

Education, Children and Young People Committee
Wednesday 24 September 2025
27th Meeting, 2025 (Session 6)

Restraint and Seclusion in Schools (Scotland) Bill

Introduction

1. Daniel Johnson MSP introduced the [Restraint and Seclusion in Schools \(Scotland\) Bill](#) on 17 March 2025. The Education, Children and Young People's Committee has been designated as the lead committee for this Members' Bill at Stage 1.
2. 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 the use of restraint and seclusion in schools.
3. This is the first evidence session on the Bill and the Committee will take evidence from the following witnesses—

Panel 1

- Mark O'Donnell, Director of Enable Communities, 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 Scotland
- Ben Higgins, Chief Executive Officer, Restraint Reduction Network

Background

4. SPICe has produced [a background briefing on the Bill](#) which is published on the website.

Evidence

Call for views

5. The Committee issued a call for views on the provisions of the Bill which ran from 28 May until 11 July 2025 and 125 responses were received.
6. The [responses to the call for views have been published on the website](#). A summary of the responses received is included at **Annexe A**.

Written evidence

7. Beth Morrison, campaigner for 'Calum's Law', and Founder and Chief Executive Officer of Positive & Active Behaviour Support Scotland was unable to attend this session but a letter from her and her response on behalf of Positive & Active Behaviour Support Scotland (PABSS) to the call for views is attached at **Annexe B**. Beth Morrison also highlighted [the PABSS Report 2025 Calums Law, Ending the Use of Restraint & Seclusion in Schools](#). In addition, the following witnesses have provided written evidence which are also attached at **Annexe B**—
 - British Institute of Learning Disabilities
 - Children and Young People's Commissioner for Scotland
 - Enable
 - Beth Morrison letter and submission on behalf of Positive & Active Behaviour Support Scotland (PABSS)
 - National Autistic Society Scotland
 - Restraint Reduction Network

Scottish Government position

8. The [Scottish Government wrote to the Committee on 26 June 2025](#) attaching its memorandum on the Bill. It states—

“The Scottish Government is clear that restraint and seclusion should only ever be used as a last resort to prevent injury. The 2024 guidance reaffirms this position. The Scottish Government welcomes the alignment between the Member's Bill's provisions and key areas of the 2024 guidance. The Scottish Government considers this helpful as schools and education authorities are currently updating local policies to reflect the 2024 guidance.”
9. The memorandum sets out a number of areas which should be explored during consideration of the Bill and goes on to state that “For the reasons given, the Scottish Government will support the general principles of the Bill.”

Approach in England, Northern Ireland and Wales

10. The Committee wrote to the UK Government, the Northern Ireland Assembly and the Welsh Government seeking information on their approach to restraint and seclusion in schools. The Committee asked for information on the following—
 - What guidance is provided to education providers on the use of restraint and seclusion in schools and whether it is statutory guidance?
 - Are there specific training providers and programmes in relation to the use of restraint and seclusion in schools?
 - What data is collected in relation to the use of restraint and seclusion in schools and is this collated centrally?
 - Are there any formal reporting duties to parliament in relation to restraint and seclusion in schools data?

11. Responses from the [Northern Ireland Assembly](#) and the [Welsh Government](#) have been published on the website.

Previous committee consideration

12. 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.
13. 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 to minimise the use of physical intervention and seclusion in Scottish schools and the petition had achieved its key aim.

Other committee consideration

Delegated Powers

14. The Delegated Powers and Law Reform 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.

Financial Memorandum

15. The Finance and Public Administration Committee issued a call for views on the Financial Memorandum (FM) and received four responses which have been [published on the website](#). It is expected that the Finance and Public Administration Committee will report to the lead Committee on the FM in due course.

Next steps

16. The Committee will continue to take evidence on the Bill at its next meeting on 1 October 2025.

Committee Clerks
September 2025

Annexe A

SPICe

The Information Centre
An t-Ionad Fiosrachaidh

Restraint and Seclusion in Schools (Scotland) Bill - Summary of submissions

Introduction

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

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

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

The Committee received responses from 57 organisations and 68 individuals.

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

Themes

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

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

A key debate was around the need for statutory guidance at this stage. A number of respondents argued that the Bill is premature in light of Scottish Government guidance being published in November 2024. Others considered non-statutory

guidance has provided insufficient protection for children's rights and that statutory guidance would mean greater consistency of best practice across Scotland.

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

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

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

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

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

The issue that is being addressed

The Scottish Commission for People with Learning Disabilities reported that:

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

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

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

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

Another said:

"My experience is as a parent of teenager. She is autistic, dyspraxic, dyslexic, struggles with everything, but wants to succeed academically so is

determined to go to mainstream high school. Seclusion has been used with her several times. Each time I have been informed by my child promptly and with full detail of the circumstances. I have also been informed by the school - not that seclusion was used, but that my child had behaved badly. ... My child does not require seclusion at home or in any other of the many groups and activities they take part in. The school setting is the only place, because it is the only place where my child feels unsafe. This is mainly due to lack of training on part of staff who can escalate situations by use of sarcasm and casual verbal micro aggressions.”

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

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

An individual told the Committee:

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

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

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

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

Clackmannanshire Council’s submission said that it agreed that “restraint should only ever be used as a last resort, where there is no other means to prevent harm”

and that it supported trauma-informed practice and de-escalation training and positive behaviour approaches. The Association of Educational Psychologists said—

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

Dr Brodie Paterson said:

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

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

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

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

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

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

Coalition for Racial Equality and Rights noted that a primary concern behind the Bill is to provide additional protections for children with additional support needs; CRER said, “there may be specific race equality concerns requiring consideration - both intersectionally and in their own right”. It referenced research by the Mental Welfare Commission that found that “more people who were Black or of mixed or multiple ethnicity were perceived as a greater risk to themselves and others, whereas all categories of white people were more often perceived as a risk to themselves”.

CRER argued that “this racialised perception of risk/threat is highly relevant to restraint within schools”. A joint submission from a number of Autistic disabled people’s organisations said:

“Neurodivergent children (with or without a learning disability or other co-occurring disabilities) are one of the most at risk groups from have their rights breached, including being subjected to restraint and seclusion and approaches that inappropriately focus on neuronormative and the dominant culture behavioural goals, rather than wellbeing. This risk increases for neurodivergent people with intersectionalities, in particular for those who are from racialised groups in the presence of inherent covert and overt racialised bias. An example of this is the adultification of Black children and young people where they are subjected to judgements not appropriate to their age as well as ‘anger bias’”

Timing

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

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

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

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

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

Statutory guidance

Highland Council’s submission said that it would welcome clear guidance. Stirling Council said that the current guidance, IEI3, is “detailed and useful and covers many of the areas outlined in the [Bill’s] proposal”. Children in Scotland support the Bill

and also reported that “parents, carers, and professionals have found [IEI3] helpful in navigating challenges relating to the use of restraint and seclusion in schools”.

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

“Reports from our members strongly suggest that teachers and school staff are already afraid or reluctant to intervene in some situations, for fear of potential legal or disciplinary consequences, particularly if the escalation of the incident was sudden and unexpected with no apparent trigger. Incidents of this nature can escalate quickly, are emotionally charged and traumatic for all involved. However, failure to act could also leave the teacher or member of staff in a precarious position. If the Bill is enacted, then a culture of fear and anxiety will inevitably become entrenched and lead to defensive practice which will do nothing to deliver meaningful outcomes for children and young people or to foster the positive relationships between teachers, school staff, pupils and their families, central to GIRFEC policy and an Empowered School system.”

