁰ —

” Scottish Government considers that, were a new national reporting approach to be agreed through the Bill, clarity would be required in the supporting statutory guidance to ensure residential schools and secure care establishments understood any dual reporting requirements whilst avoiding double reporting wherever possible.

162. The Member in Charge argued that providing a single set of guidance to cover both education settings and care settings is complex however, he did not believe that dual reporting would be required. He said ¹²¹ —

” The Government is also of the view that, if there is double reporting, that can be resolved, at the very least, through clarification and so on... To provide something more comprehensive would be beyond the scope of what is achievable or manageable in a Member's Bill.

163. He went on to say that residential schools and early years settings have multiple layers of oversight, which the Bill does not alter, but does need to be looked at by the Scottish Government. He reiterated his view that the Bill does not require dual reporting as it is only concerned with regulating school settings. He said ¹⁰⁵ —

” It is clear when a school setting is a school setting, and those bodies will already have relationships in place. The wider point is important and needs to be addressed, but it simply would not be sensible for me to attempt to do so with this Bill.

Independent and grant-aided special schools

164. The Committee heard evidence that the education authority in which an independent or grant-aided special school is situated might differ from the education authority that has placed a child in the school's care where many pupils who attend come from a different local authority area. For this reason it was suggested that those schools should not report to the local authority in which they are situated but

rather report directly to the Scottish Government.

165. The Scottish Government's memorandum on the Bill stated ¹²⁰ —

” The Scottish Government is not clear from the policy memorandum why the Bill requires independent and grant-aided schools to report restraint to the education authority in which they are situated. The 2024 guidance advises these grant-aided and independent special schools to report restraint to the education authority responsible for the placement. As pupils are often placed outwith their education authority, the Scottish Government would have concerns regarding the handling of this data by education authorities without a clear justification. The Scottish Government believes there to be merit in considering whether these schools should report at a national level in the same way as the Bill requires of education authorities.

166. The Donaldson Trust echoed this view and argued that GASS could report directly to the Scottish Government. It said— ¹²²

” The Scottish Government's memorandum for the Committee – which we are pleased to see endorses the Bill's General Principles – notes the Bill proposal to have GASS report statistics on restraint / seclusion via the local authorities in which they are located. We agree with the Scottish Government that this could impact the quality of data collected and agree that GASS could report directly, in keeping with GASS obligations on a whole range of other reporting measures.

167. The Cabinet Secretary agreed that the provision where independent and grant-aided schools are required to report restraint to the education authority in which they are situated "needs to be looked at". ¹²³ The Cabinet Secretary said that for children attending a school outwith their own area, reports should be made to their local authority and that there was a risk of dual reporting in the Bill as currently drafted. ¹²⁴

168. The Member in Charge acknowledged that independent and grant-aided schools have a different relationship with local authorities and that the Scottish Government is considering this issue. He said the Bill is not overly specific about the precise reporting arrangements. He said ¹²⁵ —

” Ultimately, it is a matter for the Government to resolve. It is for local authorities to collect the data, and it is then for the Scottish ministers to determine how to report the data. The Government would need to resolve that level of detail.

Role of His Majesty's Inspectorate of Education (HMIE)

169. As set out in the Policy Memorandum, the guidance must include details on the inspection of the practice of restraint and seclusion in schools and specify what information must be provided to inspectors as standard. It stated ¹²⁶ —

” This will help inspectors understand the nature of such incidents and assess the need for changes in practice, as well as making targeted recommendations for further action wherever necessary.

170. The Committee considered what role His Majesty's Inspectorate of Education (HMIE) would play in relation to how the Bill is implemented. Kate Sanger argued that it was important that the school inspectorate was properly trained on restraint and seclusion techniques in order to be able to ask the right questions when inspecting a school on their use. She said ⁹⁶ —

” Some of the pictures that we have had of the rooms used for seclusion have shown cupboards with boxes piled sky-high with materials. A child with epilepsy was placed in a room like that for quite a few days each week. If the school inspectorate had asked about that and had been shown that area, it would have said that that was a wholly inappropriate place to put a child.