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

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

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

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

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

Content or coverage of the guidance

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

- defines key terms
- sets out circumstances in which restraint is not lawful
- explains the need for use of restraint to be grounded in a legal framework with an authorising power

- identifies principles which will underpin lawful restraint
- lists key procedural safeguards
- notes the risk of disproportionate use of restraint against certain groups, which may amount to discrimination
- highlights the need for support, such as independent advocacy, to ensure that rights are effective

Aberlour also said that the guidance should “include legal justifications for restraint or seclusion - it could then give examples of scenarios that would or would not meet this”. The National Autistic Society Scotland also made suggestions for the content of any future guidance. It suggested that the guidance include:

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

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

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

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

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

A rights-based lens

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

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

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

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

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

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

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

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

Wider change

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

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

CELCIS' submission said:

"We urge the Scottish Parliament to view this draft legislation, and the process around the passage of this Bill, not as an endpoint, but as a foundation for deeper systemic change. Any new legislation should be accompanied by a national strategy to reduce restraint and seclusion, with clear targets and investment in inclusive education. Restraint should only ever be used as a last resort, even then, it must be carried out relationally and with care. It should only occur when there is a risk of serious, imminent harm to the child or others, and when all other de-escalation strategies have failed or there is not time to attempt these."

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

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

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

Resources

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

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

"Guidance alone will not deliver the changes needed to realise the policy ambition of preventing or minimising the use of restraint and seclusion in schools. The Scottish Government must commit to the allocation of sufficient

staffing, time and resources to support the implementation of early intervention measures and restorative practice, to allow for effective multi-agency and parental cooperation, to facilitate professional learning and collaboration and to ensure sufficient time is available for teachers, families and other professionals to build the meaningful relationships, which will be key to successful implementation of this approach. Given the importance of de-escalation and early intervention strategies, in the context of increasing volume and complexity of need in children and young people and against a backdrop of rising incidents of violence and aggressive behaviour in schools, additional investment is needed as a matter of urgency.”

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

Definitions

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

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

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

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

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

Unison also said that the Bill’s definitions are broad, highlighting that the definitions rely on the intent of the members of staff to, in the case of the definition of restraint, restrain the movement of the pupil. An individual expressed concern that “the simple act of ‘guiding and turning’ a young person to avert them from a life threatening

situation would be considered restraint and staff may feel guilty or demonised for using restraint in the act of keeping the young person safe.”

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

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

Coherence across children’s services

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

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

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

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

Informing Parents/Carers and debriefs

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

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

Govan Law Centre said—

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

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

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

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

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

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

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

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

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

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

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

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

Govan Law Centre disagreed. It said:

“We consider that the full incident report should be required to be completed within the same timescale and that the full incident report should be made available to parents. ... Requiring the full incident report to be made available to parents ensures that the schools are adopting a transparent approach

when informing parents about the use of restraint or seclusion. It prevents parents having to complete Subject Access Requests for the provision of such information. We have seen, in a recent case, a Subject Access Request for the provision of such information being outstanding for more than 2 years.”

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

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

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

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

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

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

Recording and reporting incidents

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

EHRC supported the provisions in the Bill. It said:

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

Enable said:

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

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

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

Some respondents, including some local authorities were concerned that the publication of national data would create ‘league tables’ without this data being contextualised. Aberdeen City Council said that the “additional layer of accountability ... is unlikely to improve outcomes locally” and it would prefer reporting to be to local committee structures. South Lanarkshire Council said, “the figures in isolation suggest that physical intervention is always a negative when it may be the only option to prevent injury to other pupils or to avoid police intervention”.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Training

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

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

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

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

The Restraint Reduction Network suggested that while some elements of training should be taken up by all schools, such as training on learning disability & autism and prevention, de-escalation & rights, training in restrictive practices such as physical restraint should be for "teachers and schools that really need it". NASUWT supported a "standardised training programme". It said it is important to ensure that practitioners understand "when the use of force is reasonable" and to include de-escalation techniques. It argued that any training should be voluntary.

SCIS said:

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

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

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

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

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

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

Seclusion

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

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

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

“A deprivation of liberty can occur where a person is confined to a place that they cannot leave. The definition of seclusion in both the Bill and the Guidance specifically includes the condition that the child must not be able to leave the place that they have been isolated in. There is no legal process for authorising a deprivation of liberty within the school context. This means that every time a school chooses to place a child in isolation (in whatever form that takes) they risk depriving a child or young person of their liberty, in a manner not prescribed by law – thus breaching the child’s fundamental human rights. Despite the serious nature of the decision making there are no external safeguards or protections suggested by the Bill or in the current guidance that would ensure procedural fairness in the decision making around this issue.”

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

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

Ned Sharratt, SPICe

Date: 09/09/2025

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Annexe B

Response from the British Institute of Learning Disabilities

1. Do you agree with the Bill's approach? Why?

The Bill creates duties in relation to the use of restraint and seclusion in schools. The Scottish Government would need to issue statutory guidance to education providers about the use of restraint and seclusion in schools. Education providers would have to consider this guidance when developing or changing policies.

Response:

Bild (British Institute of Learning Disabilities) agrees with the Bill's approach and supports the call for statutory guidance on restraint and seclusion in schools.

Children with disabilities are more likely to experience restraint and seclusion in schools than those without disability. Recent data shared in the 2025 PABSS report demonstrate that restraint and seclusion are most commonly used on young children who have additional support needs. Experiences of restraint and seclusion can be deeply distressing, traumatic and can cause physical injury.

Given this inequality in the experience of restraint and seclusion, the status quo is not adequately protecting children with learning disabilities and autistic children, and Scotland is not meeting its requirements under the United Nations Convention of the Rights of the Child and United Nations Convention on the Rights of Persons with Disabilities.

The UNCRC and CRPD both state the need to protect the rights of disabled children:

1. States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.
2. In all actions concerning children with disabilities, the best interests of the child shall be a primary consideration. (Article 7 CRPD)
3. A child with a disability has the right to live a full and decent life with dignity and, as far as possible, independence and to play an active part in the community. Governments must do all they can to provide support to disabled children and their families. (Article 23 UNCRC)

Statutory guidance would be a positive step towards better protecting children with learning disabilities and fulfilling the UN obligations.

We agree with, and reiterate, our partner charity the Restraint Reduction Network's view that the lack of statutory guidance has limited meaningful change to practice in Scotland's schools, leaving schools with widely varying policies, practices and procurement of training, leaving pupils and teachers vulnerable.

2. Do you think the timescale for informing parents is reasonable?

If the Bill is passed, schools would need to inform the parent of a child or young person subjected to restraint or seclusion about the incident and to provide details of

it. This would need to be done as soon as possible, and no later than 24 hours after the occurrence of the incident.

Response:

- Bild agrees with the requirement to inform parents of any incident involving restraint and seclusion within 24 hours. We further believe that this should be done as soon as is reasonably practicable, on the same day as the incident and within 24 hour as the exception. Children should not be returning to school the next day without their parents or carers knowing that an incident occurred the previous day.
- We reiterate the view of our partner charity, the Restraint Reduction Network, that it is essential that parents and carers are promptly informed if their child is involved in an incident in school, what happened and why.
- Restraint and seclusion can be distressing and impact children's wellbeing. Families and carers must know be made aware of any incidents so they can ensure that the child has the right support to minimise harm.

3. Do you agree all incidents of restraint or seclusion in schools should be recorded, collated and reported to Parliament annually?

If the Bill is passed, education providers must record all incidents of restraint or seclusion in their schools. This data must be collated and reported to the Scottish Government. The Scottish Government, in turn, must report to Parliament on this data at the end of each year.

Response:

Bild agrees that all incidents of restraint and seclusion should be recorded, collated and reported to Parliament annually. These should also be published in the public domain.

Clear definitions, used consistently, in the description of techniques or practices used are key to usable, meaningful data and these should be set out within policy from the outset.

Bild agrees with and reiterates the stance of our partner charity, the Restraint Reduction Network, that guidance would be strengthened further by clear timeframes in which recording of incidents is required and that there should be a clear expectation with regard to required reporting e.g. to school leadership, education authority etc.

4. What do you think about maintaining a list of training providers on the use of restraint and seclusion in schools?

If the Bill is passed, the Scottish Government must maintain a list of training providers on the use of restraint and seclusion in schools. This should also include details of courses or programmes of such training.

Response:

Regarding maintaining a list of training providers, Bild fully supports the assertion of the Restraint Reduction Network, that quality assured training is more important than

an approved list of providers. Quality assured training would, by default, provide a maintained list of training providers working in Scottish schools.

The focus must be on improving support for children with learning disabilities and autistic children, meeting needs and ensuring reasonable adjustments are in place. From this focus on getting the environment and support right, many incidents arising from distress will be prevented. We support a focus above all on prevention, de-escalation and human rights, before physical techniques.

At present, without such quality assurance, teachers are left to navigate an unregulated sector where training can be provided by individuals with no understanding of meeting needs of children with additional support needs or of preventing distress. Quality assured training will help ensure that those providing training meet required standards of knowledge and curricula.

We support the inclusion of the RRN Training Standards in the 2024 Scottish Government guidance on physical intervention in schools and believe making this statutory would ensure teachers receive preventative training and that, where restrictive practices are necessary to prevent harm, their use is proportional and only used where it meets the right based proportionality principle.

Bild supports our partner charity the Restraint Reduction Network's proposal for tiered training based on training needs analysis, to training is proportional to the needs of the school. We further support the suggestion of mandatory training in learning disability and autism such as the Oliver McGowan Mandatory Training on Learning Disability and Autism, which is a statutory requirement for health and social care staff in England, in addition to certified training. We believe this would improve practice and better meet the needs of children with learning disabilities and autistic children.

5. Any other comments?

Response:

The Scottish Government guidance (2024) states: 'Where restraint is a foreseeable possibility, schools should use restraint training that is certified as complying with Restraint Reduction Network (RRN) Training Standards. This will ensure:

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

If this were made statutory and all teachers also received Oliver McGowan Mandatory Training on Learning Disabilities and Autism, this would significantly improve practice and reduce reliance on harmful restrictive practices.

Training for teachers and schools should cover three key areas:

Training area	Who receives training?	Mechanism	Statutory requirement
Learning disability & autism	All teachers & schools	Oliver McGowan Mandatory Training	All teachers must receive OMMT
Prevention, de-escalation & rights	All teachers & schools	Oliver McGowan Mandatory Training & Certified training that meets RRN Training Standards	All teachers must receive training in prevention, de-escalation and rights that is certified as complying with RRN Training Standards
Training in restrictive practices such as physical restraint	Only teachers and schools that really need it	Certified training that meets RRN Training Standards	Where training is restrictive practices is required it must be certified as meeting the RRN Training Standards

Response from the Children and Young People's Commissioner Scotland

About the Organisation

Established by the Commissioner for Children and Young People (Scotland) Act 2003, the Commissioner is responsible for promoting and safeguarding the rights of all children and young people in Scotland, giving particular attention to the United Nations Convention on the Rights of the Child (UNCRC). The Commissioner has powers to review law, policy and practice and to take action to promote and protect rights. The Commissioner is fully independent of the Scottish Government.

Do you agree with the Bill's approach?

We welcome Daniel Johnson MSP's Member's Bill on the use of restraint and seclusion in schools and the Scottish Government's commitment to support its general principles at Stage 1 (<https://www.parliament.scot/-/media/files/committees/education-children-and-young-people-committee/correspondence/2025/restraint-and-seclusion-bill-cab-sec-es-to-convener-26-june-2025.pdf>).

This bill will address the significant gap in legal protections for children when they are subject to restraint or seclusion in school. It reflects the Scottish Government's positive obligations under human rights law, and under the UNCRC (Incorporation) (Scotland) Act 2024, to put in place a legislative and regulatory framework sufficient to protect children from harm. We call on the Scottish Government to work with the Committee and Mr Johnson to develop a bill which maximises protections for children and young people.

Children do not experience restraint differently in school from other settings. Whether in residential care, in mental health settings or in secure care and justice settings, the impact of restraint and the inherent risks are the same.

Our position continues to be that there is a need for a consistent legal framework covering restraint and seclusion in all settings, including education, care (including secure care) and health services. There have been a number of legislative opportunities to do so during this parliamentary term, including the current Children (Care, Care Experience and Services Planning) (Scotland) Bill and we are disappointed that the Scottish Government have not availed of these. Nonetheless this Bill does represent a significant advance in extending protections and we are pleased to support it.

Section 6 - Definition of a child and other definitions

We note that in section 6(2), the Bill adopts the definitions of "child" and "young person" used in s135(1) of the Education (Scotland) Act 1980 ("the 1980 Act"). We recognise this was possibly added during drafting for expediency.

In adopting some of the definitions from the 1980 Act, section 6 of the Bill may be incompatible with the UNCRC requirements. For example, the definition of "child" under the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) 2024 Act includes all persons under the age of 18 and the UN Committee on the Rights of the Child has made it clear that childhood continues to the age of 18

and that “the rights of every adolescent boy or girl are afforded equal respect and protection” (<https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-20-2016-implementation-rights>). Furthermore, the definition of “school” fails to discharge the positive obligations of public authorities to pre-school children.

There is a history of the definition of a child as a “young person” in the 1980 Act being used to treat 16 and 17 year olds, especially those no longer attending school, as different from other children, not having the same rights to support as other children or in some cases as not being children at all. For example, the Education (Scotland) Act 2016 treats 12-15 year olds and 16- 17 year olds differently, resulting in children aged 16 and 17 not qualifying for Scottish Government funded support and advocacy (<https://myrightsmysay.scot/about/>).

We therefore ask Mr Johnson to bring forward such amendments at Stage 2 as are necessary to ensure the Bill is compliant with the UNCRC, including to define “child” according to Article 1 of the UNCRC as outlined in the Schedule of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 and to ensure that there can be no question of the functions in the Bill being in scope of the 2024 Act.

Definition of restraint and seclusion

We do not take a position on a preferred definition of restraint and seclusion in section 1 of the Bill, other than to be clear that they must not exclude practices that are of legitimate concern and that there would be significant benefit in aligning definitions across sectors. While we note the Scottish Government’s concerns about the breadth of definition used in this Bill, we also note that they are taken from the Scottish Government’s current guidance (<https://www.parliament.scot/-/media/files/committees/education-children-and-young-people-committee/correspondence/2025/restraint-and-seclusion-bill-cab-sec-es-to-convener-26-june-2025.pdf>).

Recent discussions, of which we were a part, on the recording and monitoring of the use of restraint within education provision in secure care homes has highlighted the importance of consistent definitions across sectors, particularly where care and education are being provided within the same facilities and in many cases by the same staff.

Differentiating between education and care in secure is an artificial distinction – it is part of the ethos of secure care that care and education is threaded through children’s lives. Only recording restraint that took place in care, not education would result in nonsensical situations– restraint of the same child, by the same member of staff, would be recorded in a hallway during a break, but the same incident ten minutes later would not as it was during education provision. Restraint of a child in the swimming pool during recreation at 5pm might be recorded, but not at 2pm if it was a PE class. For secure care, this has been addressed through a temporary arrangement between the Care Inspectorate and HMIE, due for review in November. Similar situations will exist in other education and care settings including residential special schools.

No Safe Place

Statutory guidance.

This is in part due to our concern about the continuing, gravely serious case studies being collated by Positive & Active Behaviour Support Scotland (PABSS) led by Beth Morrison and Kate Sanger. They have included some of these in their submission to this Call for Views. They have seen a significant increase in numbers in the last year. Extraordinarily their survey – carried out by volunteer parents - represents the only national data on the use of restraint in education, but is by its nature only part of the picture. A fuller understanding of the prevalence of restraint and seclusion is only possible through a statutory requirement that its use be monitored.