171. Dr Webster (Enable) said that they have not given a view on whether a particular statutory body, in addition to the Parliament, should have oversight of the implementation of the Bill. He made the point that there were other instances where similar oversight was provided on the use of restraint and seclusion through the Care Inspectorate and the Mental Welfare Commission for Scotland to ensure that it is being properly monitored and that appropriate data is gathered. ¹²⁷

172. Suzi Martin (NASS) argued that the current inspection regime does not have "additional support for learning at its core, and the issue is not being well considered"; she said that the increase in children and young people having additional support needs should be recognised and considered as part of the inspection regime. She made the point that the recording and reporting requirements set out in the Bill will provide important information for the inspectorate to "assess how well a school is supporting the most vulnerable children and young people in our schools." ¹²⁷

173. The Commissioner spoke of the potential role for HMIE in the implementation of the Bill and highlighted that the current guidance states that HMIE already has a role in the inspection of education authorities. ¹²⁸

174. Gavin Calder (SCIS) argued that currently there is no national scrutiny of restraint and seclusion in schools, as is the case in residential care, as data is not collected in schools therefore it was impossible to tell if the situation was improving since the current non-statutory guidance was implemented. ⁴¹

175. He went on to say that there should be an equivalent of the Care Inspectorate to gather data on restraint and seclusion in schools or alternatively, the functions of the Care Inspectorate or HMIE should be amended to require them to gather data on this. ¹²⁹

176. Dr Stephen (GTCS) agreed with this point, saying there was a need for a more coherent policy and system of checks and balances. She said ¹²⁹ —

” We are missing the capacity to see that and give the public more confidence and assurance that such situations are being dealt with appropriately.

177. Dr Binnie (ADES) highlighted the role the inspectorate plays in school inspections where it considers a safeguarding and quality indicator in the quality assurance framework. She said ¹³⁰ —
- ” Within the current system, the inspectorate provides important checks and balances at an individual school level. In order to achieve improvement, it might need to consider stronger and more robust involvement at a local authority level.
178. The Cabinet Secretary suggested there may be additional costs associated with the role of the inspectorate being involved in national reporting mechanisms. She said ¹²³ —
- ” These issues need to be flushed out during stage 2 deliberations, but I do not think that they are insurmountable.
179. The Member in Charge highlighted that HMIE would need to consider how restraint and seclusion form part of its inspection regime, which is included in the Bill. He said ¹³¹ —
- ” I would not want to specify precisely how that would work but, clearly, the inspectors should be asking about those topics, particularly in settings where such things might be more likely to happen.
180. The Committee welcomes the recording and reporting provisions in the Bill which will help to build an understanding of the scale of the use of restraint and seclusion in Scotland's schools and establish lines of accountability.
181. The Committee notes the evidence that the collection and recording of data in relation to instances of seclusion and restraint provides an opportunity for school staff to conduct post-incident reviews and to establish any lessons learned following any incident.
182. The Committee notes the concerns regarding the collection of school-based data and the risk that this could create league tables of the use of restraint and seclusion in schools without adequate context. The Committee welcomes the reassurances from the Member in Charge that data should be reported on a local authority level rather than a school-based level and also welcomes the view of the Scottish Government that school-based data would not be published.
183. The Committee notes that the education authority in which independent or grant-aided schools are situated may differ from the education authority that has placed a child in that school's care. The Committee therefore agrees that an independent or grant-aided school should not report to the local authority in which it is situated but rather report directly to the Scottish Government and to the education authority which has placed the child or young person. The Committee recommends that the Bill is amended at Stage 2 to allow for a change to this reporting requirement.
184. The Committee notes the concerns regarding the risk of dual reporting for residential care accommodation and secure care accommodation services and

recommends that the Member in Charge works with the Scottish Government to explore how different reporting routes would work in practice and report back to the Committee on this issue prior to Stage 2.

185. The Committee agrees there is a role for HMIE in the implementation of the Bill and notes that this is expected to be covered in the guidance produced under section 2 of the Bill. The Committee recommends that the Member in Charge works with the Scottish Government to provide further clarification on what this role would be and any associated additional costs which may arise. This information should be provided to the Committee prior to Stage 2.