In 2019, the Scottish Parliament's Public Petitions Committee considered Beth Morrison and Kate Sanger's petition on Restraint and Seclusion in Schools (<https://www.parliament.scot/get-involved/petitions/view-petitions/pe1548-national-guidance-on-restraint-and-seclusion-in-schools>) and the issue of whether or not guidance needed to be on a statutory basis was discussed at some length in the session on 7 November and 19 December 2019, taking evidence from both our office and from Beth Morrison, who was very clear in her belief that any guidance must be statutory. In his evidence the former Commissioner confirmed that our office's position was that "it is very clear that the guidance needs to be statutory and have the force of law" (<https://webarchive.nrscotland.gov.uk/20230606143620/https://archive2021.parliament.scot/petitions/view-petitions/pe1548-national-guidance-on-restraint-and-seclusion-in-schools>).

nt.scot/parliamentarybusiness/report.aspx?r=12439). The current Commissioner supports this position.

In his evidence to the Public Petitions Committee on 19 December 2019, and in response to legal action taken by EHRC with the support of our office, the then-Deputy First Minister (now the First Minister) committed to having non-statutory guidance in place by January 2021, with a one year review that would trigger statutory provision if there was no evidence of impact (<https://webarchive.nrscotland.gov.uk/20230606143609/https://archive2021.parliament.scot/parliamentarybusiness/report.aspx?r=12360>). While we accept that some delay due to the pandemic was inevitable, the finalised guidance was only published in November 2024 and remains lacking in its articulation of the legal position. It leaves school staff to navigate for themselves the extent of their common law duty of care and the application of human rights tests (<https://www.gov.scot/publications/included-engaged-involved-part-3-relationships-rights-based-approach-physical-intervention-schools/>). Despite repeated attempts, we have not been able to obtain any information from the Scottish Government about its plans for a one-year review.

Statutory guidance, as envisaged by this Bill, will also help to ensure a consistent approach to training and support for staff, including in de-escalation and preventive techniques and alternatives to restraint, as indicated in section 2(2) of the Bill. It could also provide a vehicle for ensuring the kinds of reflective practice and better planning that can reduce the risk of restraint and ensure it is genuinely only used as a last resort and where necessary to prevent harm.

In 2020, the First Tier Tribunal for Scotland's Health and Education Chamber considered a referral from a disabled child who had been subject to physical restraint by between three and five members of staff on at least 13 occasions. The periods for which the child was restrained varies from 5 to 35 minutes and on one occasion she was restrained three times on the same day, for a total of over an hour. As highlighted in the decision, the child was injured on at least two occasions and the type and duration of the holds represented a significant risk to her health. The Tribunal found monitoring forms had "critical omissions and inconsistencies which leads us to question how levels of restraint are measured and evaluated" (https://www.healthandeducationchamber.scot/sites/default/files/decisions/add/ASN_D_%2014_01_2021.pdf). The Tribunal agreed with the child that "the preventative strategies intended to avoid restraint were inadequate or static" and found no evidence that the school engaged in tailored preventative work. The Tribunal concluded that the child had been discriminated against, in terms of the Equality Act 2010, on the basis that she was treated unfavourably because of the distressed behaviours arising as a consequence of her disabilities.

Human Rights framework

Restraint, seclusion and restrictive practices engage a number of children's human rights under both the UNCRC and the European Convention on Human Rights (ECHR). Inappropriate use of restraint can amount to "inhuman or degrading treatment or punishment" which is prohibited by Article 3 of the ECHR (the prohibition of torture). Article 3 is an absolute right, interference with which cannot be justified on any grounds. Both the UNCRC (Article 37) and UN Convention on the Rights of People with Disabilities (UNCRPD Article 15) contain equivalent

prohibitions on cruel, inhuman or degrading treatment or punishment. UNCRC Article 19, which outlines the right to protection from violence and injury, places a duty on the state to ensure that “all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment...”

Importantly Article 3 (and Article 37 of the UNCRC) imposes positive obligations on the State. There is a particular duty to provide effective protection for children, including reasonable steps to prevent ill-treatment of which the authorities had, or ought to have had, knowledge. This is currently absent.

There have been instances, in the UK and elsewhere, where inappropriate use of restraint has resulted in the death of a child (for example, the deaths of Gareth Myatt and Adam Rickwood). In other cases, children have been seriously injured (as outlined in the report by PABSS, to be submitted in response to this Call for Views.). The necessity of appropriate guidance and training on the use of restraint therefore engages children’s right to life in Article 2 of the ECHR and Article 6 of the UNCRC. The latter extends an obligation on states to “ensure to the maximum extent possible the survival and development of the child”.

Even where conduct may fall below the standard required to evidence a breach of Article 3 ECHR / Article 37 UNCRC, non-consensual physical intrusion is considered to be a human rights violation, which means that restraint could constitute a breach of the child’s Article 8 ECHR and Article 16 UNCRC rights. Disabled children are especially vulnerable to such rights breaches, as they are often unable to express their views, or give (or refuse) consent.

The test, derived from human rights standards, is that restraint should only ever be used as a last resort, to prevent an immediate risk of harm to the child or another person, using the minimum necessary force and for the shortest time possible. It should never be used to discipline or punish.

As the UN Committee on the Rights of the Child notes in General Comment 8: “The Committee recognizes that there are exceptional circumstances in which teachers and others, e.g. those working with children in institutions and with children in conflict with the law, may be confronted by dangerous behaviour which justifies the use of reasonable restraint to control it. Here too there is a clear distinction between the use of force motivated by the need to protect a child or others and the use of force to punish. The principle of the minimum necessary use of force for the shortest necessary period of time must always apply. Detailed guidance and training is also required, both to minimize the necessity to use restraint and to ensure that any methods used are safe and proportionate to the situation and do not involve the deliberate infliction of pain as a form of control.

Seclusion or isolation may not only amount to cruel or inhuman treatment but may also constitute an unlawful deprivation of liberty in terms of Article 5 ECHR, Article 37 UNCRC and Article 14 UNCRPD. Any statutory guidance must, therefore, include seclusion, including the use of “quiet rooms”, “sensory rooms”, “cool down spaces” or even “medical rooms”. Inappropriate or excessive use of such spaces can be harmful and could breach children’s human rights. They should only be used as part of a support plan and any use should be recorded to ensure it can be monitored and reviewed.

This Bill must also be considered in the context of the human rights of disabled children. In the absence of accurate recording of the use of restraint, it is not possible to identify what proportion of incidents involve a disabled child. However, both our own investigation and the work of others, including PABSS, indicates that a substantial proportion are disabled. Specific groups of disabled children are disproportionately likely to experience restraint, particularly those with a learning disability, autistic children and those with other neurodivergent conditions. It is therefore important to consider this proposal in the context of both the UN Convention on the Rights of People with Disabilities (UNCRPD) and the Equality Act 2010.

In 2023, the UN Committee on the Rights of the Child published its most recent set of Concluding Observations (<https://digitallibrary.un.org/record/4013807?ln=en&v=pdf>). It called on the Scottish Government to

- “Regularly collect, analyse and publish disaggregated data on the use of stop-and-search checks, harmful devices, seclusion, restraint, solitary confinement and isolation on children;
- “Take legislative measures to explicitly prohibit, without exception, the use of... (iii) solitary confinement, isolation, seclusion and restraint as disciplinary measures in schools and alternative care and health settings;
- “Develop statutory guidance on the use of restraint on children to ensure it is used only as a measure of last resort and exclusively to prevent harm to the child or others, and monitor its implementation;
- “Explicitly prohibit the use of restraint and seclusion in educational settings and adopt a child rights-based approach to addressing violence or other disturbances in schools, including by prohibiting the presence of police in schools and providing regular training for teachers on relevant guidance for addressing such disturbances in a child-sensitive manner”

In addition, the UN Committee on the Rights of Persons with Disabilities, in its last review of the UK in 2017 (<https://digitallibrary.un.org/record/1310654?ln=en&v=pdf>), called on the Scottish Government to:

- “Adopt appropriate measures to eradicate the use of restraint for reasons related to disability [...], as well as practices of segregation and isolation that may amount to torture or inhuman or degrading treatment;
- “Set up strategies, in collaboration with monitoring authorities and national human rights institutions, in order to identify and prevent the use of restraint for children and young persons with disabilities.”

We call on Scottish Government to not just support the current proposed Bill but to bring forward national human rights based legislative standards, guidance, recording and monitoring of restrictive practices across all settings.

Do you think the timescale for informing parents is reasonable?

It is vital that parents are notified as soon as practically possible and certainly by the end of the school day, but recognise that there may be some exceptional situations, particularly in residential schools and secure care, where immediate notification is not practical or possible.

Do you agree all incidents of restraint or seclusion in schools should be recorded, collated and reported to Parliament annually?

We take no position on whether or not this information should be reported to Parliament on an annual basis, but we recognise this would provide a level of oversight for MSPs and that the Committee may find this reassuring.

It is, however, essential that there is national oversight of the frequency, circumstances and nature of the use of restraint and seclusion. For state mainstream and special schools, this should form part of the education authority quality assurance processes. The data should be collated and publicly reported, as part of official statistics, at a national level. We believe that there is a role for HMIE in this process, ideally receiving more regular data reports, and that statistics should be reviewed as part of the inspection process for individual schools as well as for education authorities.

We note that section 4(2) currently requires independent schools (including independent special schools) and grant aided schools (all but one of which are special schools) to report the use of restraint and seclusion to their local education authority. We welcome the inclusion of these schools in the Bill, particularly given recent concerns about unacceptable use of restraint in residential special schools (for example, the Care Inspectorate report on Hillside School <https://careinspectorate.com/berengCareservices/html/reports/getPdfBlob.php?id=318538>).

We would suggest further exploration of the most appropriate body to monitor the use of restraint in these schools. It may be that this would more appropriately sit with HMIE, who are currently fulfilling this role in relation to education provision in secure care. This would enable national monitoring of this relatively small group of schools which are, in the case of special schools, more likely to have situations in which there is a risk of restraint or seclusion being used. This data should also form part of the national dataset.

What do you think about maintaining a list of training providers on the use of restraint and seclusion in schools?

Appropriate training of staff is an essential part of preventing excessive or inappropriate use of restraint and seclusions in all schools. When considering whether and which staff need to be trained, consideration should be given for the full range of situations in which restraint may be used in an unplanned, emergency situation for the prevention of harm to the child or another person. This should include risk assessing time outwith class settings such as during lunch or breaks.

We understand that the inclusion of a list in legislation is responding to genuine and valid concerns about the quality of some commercially provided training. However, it may be difficult to keep such a list up to date.

We are content with the present provision that training providers must be certified as complying with the Restraint Reduction Network training standards, as is required by the current non-statutory guidance, but this guidance does need to be on a statutory footing.

Response from Enable

About the Organisation

Enable is a leading Scottish charity, with a proud history of campaigning for human rights since 1954. Our campaigns are led by our members. Our Enable Scottish Council (comprised of people who have learning disabilities and family members) and the National Self-Advocacy Forum (comprised entirely of adults with learning disabilities) have consistently highlighted the urgent need to protect children from inappropriate restraint and seclusion at school. Enable has long fought for inclusive education and safe schools. Through campaigning for the right of children with learning disabilities to be educated in the 1970's through to our #IncludED in the Main?! campaign in 2016 (a national conversation with over 800 responses) and our In Safe Hands? campaign launched in 2019 to end unregulated restraint and seclusion.

Do you agree with the Bill's approach?

Yes. Enable wholeheartedly agrees with, and supports, the Bill's approach. The Bill takes a necessary step by establishing clear legal standards and protections that have been missing for far too long. Its measures directly address the gaps our community has been campaigning to fix for years. Our experience: Far too often children, especially those with learning disabilities or other additional support needs, have been subjected to physical restraint or isolation as a routine response to challenging situations. These practices are distressingly common, yet until now there has been no statutory guidance, inconsistent training, and no requirement even to tell families when such incidents occur. This Bill creates duties that will ensure restraint and seclusion are only used as a last resort in schools, under consistent guidelines, with transparency and accountability built in.

The Bill's approach closely aligns with what Enable and other human rights advocates have long called for. In 2016, our #IncludED in the Main?! Report, informed by hundreds of interviews with pupils, parents and teachers, shone a light on the exclusion and mistreatment of pupils with learning disabilities in Scottish classrooms. It recommended urgent action, including better teacher training in additional support needs, and recording and reducing incidents where pupils were removed from class or restrained. Subsequently, in 2019 we launched In Safe Hands?, our campaign to regulate the use of restraint and seclusion in schools. Enable's campaign (driven by the stories of families in our membership) called for exactly the measures which this Bill now delivers; stronger guidance, training in Positive Behaviour Support for staff, a formal "duty of candour" to inform parents of incidents, and national oversight through data collection. We are encouraged that the Bill enshrines these principles in law. The Bill requires Scottish Ministers to issue clear, statutory guidance on appropriate use of restraint and seclusion, which education providers must follow. It mandates training oversight and data reporting – all critical to changing the culture in schools. This approach is not about blaming teachers; it is about giving schools the tools and rules to keep everyone safe and respected.

Until now, efforts to tackle these issues relied on non-binding guidance, which has proven insufficient. The Children and Young People's Commissioner Scotland

(CYPCS) had to use legal investigative powers in 2018 to expose what was happening, finding thousands of incidents and a lack of any consistent policy. Families have pursued petitions for change for over a decade. Enable's own Scottish Council - which sets our campaign priorities - identified ending abusive restraint and seclusion as a top priority in recent years. The overwhelming weight of evidence from our members and others shows that without legislation, children's rights will continue to be breached. The Bill's approach is proactive and preventative: it aims to minimise restraint and seclusion use through training and guidance, and to ensure any use is properly regulated and disclosed. This is squarely in line with Scotland's human rights commitments. Articles 3, 19, and 28 of the UN Convention on the Rights of the Child affirm that children's best interests, right to protection from harm, and right to education must be upheld. The Bill is a concrete step toward realising those rights in our schools. In summary, we agree with the Bill's approach because it is necessary. It creates a robust framework that will protect children, support teachers with better guidance and training, and shine a light on practices that were previously hidden. This approach is grounded in compassion, dignity, and the lessons of countless human experiences.

Do you think the timescale for informing parents is reasonable?

Yes. Requiring schools to inform parents within 24 hours of a restraint or seclusion incident is not only reasonable, but also essential. In fact, the Bill's provision is carefully phrased: parents or guardians must be told "as soon as possible", and in any case no later than 24 hours after the incident. We strongly support a clear timeframe. It strikes the right balance by setting a hard maximum limit, while still making clear that earlier is better.

That said, 24 hours is a long time. Many of our members, particularly parents, feel that immediate notification should be the expectation. If a child has been restrained or secluded, families should be told as soon as possible so they can offer comfort, seek medical support, or help the child process what happened. In some cases, that support needs to happen the same day. Depending on what took place, a parent might want to speak to their child's GP, take them to A&E, or simply be there to reassure them. If families are not informed straight away, that opportunity can be missed.