Training

186. Whilst the Bill does not include provisions around mandatory training on the use of restraint and seclusion, it provides that the guidance must include details of the training of school staff. It also provides that the Scottish Government would maintain a list of approved training providers. The Policy Memorandum said it is envisaged that this will include "distinct levels and forms of training for people in different roles". It stated ¹²⁶ —

” This element of the guidance will be complemented by the establishment of a list of approved training providers that provide training to standards set by the Scottish Government. This list must also detail the courses or programmes involved in such training. The list will be published with a view to ensuring that details of training are readily available to schools and their staff, and that there is clarity on training requirements.

187. The Policy Memorandum highlighted that the guidance must include advice on alternatives to restraint and seclusion, and action which could be taken to prevent or minimise the use of restraint and seclusion. It stated ¹³² —

” This is included to ensure that the guidance places a strong emphasis on de-escalation, wherever possible. Alternatives to restraint and seclusion could, for example, include ways of identifying what the child is seeking to communicate, including when they become frustrated or exhibit other behaviours borne from a difficulty in conveying how they are feeling.

188. The current Scottish Government guidance states that where restraint is a foreseeable possibility, schools should use restraint training that is certified as complying with the [Restraint Reduction Network Training Standards](#). The guidance states that this will ensure that ¹³³ —

- training is human rights-focused;
- staff also receive training in preventative approaches;
- trainers have the appropriate expertise to train in schools;
- training in techniques is safe and proportional to school requirements and is appropriate for use on children and young people;
- training includes hearing from people who have been restrained; and
- training is accredited by the United Kingdom Accreditation Service as meeting the ISO standards for certification.

189. The current guidance states that "it is not expected that a large number of staff within an education establishment would require restraint training. However, where a health and safety risk assessment indicates restraint as a foreseeable possibility, consideration should be given to training an appropriate number of staff." ¹³⁴

190. In 2018, the Commissioner recommended that local authorities ensure that

"restraint and seclusion is only carried out by staff members who are trained to do so". It also recommended that training should only be provided to those professionals that have been assessed as requiring it. ¹³⁵

191. The Committee heard that some current training focuses too heavily on restraint techniques and there were calls for trauma-informed, preventative, and communication-focused training.

192. Witnesses spoke of the importance of appropriate training for teachers and staff in the use of restraint and seclusion which could also reduce the instances where these practices are used. Kate Sanger spoke of instances where new staff are sent on restraint training without any understanding as to why a child would perhaps act in the way that they have acted. She said ¹³⁶ —

” It is all about educating staff and ensuring that they understand that such behaviours are a way of communicating that something is wrong and that the child uses their behaviour to escape. However, staff are being sent to restraint training straight away; as a result, if a child comes up and is anxious, the staff go to grab them, because that is what they have been taught.

193. Suzi Martin (NASS) echoed this point. She said that all behaviour is communication and explained that autistic children and young people can respond with behaviour that is perceived as challenging when confronted with difficult situations or environments, which is not always understood by members of staff. She commented ³⁴ —

” They can experience difficulty with managing unexpected changes or with processing information, including sensory information, which can cause sensory overload, dysregulation and overwhelm. That in turn can cause anxiety and often physical pain, which can result in a child or young person behaving in ways that appear challenging.

194. The Committee also heard that training in the use of alternative approaches could help reduce the instances of the use of restraint. Kate Sanger suggested that staff should be trained on proactive measures to help avoid restraint being needed based on a better understanding of how the child or young person communicates. ¹³⁷

195. She commented that it was important to understand behaviours and why they happen. She explained that often children and young people have complex communication needs and sometimes no verbal skills therefore their behaviour relates to "escaping difficult situations". She highlighted her development of the "[communication passport](#)" to help staff understand behaviours and deal with them appropriately. She said ¹³⁷ —

” For example, when they are asked to do tasks, they might not understand what is being asked of them, so they might just drop to the floor. Then they are restrained, picked up, carried out and put in what might be a cupboard, sometimes, or some other area.

196. Suzi Martin (NASS) suggested that staff should be trained on the identification of triggers in addition to the use of the communication passport as a means of

reducing the inappropriate use of restraint. She said ¹³⁸ —

” It is not necessarily that individual staff members do not want to do that or do not have some, if not all, of that knowledge. However, there are things that could happen in schools that would make things easier for staff.