Too often in the past, parents were never told when their child was restrained or shut in a room at school. Many in our community have shared heart-breaking stories of children coming home with unexplained injuries, soiled clothing, or in visible distress, and parents only discovering through their own detective work that something traumatic had happened. For example, one Enable member, a mother, recounted how her son (who has complex disabilities) came home one day "broken", with bruises on his arms and his clothes changed. He said only that a teacher had hurt him. The school had recorded nothing in the diary and given no call home. No parent should ever experience that shock and betrayal of trust.

We believe this timescale is entirely reasonable for schools. In emergency healthcare settings, a formal duty of candour requires informing families of serious incidents quickly. Schools are being asked to make a prompt call or message to say what happened. That is not an onerous burden – it is a basic matter of respect and partnership with families. Indeed, not informing parents can have far worse consequences, including loss of trust, complaints, or even legal challenges. By

contacting families quickly, schools can demonstrate they are taking the incident seriously and acting transparently.

We welcome that the Bill uses “as soon as possible” to allow for immediate communication. That should be the standard, and guidance should be clear that this is the expectation in most cases. The 24-hour limit must be there to ensure no unnecessary delay, but in most situations, we would expect parents to be notified on the same day as the incident.

Importantly, current practice is inconsistent, which is why this legal duty is needed. At present, there is no uniform rule so some local authorities have guidelines to inform parents of serious incidents, but others do not, and it can come down to individual school policy. As a result, many parents have only found out indirectly or days later about a restraint – or not at all. Enable’s In Safe Hands? research highlighted that parents are not routinely told when seclusion or restraint happens at school. This is simply not acceptable. A child cannot always articulate to their family what happened especially if the child has communication difficulties or trauma, so a parent might otherwise never know why their child is suddenly fearful of school or has bruises. By mandating that parents be informed, the Bill introduces a vital duty of candour in education. It makes sure that what happened is not kept secret. This is reasonable for educators and immensely reassuring for families. It will help rebuild trust, as parents feel confident that they will be told the truth promptly. It is a common-sense safeguard and a key part of making our schools safer and more open. We fully support it, and our members, many of them parents and grandparents, have welcomed this proposal as a step forward in respecting their role and their children’s rights.

Do you agree all incidents of restraint or seclusion in schools should be recorded, collated and reported to Parliament annually?

We strongly agree that every incident of restraint or seclusion must be properly recorded, collected, and reported, culminating in an annual report to the Scottish Parliament. This is a cornerstone of the Bill and of a transparent, accountable system. By mandating recording and annual reporting, the Bill will shine a light on the true scale of restraint and seclusion in Scotland’s schools. This information has been lacking for years and should drive progress to reduce their use. We note that NHS England already publishes similar data on restrictive interventions every month. While we recognise the different contexts, this sets a clear precedent for openness. An annual report to Parliament is therefore not an unreasonable ask – it is a necessary step to ensure public scrutiny and to support national efforts to reduce the use of restraint in schools.

At present, there is no consistent, mandatory system for tracking these incidents. Some teachers do keep records or incident reports, but across Scotland practices vary widely. In fact, an investigation by the Children and Young People’s Commissioner in 2018 (“No Safe Place”) revealed a deeply troubling picture: within one school year there were at least 2,674 incidents of restraint or seclusion affecting 386 children, yet 10 local authorities admitted they weren’t recording all incidents, and 4 councils recorded none. Many incidents were effectively invisible. From our work with families, we know that some parents only obtained records of what happened to their child by filing Freedom of Information requests or legal actions. This lack of data is not only a barrier to addressing the problem; it is a disservice to

children and staff alike. How can education authorities improve practice or allocate resources for training if they don't know how often these incidents happen? How can we ensure restraint is truly a "last resort" if we aren't monitoring its frequency?

Requiring schools to keep a record of each incident (and details like what led up to it, what de-escalation was tried, and the outcome) will ensure there is a factual account and an opportunity to learn from each case. It provides a measure of accountability so staff know that any use of restraint or seclusion must be documented and justified. The Bill compels not just individual recording, but that education providers collate this data and forward it to the Scottish Government, which in turn must lay an annual report before Parliament. We fully agree with this chain of reporting. Annual parliamentary reporting means the issue cannot be ignored or hidden in obscure files. It brings democratic oversight. MSPs and the public will be able to see year-on-year how many incidents are happening, in what contexts, and whether the numbers are going down (as they should, if guidance and training are effective). This creates a powerful incentive for local authorities and schools to actively reduce the use of these practices. No one will want to be identified as an outlier with unusually high numbers. It also enables identification of trends or areas needing support. For example, if one type of setting or region has higher incidents, the government can investigate why and support schools to address it.

Our members and allies have long demanded better data on this issue. In a recent survey of our network, an overwhelming majority supported a new law to require mandatory recording of incidents, staff training, and national monitoring of restraint and seclusion. They know that without data, promises to change are hollow. Recording and reporting is not about naming and shaming teachers; it's about learning and preventing harm. Each incident logged is an opportunity to ask, "How could we have avoided this? What support or training is needed to handle this differently next time?" We can also measure the impact of the Bill itself by watching the numbers: success will be fewer incidents and more schools reporting less use of these techniques because they've embraced positive alternatives.

Enable also emphasises that data must be handled carefully and published accessibly. We would expect the annual reports to include overall statistics and analysis, while protecting individual identities. It would be useful for Parliament and the public to know, for instance, how many incidents involved young pupils with additional support needs, how many were "seclusion" versus "physical restraint," and how many resulted in injuries. Robust data collection will help ensure the guidance and training (mandated by this Bill) are being implemented effectively. If the numbers do not improve, Parliament will be alerted and can press for further action.

We strongly agree with the requirement for recording, collating, and annual reporting. It brings much-needed transparency and oversight. This practice exists in other sectors – for example, hospitals must report certain restraints or incidents, and criminal justice settings track use of force, so, it is only right that our schools do the same, given we are dealing with children's safety and rights. Seclusion is a form of detention, and any detention without clear authority and without a defined legal framework rightly draws significant concern when it happens to adults. This practice seems to be perceived as less of an issue when it happens to children, but their rights are equal to or stronger than those of adults in this context. We believe this will ultimately help reduce the use of restraint and seclusion, as schools, local authorities, and the government will all be actively monitoring and responding to the

data. It transforms a previously hidden problem into one we can openly acknowledge and fix together.

What do you think about maintaining a list of training providers on the use of restraint and seclusion in schools?

We believe the list should be more than a directory. It should be an assurance of quality. If a provider or course is on the official list, schools and families can have confidence that the training covers the right content and ethics. We would expect that to be listed, a training provider must meet criteria set by the Scottish Government, likely in line with the forthcoming statutory guidance. For instance, training should be human rights-based, include the importance of preventing the need for the use of restraint and seclusion, and cover ways of de-escalating challenging behaviour. It should also cover understanding of autism, mental health, and trauma-informed practices so staff can avoid triggers and reduce distress. Having a list also means the government can keep track: if new, better training approaches emerge, they can be added, and if any approach is outdated or identified as harmful, it can be removed. This dynamic oversight is important in a field that evolves with research (for example, we now know much more about the trauma impacts of restraint, and about alternatives like restorative practices).

From a practical standpoint, a maintained list will help resource-strapped schools identify approved training easily. Especially for smaller schools or independent schools who may not know where to turn, the list is a one-stop reference. It may also allow for economies of scale. If the government recognises certain providers, it might coordinate or fund training sessions that multiple schools can attend. We know from teachers in our network that they want this training. They want to feel confident in supporting pupils with challenging behaviours in a safe and caring way. One teacher told us they had “professional anxiety” about not having the right skills to meet their pupils’ needs. Proper training reduces that anxiety and builds a more positive environment for the child and staff alike.