197. Dr Binnie (ADES) commented that guidance can never give clear scenarios, because every scenario and situation is different and requires a degree of professional judgement on whether to intervene and restrain. She said that training needs to "support and enable members of staff to make an informed decision at that point while de-escalating prior to that". ¹³⁹

198. On staff's view of training in this area, Dr Webster (Enable) highlighted Enable's 2016 research findings which showed that the teaching profession was seeking training support. It found ¹⁴⁰ —

- 62% of teachers were experiencing stress and anxiety about not having the right support that they felt that they needed;
- 98% of the education workforce felt that teacher training did not adequately prepare them for teaching young people with learning disabilities; and
- 86% of class teachers said that there was not enough additional support for learning in schools.

199. The Committee considered whether all classroom staff should be trained in restraint techniques or whether it is better to have more specialist staff who are trained in this available in every school. Suzi Martin (NASS) argued that there was a place for both and said there was a need for training to provide a basic understanding for all school staff on children and young people's conditions in relation to autism, learning disabilities, communication differences, sensory differences and support needs. In addition, she argued for the need for specialist staff and to increase the number of additional support for learning teachers to support pupil support assistants in the classrooms. She said ¹³⁸ —

” Teaching and school staff do not get enough support with de-escalation, and our concern about the draft guidance that was shared with us in 2022 was that its focus was on the safe use of the techniques rather than on de-escalation. The first mention of dysregulation, sensory overload and communication needs was pages into the guidance. In our view, that is completely the wrong framing.

200. On who should be trained on the use of restraint, Ben Higgins (RRN) argued that training needs analysis is a critical part of the training standards and helps determine who is trained and what training they get. He said ¹⁴¹ —

” Training standards work first on the basis of prevention and build up to looking at de-escalation and then at how you can break away. That is all before you get into the highly restrictive techniques, which people should be taught only if absolutely necessary. The vast majority of people in the vast majority of schools do not need training in restraint. The training needs analysis makes sure that we teach that only where it is absolutely necessary.

201. Sarah Leitch agreed on the need for training needs analysis. She said ¹⁴² —
- ” Just to reinforce the point that the introduction of a training needs analysis before people could commission restraint training was probably one of the most significant cultural changes in an industry that has been described as the wild west. Before it was introduced, we were hearing about schools and other settings that were employing security guards and karate teachers to come in and teach restraint on children.
202. Tom Britton (EIS) expressed concern regarding any requirement that all teachers are trained on the use of restraint which would pose a challenge in mainstream schools. ¹⁴³
203. Many witnesses including Tom Britton (EIS) and Sarah Leitch (BILD) said that teachers are trained in restraint techniques but not in prevention approaches which could be deployed, including using de-escalation techniques and a greater understanding how to meet children’s needs to avoid instances of restraint. ^{144 145}
204. This point was also made by Gavin Calder (SCIS) who referred to the CALM physical intervention course which focuses on de-escalation techniques to ensure intervention becomes the last resort. ¹⁴⁶ Clackmannanshire Council said 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. ¹⁴⁷
205. Tom Britton (EIS) agreed on the usefulness of CALM training but expressed concerns regarding rolling that out to all teachers in mainstream schools. He argued that the Bill should focus on de-escalation training rather than techniques on how to restrain. He said ¹⁴⁵ —
- ” In a special school setting, there is a system. Gavin Calder talked about CALM training. I have had that training, as have a lot of my colleagues. It involves very specific approaches, and you are tested on it once a year... There is also weekly practice: in the special schools setting, there will be teams that are practising weekly, and they will tailor their approach to the young people in their classes as regards possible responses to a dysregulated and distressed young person. The idea of putting that into a mainstream school is an absolute nightmare.
206. Dr Stephen (GTCS) agreed that not every teacher requires to be trained in restraint. She said that teachers need to understand how to prevent behaviour and how to de-escalate situations, and “those teachers who are in a context where we know that restraint and seclusion might feature in a child’s plan should be correctly and appropriately trained in relation to that”. ¹⁴⁸
207. The Cabinet Secretary pointed out that the practices of restraint are not used in most of Scotland’s schools, and it is not a practice that most classroom teachers are trained in. She said ⁴³ —

” As our physical intervention guidance sets out, and as the committee has heard, the vast majority of our education workforce does not need to be trained in the use of restraint. On those rare occasions when it is deemed necessary, it is important that properly trained staff feel confident in using it, supported by the detailed advice and safeguards that should be followed, as outlined in our guidance on physical intervention.

208. The Cabinet Secretary went on to say ¹⁴⁹ —

” To my mind, training on restraint is not something that all teachers will want to take part in. In fact, many teachers will not want to be part of it, because it is for teachers who work in specialist provision or perhaps in ELC.

209. The Member in Charge argued that, although not specifically featured in the Bill, de-escalation is "absolutely embedded in the thinking behind the Bill and informs its direction of travel". He said that this term does not have a basis in law and that it was important to future proof the Bill. He said ¹⁵⁰ —

” To be clear, my focus is on physical intervention. The consequences of people getting it wrong when they use de-escalation techniques are of a different order of magnitude from those of getting it wrong when they use physical restraint. That is the target that I have in mind.

Training providers

210. Section 5 of the Bill would require the Scottish Government to maintain a list of approved training providers on the use of restraint and seclusion. This will link to the statutory guidance produced under Section 2, which would need to include guidance on the training of staff.

211. The Explanatory Notes accompanying the Bill explained that the list is "intended to be the authoritative source of appropriate training for school staff, particularly those in roles involving contact with children and young people who are likely to be subject to restraint or seclusion". ¹⁵¹

212. There are a number of organisations that currently accredit or certify courses in how and when to undertake physical restraint. Many witnesses referred to the usefulness of training standards developed by the British Institute of Learning Disabilities and the Restraint Reduction Network.

213. Suzi Martin (NASS) said a list of approved providers would be welcomed and that this list should be an indication of quality. She suggested the Bill could be amended to introduce a quality training standard for the approved list of training providers. ⁷⁴

214. Kate Sanger and Dr Webster also agreed for the need to have quality assurance training standards around restraint. ¹⁵² Dr Webster (Enable) said that there should be a list of trainers all of whom met agreed quality standards which could be updated following developments in this area. He said ¹⁵³ —

” For example, as a result of developments in research, we know more than we did in the past about the traumatic effects of restraint and seclusion, even when they are done according to training. That tells us that there might be forms of training that seemed valid in the past that we would not want in the future.

215. Ben Higgins (RRN) echoed the need to include quality assurance of training providers and said this training should involve consulting those with lived experience.¹⁴¹ He said any list of approved training providers should only include providers who have met quality standards. He said¹⁵⁴ —

” There is a benefit to having a list, but it is much more important to have quality assurance in place and to ensure that teacher training has a sufficient focus on meeting additional needs and recognises that restrictive practices are harmful.

216. Dr Binnie (ADES) told the Committee that there is variance of training across the 32 local authorities with some using a regulated training provider such as CALM Training and others using in-house training. She said¹⁵⁵ —

” There is a decision to be made, therefore, as to whether to make it statutory or mandatory for a training provider to be accredited through a particular organisation or set of credentials.

217. Ben Higgins (RRN) raised concerns that the Bill does not say the training should be certified despite the current non-statutory guidance stipulating that.⁸⁰ Sarah Leitch (BILD) highlighted that having certified training guarantees can ensure that the training has been based on training needs analysis and that restrictive physical intervention holds are properly risk assessed.¹⁵⁴

218. The Cabinet Secretary said the Scottish Government was supportive of having a national list of training providers and highlighted that the current guidance includes information on this.¹⁴⁹

219. The Member in Charge confirmed that, despite the Bill providing for a list of training providers to be kept, those local authorities who use in-house training would still be able to do so. He said¹⁵⁶ —

” Through the Bill I have sought to enable, in a relatively light-touch way, something of a Scottish Government kitemark. The Bill is about saying, “Look, for people who need such training, these are the sorts of training courses and providers that are appropriate.”... At the moment, the Government signposts to the Restraint Reduction Network, but I would just like to see that aspect go a bit further. That does not preclude the fact that for some practitioners—in fact, probably most of them—the training that local authorities provide might be appropriate.