We suggest that the list be transparent and regularly updated. It could include a short description of each training program and what it covers. It might also be beneficial to involve experts - for example, the General Teaching Council Scotland (GTCS), the Scottish Physical Restraint Action Group (SPRAG), and the Scottish Advisory Group on Relationships and Behaviour in Schools (SAGRABIS) - in setting the standards for inclusion on the list. Enable would certainly be happy to feed in the views of people with learning disabilities and families on what training content is most needed (for instance, our members often mention the need for staff to be trained in communication methods and understanding sensory overload, to prevent crises). Additionally, maintaining a list ties in with monitoring: if all schools use training from the approved list, the government can be confident that a baseline of competency exists everywhere. Over time, better-trained staff mean fewer incidents of restraint.

We believe the list should be more than a directory. It should give confidence that the training is high quality and based on the right values. If a provider or course is on the official list, schools and families should be able to trust it.

We expect that, to be listed, a training provider must meet criteria set by the Scottish Government. This would likely follow the new statutory guidance. As this guidance

develops, we believe it should match existing Scottish frameworks like GIRFEC (Getting It Right For Every Child) and the SHANARRI wellbeing indicators.

The UN Committee on the Rights of the Child recently called on the UK to ban the use of restraint and seclusion in schools altogether. While the Bill doesn't go that far, Enable supports its aims to improve practice. We expect the new guidance to fully uphold the UNCRC.

Training must be human rights based. It should focus on preventing restraint, calming difficult situations, and communicating well. It should also help staff understand autism, mental health, and trauma so they can avoid triggers and reduce distress.

Keeping a national list means the government can stay on top of what works. Better training can be added. Outdated or harmful approaches can be removed. This is important because we're always learning more about what helps.

From a practical standpoint, a maintained list will help resource-strapped schools identify approved training easily. Especially for smaller schools or independent schools who may not know where to turn, the list is a one-stop reference. It may also allow for economies of scale. We know from teachers that they want this training. They want to feel confident in supporting pupils with challenging behaviours in a safe and caring way. One teacher told us they had "professional anxiety" about not having the right skills to meet their pupils' needs. Proper training reduces that anxiety and builds a more positive environment for the child and staff alike.

Any other comments?

Enable strongly commends this Bill as a much-needed reform.

At the heart of this issue are children whose lives have been affected and sometimes devastated by traumatic experiences of restraint or seclusion. We urge the Parliament to keep these human stories front and centre. Many of our members have shared their personal experiences to drive change. Some of our self-advocates remember being held down or locked in a room at school when they were young, and they still carry those emotional scars decades later. "Restraint and seclusion in schools needs to end. The human, education and physical resources need to be in place for this to happen," one Enable self-advocate said, powerfully summarising the consensus of our forums. Another member told us how being repeatedly isolated at school made them feel "like I was bad and didn't belong anywhere". These voices of people with learning disabilities and their families have fuelled our campaigning. We believe this Bill will honour those voices by taking decisive action. We also want to acknowledge the incredible bravery of families, like those in our Scottish Council (for example, parent advocates such as Beth Morrison and others), who brought these issues into the public eye by sharing painful stories of their own children being harmed. Their persistence over years, including petitions and media campaigns, has been a catalyst for this Bill. Enable's National Self-Advocacy Forum, a network of people who have learning disabilities across Scotland, has unanimously backed calls for stronger legal protections and was involved in shaping our position on this Bill. In short, this legislation is the result of grassroots voices speaking up, and we are grateful the Parliament is listening.

We appreciate that the Bill and accompanying documents define “restraint” and “seclusion” clearly in plain language. For example, restraint is defined as holding a child to stop their movement, and seclusion as shutting a child alone in a space and preventing them from leaving. These clear definitions are important so that everyone understands what practices are covered and that, for instance, calling something by another name (like “safe space” or “time-out”) does not excuse using it in a way that meets these definitions. We encourage strong communication when the Bill is implemented. Schools should explain to students in an accessible way what the rules are and that they have a right to be safe. Many of Enable’s members have learning disabilities and we know information must be available in easy-read and plain English. The tone of this response, and indeed the Bill’s policy memorandum, is deliberately accessible so that those most affected can understand the changes. We would recommend that guidance produced under the Bill is also written in an inclusive, easy-to-understand style, possibly even with an easy-read summary, so that parents and young people with additional needs can engage with it.

Enable stands ready to assist with the implementation of the Act (should it pass). We will continue to work constructively with the Scottish Government, Education Scotland, and local authorities to make sure the guidance is robust and reflects best practice. It will be important to involve specialist agencies in drafting the guidance that the Bill mandates. Training needs and costs should be anticipated, for instance, the Financial Memorandum estimates the costs of training and data systems. We believe these costs are justified and indeed modest compared to the cost of failing our children. Where possible, existing resources like integrating training into the annual in-service training days teachers already have, or expanding proven programs such as Positive Behavioural Interventions should be used. We also note that the Bill does not currently apply to nursery schools (early years). While we understand the initial focus on statutory school-age education, we hope that in time, similar protections will extend to all early year’s settings as well, since young children with additional needs can also be at risk of inappropriate handling. In the meantime, the principles of this Bill can serve as a model of good practice even beyond its formal scope.

Ultimately, the success of this legislation will be measured by a change in culture: a shift to truly inclusive, safe learning environments. The Bill’s measures of guidance, training and transparency are tools to achieve that change. We envision a Scotland where restraint and seclusion are exceedingly rare, if used at all, and where schools instead use positive, relationship-based approaches to support every child. This will require not just rules but resources, more support staff in classrooms, better funding for specialist services, and ongoing professional development. It also requires buy-in from educators. We are heartened that many teachers and headteachers support this direction. They, too, want clear guidance and safer strategies. By mandating annual reporting to Parliament, the Bill ensures that we will all keep paying attention and not allow old habits to creep back. In a way, this law empowers teachers as much as it protects students. It sets out unequivocally what is expected, and it backs them up with training and clarity, so they are not left alone to make painful judgement calls with no framework.

Scotland has often led the way in children’s rights, and this Bill continues that leadership. It shows we are willing to confront uncomfortable truths and make bold changes. When this Bill becomes law, Scotland will be one of the few countries to explicitly legislate to limit restraint and seclusion in schools. Something that should

be a point of pride. It sits well with the ethos of Getting It Right for Every Child. Every child has the right to feel safe, healthy, nurtured, respected and included at school. These are basic wellbeing promises we make through the SHANARRI principles in education. For children who have learning disabilities or who are autistic, those rights have not always been upheld, but this Bill can change that. We believe it will also increase public confidence in the education system. No parent should fear sending a child with additional needs to school. If this law is passed, parents will know there are clear rules and accountability to prevent mistreatment. Scotland's schools can become more inclusive as a result because families will be less anxious about whether their child will be safe and understood there.

Enable once again voices its full support for the Restraint and Seclusion in Schools (Scotland) Bill. We view it as a purposeful and humane piece of legislation that puts children's rights and wellbeing at its core. We commend Daniel Johnson MSP for championing it and the Committee for consulting widely on it. As a charity that has campaigned for these changes for decades, alongside families and self-advocates we believe this law will lead to fewer traumatic incidents, better trained and confident school staff, and a culture across Scotland's schools where every child is truly safe. We appreciate the opportunity to contribute our views.

Letter from Beth Morrison – 11 September 2025

**My Story as a mother – A Plea for Calum’s Law: Restraint and Seclusion
(Scotland) Bill 2025 by Daniel Johnson MSP**

Fifteen years ago this month, our son Calum came home from his “special school” and collapsed in my arms. His lips were blue. His body went limp. In that moment, I truly believed he was dying. He wasn’t even wearing his own clothes. His were soaked in urine and stuffed into a plastic carrier bag. No one from the school had called to tell me what had happened. There was nothing in his home-school diary. No explanation. Just silence.