Potential increased use of restraint

220. The summary of the consultation on the original proposal for a bill noted that some of those who responded were concerned that there could be an increased use of

restraint or seclusion due to increased training. One respondent said ¹⁶ —

” I do not believe that restraint and seclusion should be used by providing training you are basically saying it's OK to use it. They should be given more training in understanding behaviour.

221. This point was echoed by SCLD who referred to the EHRC inquiry in England and Wales which found evidence that ‘training may not always have a positive impact on the use of restraint’. SCLD stated ¹⁵⁷ —

” Furthermore, maintaining a list of training providers could be seen to legitimise restraint and potentially result in an increased use of restraint or seclusion due to increased availability of training.

222. Barnado's Scotland also warned of the potential for increased use of restraint by training all staff and suggested it would be more appropriate to identify "a smaller team within school settings to be trained and authorised in the use of physical restraint techniques" and that other staff should be trained in non-physical techniques, such as de-escalation. It stated ⁶⁷ —

” If intervention beyond this level is required, staff should be able to call for assistance from authorised colleagues. 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.

223. The Cabinet Secretary commented that this was an area of concern, highlighting that most teachers would not be trained in this area or see this practice as being relevant to them. The Cabinet Secretary said ¹⁵⁸ —

” The fact is that the Bill—and, indeed, our guidance—applies to all settings. I have been pushing with officials the question whether we can be a bit clearer about that at stage 2, and we can discuss these points with Mr Johnson as the Bill progresses.

224. The Committee welcomes the Bill's focus on alternatives to restraint and seclusion, and action which could be taken to prevent or minimise its use. The Committee welcomes the current guidance approach that, where the use of restraint training is required, schools should use training that is certified as complying with the Restraint Reduction Network Training Standards.

225. The Committee agrees that training on restraint techniques should not be mandatory for every teacher and that, for those teachers who have been assessed as requiring training, this should include a focus on understanding behaviours and prevention techniques in addition to actual restraint techniques. The Committee recommends that the Member in Charge liaises with the Scottish Government on providing further clarity on the nature of staff training on restraint and who is expected to receive it under the Bill.

226. The Committee welcomes the provision that the Scottish Government should maintain a list of approved training providers and recommends that these

providers must be quality assured and certified training providers. The Committee agrees with the Member in Charge that local authorities in-house training should also be an option.

Financial implications of the Bill

227. The financial memorandum accompanying the Bill estimated that the costs of the Bill would be between £1.7 million and £3.3 million annually, and the majority of these estimated costs would fall on education authorities. The Bill will require a financial resolution. Financial resolutions are governed by Rule 9.12 of Standing Orders.¹⁵⁹
228. The financial resolution procedure is a means of giving extra control to the Scottish Government over Bills with certain financial implications. Only a member of the Scottish Government or a junior Scottish Minister can lodge a motion for a financial resolution (Rule 9.12.7), and so the Scottish Government has a veto on whether any Bill that requires such a resolution makes progress.
229. The Financial Memorandum identified additional costs arising from the following activities—
- production of the guidance, and future revised versions of the guidance;
 - consultation on the guidance, and future revised versions of the guidance;
 - reviewing practices at school level against the requirements of the guidance, including reviewing any individual plans in place for individual children and young people or creating new ones;
 - establishing approved training standards and producing a published list of training providers based upon it;
 - additional actions taken following an incident under the guidance;
 - increased regularity of informing parents of an incident;
 - recording all incidents of seclusion and restraint as standard;
 - establishing new processes for the collation, storage and sharing of data on incidents of seclusion and restraint; and
 - collation of data at a national level by Scottish Ministers and the publication of the associated annual report.
230. The Scottish Government's memorandum on the Bill notes that the largest individual cost contained in the Financial Memorandum relates to the Bill's implementation by education authorities. It stated that the Bill's provisions reflect the existing non-statutory policy position set out in the guidance and therefore it was not clear what additional implementation costs education authorities would incur as a result of the Bill.¹⁶⁰
231. Roz Thomson, Head of the Non-Government Bills Unit, confirmed that the largest costs arose from the implementation of the Bill and pointed out that, in the absence of baseline data, it was impossible to estimate the extent to which each school has implemented the existing guidance and therefore not possible to fully assess the costs associated with implementation of the provisions in the Bill.¹⁶¹

232. The Cabinet Secretary said that further work will be required in order to fully understand the costs that would be involved in the implementation of the Bill and that she had been in discussion with the Member in Charge to ensure that the Bill delivers on its intended purpose. ¹⁶²

233. The Member in Charge confirmed that he had been in regular discussion with the Scottish Government on the Bill and made the point that there is broad agreement on the figures contained in the Financial Memorandum. He said ¹⁶³ —

” There will be costs of around £3 million in year 1, with similar on-going costs each year, which is not the biggest amount of money in the context of the education budget.

Resources

234. Some of those opposing the Member in Charge's original bill proposal were of the view that the education system requires additional resources and funding, including to support children with additional support needs, and legislating would not improve support for teachers and school staff in the face of challenging classroom behaviour. The Policy Memorandum stated ¹⁶⁴ —

” The Member is aware of and alive to these issues and is of the view that progressing this Bill should not preclude further action being taken to tackle educational resourcing concerns and improved support for teachers.

235. The Policy Memorandum recognised the resource limitations for education authorities in relation to how the Bill would be implemented. It stated ¹⁶⁵ —

” Staffing levels across education authorities undoubtedly impact on the ability of school staff to complete processes related to children with additional support needs that would assist them in providing tailored support, such as Co-ordinated Support Plans (CSPs). Resource limitations can also limit the extent to which parents are informed of their (and their child's) rights in relation to raising complaints or receiving mediation or other support in resolving issues involving the repeated use of seclusion or restraint against their child.

236. A number of witnesses raised concerns regarding the ongoing lack of resources for supporting pupils with additional support needs and other disabilities. The NASUWT referred to the current guidance on restraint and seclusion and said ¹⁶⁶ —

” Despite waiting nearly a year for the publication of this guidance, NASUWT is clear that the final document fails to offer any practical advice and help to teachers and school leaders in managing situations where school staff may feel compelled to intervene and physically restrain a pupil or pupils for their own or others' safety. There is no offer of any accompanying training or resources for schools in handling these extremely difficult situations either.

237. The EIS argued that the debate around whether guidance should be statutory or non-statutory does not focus on the major barrier to the implementation of effective practice in this area, which it argued was that of resourcing. It stated ¹⁶⁷ —

” We would, therefore, recommend that the Scottish Government’s non-statutory guidance is given time to embed, is backed by sufficient resources and its impact assessed in light of the acknowledged changed and challenging circumstances which our schools are facing.

238. The Committee considered the wider aspects of support and resources for pupils with additional support needs as part of its inquiry into [Additional Support for Learning](#) where it made a number of recommendations for improvement, many of which have been accepted by the Scottish Government in its [response to the report](#).

239. The Committee notes that the Bill requires a financial resolution and that there is broad agreement with the Scottish Government on the figures contained in the Financial Memorandum. In addition, the Committee welcomes the ongoing discussions between the Member in Charge and the Scottish Government on understanding more fully the implementation costs of the Bill.

240. The Committee notes the evidence on the lack of adequate resources for the provision of additional support for learning and notes the comments from the Member in Charge that this Bill should not preclude further action being taken to tackle educational resourcing concerns and improved support for teachers.

Finance and Public Administration Committee and Delegated Powers and Law Reform Committee Consideration

241. Finance and Public Administration (FPA) Committee issued a call for views on the Financial Memorandum and received four responses which have been published on the [website](#). The Committee notes the FPA Committee agreed to do nothing further on the Financial Memorandum and notes the responses received on the Financial Memorandum.
242. The Delegated Powers and Law Reform (DPLR) Committee considered the delegated powers in the Bill at its meetings on 10 and 24 June 2025 and reported to the lead Committee on 25 June 2025, under Rule 9.6.2 of Standing Orders.
243. The DPLR Committee accepted the reassurance offered by the Member in Charge that the power to require guidance is expected to be used to give statutory status to existing guidance. The DPLR Committee also accepted that—
- the power lists those matters that must be included in guidance, and that the guidance is subject to consultation with education providers and other relevant bodies; and
 - the guidance is not subject to any parliamentary procedure.¹⁶⁸

The Committee notes the findings of the DPLR Committee.

Overall conclusion

244. The Committee agrees with the general principles of the Bill, in terms of minimising the use of restraint and seclusion of children and young people in schools, and commends the Member in Charge for introducing the Bill to Parliament. The Committee also commends the work of organisations and individual campaigners such as Beth Morrison and Kate Sanger who have worked tirelessly on the issue of restraint and seclusion in Scotland's schools.

Annexe

Extracts from the minutes of the Education, Children and Young People Committee and associated written and evidence.

[27th Meeting, 2025 \(Session 6\), Wednesday 24 September 2025](#)

Restraint and Seclusion in Schools (Scotland) Bill:

The Committee heard evidence on the Bill at Stage 1 from—

- Kate Sanger, Family Carer and Co-creator of Communication Passport;
- Suzi Martin, External Affairs Manager, National Autistic Society Scotland;
- Dr Simon Webster, Head of Research and Policy, Enable;

and then from—

- Sarah Leitch, Director of Development, British Institute of Learning Disabilities;
- Nicola Killean, Children and Young People’s Commissioner Scotland;
- Ben Higgins, Chief Executive Officer, Restraint Reduction Network.

Written evidence

- [British Institute of Learning Disabilities](#)
- [Children and Young People's Commissioner for Scotland](#)
- [Enable](#)
- [Beth Morrison on behalf of Positive & Active Behaviour Support Scotland \(PABSS\)](#)
- [National Autistic Society Scotland](#)
- [Restraint Reduction Network](#)

[28th Meeting, 2025 \(Session 6\), Wednesday 1 October 2025](#)

Restraint and Seclusion in Schools (Scotland) Bill:

The Committee heard evidence on the Bill at Stage 1 from—

- Lynne Binnie, Service Lead for Inclusion, Edinburgh City Council and Co-Chair of the Inclusion Network, Association of Directors of Education in Scotland (ADES);
- Tom Britton, Edinburgh Local Association Assistant Secretary, Educational Institute of Scotland (EIS);
- Mike Corbett, National Official (Scotland), NASUWT;
- Gavin Calder, Chief Executive Officer of Harmeny School, and Board Member,

Scottish Council of Independent Schools (SCIS);

- Dr Pauline Stephen, Chief Executive and Registrar, General Teaching Council for Scotland (GTCS).

Written evidence

- [ADES](#)
- [EIS](#)
- [GTCS](#)
- [NASUWT](#)
- [SCIS](#)

[30th Meeting, 2025 \(Session 6\), Wednesday 29 October 2025](#)

Restraint and Seclusion in Schools (Scotland) Bill:

The Committee heard evidence on the Bill at Stage 1 from—

- Jenny Gilruth, Cabinet Secretary for Education and Skills, supported by Alison Taylor, Interim Director for Learning, Stella Smith, Head of Supporting Learners Policy Unit and Robert Eckhart, Supporting Learners Policy Team Leader, Scottish Government;
- Nico McKenzie-Juetten, Head of School Education Branch, Scottish Government Legal Directorate.

Written evidence

[Restraint and Seclusion in Schools \(Scotland\) Bill - Scottish Government memorandum - Letter from the Cabinet Secretary for Education and Skills to the Convener, 26 June 2025](#)

[32nd Meeting, 2025 \(Session 6\), Wednesday 12 November 2025](#)

Restraint and Seclusion in Schools (Scotland) Bill:

The Committee heard evidence on the Bill at Stage 1 from—

- Daniel Johnson, Member in Charge of the Bill, supported by Roz Thomson, Principal Clerk, Head of Non-Government Bills Unit and Caroline Mair, Solicitor, Legal Services, Scottish Parliament.

[1st Meeting, 2026 \(Session 6\), Wednesday 7 January 2026](#)

Restraint and Seclusion in Schools (Scotland) Bill:

The Committee considered and agreed a draft Stage 1 report.

Written submissions

The Committee received a significant number of written submissions from organisations and individuals to the call for views which have been published on the website—

- [Published responses](#)
- [SPICe summary of responses](#)

Correspondence

- [Letter from UK Secretary of State for Education to the Convener, 3 November 2025](#)
- [Letter from Welsh Cabinet Secretary for Education to the Convener, 30 June 2025](#)
- [Letter from the Northern Ireland Minister of Education to the Convener, 12 June 2025](#)

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