I was frantic. My child had clearly suffered, and I had been left completely in the dark. I didn’t know if he’d been hurt, humiliated, or both. I didn’t know if he’d been safe. I didn’t know anything.

We rushed him to the doctor’s surgery within minutes. Calum had petechiae haemorrhaging across his chest and was covered in bruises. The doctor told us these injuries were typically seen in cases of asphyxiation, hanging, and restraint-related deaths. We were utterly devastated and terrified.

No parent should ever experience that kind of fear. No child should ever be treated with such disregard. That moment will stay with me forever, and it marked the beginning of a fight I never imagined I’d have to take on

We eventually learned that Calum had been physically restrained by four staff members. The reason given was that he had “refused” to get off a specially adapted disabled bicycle he’d been riding in the gym hall. Because he hadn’t followed instructions to ride it in one direction, the teacher pulled him off. Calum kicked out.

But Calum has Epilepsy, Cerebral Palsy, Autism, and Learning Disabilities. His severe communication difficulties meant he couldn’t understand and process complex instructions. At the time, he had the cognitive ability of a toddler. It was painfully clear he had no idea what was being asked of him.

There was no proper investigation. No accountability. The local authority told us, “Restraint is just what they do now.”

Imagine if this were your child. Physically harmed by staff in a school meant to protect them. Unable to tell you what happened. And no one willing to explain. No records. No evidence. Just silence and the expectation that you simply “move on”.

We were told Calum’s “Behaviour” justified restraint. But we never saw that behaviour at home or in any other setting. Calum was a loving, gentle child. He was perfectly fine with us. We couldn’t understand why this had happened.

When I began speaking out, other parents came forward with the same words: “This happened to my child too.”

Over the next three years, I watched Calum deteriorate. Every morning, he begged, “No school, Mummy.” He whispered, “School is scary,” and told me, “I don’t like the bad teachers.” But the school insisted there was “no problem”

Then Calum broke down. He lost weight. His seizures worsened. He became pale, frightened, and haunted by nightmares. Weekends and holidays were the only time he smiled.

My instincts took over. After witnessing further harm firsthand, I removed Calum from the school. With support from our local authority (a different LA from the one who had harmed him), he returned to mainstream education and was never treated that way again.

In January 2015, I submitted Petition PE1548 to the Scottish Parliament, calling for national guidance on restraint and seclusion in schools. Some guidelines followed in 2017, but they weren't enough. I kept hearing from parents, and I kept on campaigning. I spent 5 years on a Scottish Government working group to write new non-statutory guidelines which were finally published in November 2024.

We have supported over 3,000 Scottish parents since Calum's story was first shared. And heartbreakingly, almost every single one of them tells a similar story. All but one of those 3,000 children had disabilities such as Autism and profound learning disabilities. Most were non-speaking. Many functioned developmentally as babies, infants, or toddlers, despite being of school age.

These were not large, aggressive teenagers trying to intimidate staff. They were small children, vulnerable and confused, often unable to express even the simplest needs. They were punished not for defiance, not for deliberate actions but for disability. And they were failed by systems that should have protected them. Worse still, I appeared to be the only person keeping any kind of records.

This is why Calum's Law matters. These children deserve to be understood, not restrained or secluded. They deserve compassion, not control. And they deserve to be safe.

The PABSS Report 2025, which accompanies this letter, contains the data, case studies, and lived experiences of those children and their families.

In June 2023, Daniel Johnson MSP began work on a bill that we hoped would become Calum's Law. In March this year, the bill was formally lodged in The Scottish Parliament.

From the 24th of September, the Education and Skills Committee will begin scrutinising the Restraint and Seclusion in Schools (Scotland) Bill 2025 and they will hear the evidence from individuals and professionals.

I had hoped with all my heart to give evidence in person. This bill carries the weight of my son's story and the voices of thousands of families across Scotland. But we had already booked and paid for a long-awaited Disney holiday for Calum, and it could not be cancelled. After everything he has endured, I could not take that away from him.

There were no alternative dates available, so my dear friend and co-campaigner Kate Sanger will attend in my place. She is someone who has stood beside me for years, amplifying the voices of children like Calum and Laura with unwavering courage and compassion.

I am asking you, from the depths of my experience as a mother and advocate, to support Daniel Johnson's Bill. Stand with us. Help us strengthen it. Help us ensure that no child is ever harmed in the name of education again.

This practice is not just outdated. It is barbaric. It leaves physical scars, yes, but the emotional wounds run far deeper and last far longer. Our children deserve safety, dignity, and love. They deserve to be understood, not punished for their disabilities.

Calum is now safe and happy at home. His bruises healed long ago. But the trauma remains. Fifteen years on, he still remembers. And he doesn't want any other child to suffer as he did. As a young adult, he is extremely proud to have this bill presented in his name.

Calum's Law is not just a piece of legislation. It is a lifeline for Scotland's most vulnerable children. Please help us to do the right thing.

With hope and urgency,

Beth Morrison

Response from Beth Morrison on behalf of Positive & Active Behaviour Support Scotland (PABSS)

About the Organisation

Positive & Active Behaviour Support Scotland (PABSS) is a registered charity run entirely by volunteers. We are a small, specialist organisation supporting families of children, young people and adults with disabilities who may present with behaviours that challenge. Our work is grounded in the belief that all behaviour is communication, and we equip families with the understanding and tools to support their children compassionately and effectively.

We advocate for trauma-informed, rights-based practice across all education settings and are deeply committed to preventing the misuse of restraint and seclusion. Most of our work involves families of very young children with autism and learning disabilities, and we provide bespoke training for professionals — including sports coaches — to support inclusive and empathetic interactions with neurodivergent children.

We promote tools such as the Communication Passport and uphold human rights through every facet of our work. Our campaign for Calum's Law, which calls for greater regulation, accountability, and transparency around restrictive practices in schools, began with a petition (PE1548) in 2015, led by our founder Beth Morrison and co-creator of the Communication Passport Kate Sanger. This campaign has since grown into a national movement for legislative reform, supported by families, professionals, and advocacy groups across Scotland.

Do you agree with the Bill's approach?

PABSS wholeheartedly supports the Restraint and Seclusion in Schools (Scotland) Bill 2025. We commend its efforts to embed trauma-informed, rights-based principles in education and fully endorse its alignment with the United Nations Convention on the Rights of the Child (UNCRC).

We note that the Scottish Government's original consultation for the proposal of the bill reflected an overwhelming majority of respondents calling for statutory guidance on restraint and seclusion. This consensus echoes the lived experiences of families across Scotland who have shared with us the devastating consequences of inconsistent, poorly regulated and often harmful practices. We firmly believe that the guidance must now be statutory to ensure consistent protection for all children.

Our submission is accompanied by the PABSS Report, which offers further evidence to support this position. Drawing on detailed case studies, national data trends and over a decade of advocacy including our campaign for Calum's Law, the report highlights urgent gaps in current practice and sets out key recommendations for change. We respectfully urge the committee to consider this evidence in full as part of the legislative process.

It is essential that the Bill establish clear definitions of restraint and seclusion. Our work with families has revealed a pattern of euphemistic terminology used by education staff that distorts the reality of these interventions. Terms like "support," "caring cuddle," "quiet room," or "calming space" are frequently used to describe acts

that may involve physical force, isolation or solitary confinement. This kind of fluffy language sanitises practices that can be deeply distressing and traumatic, falsely implying that they are therapeutic or child-friendly.

We are particularly concerned that school staff often avoid using accurate terminology when communicating with families, which obstructs meaningful oversight and denies parents the clarity and accountability they deserve. Without transparency, these practices remain hidden, undocumented and normalised.

The inclusion of statutory definitions anchored in international human rights frameworks is critical. Families, professionals and oversight bodies must have a shared understanding of what constitutes restraint and seclusion in order to identify, report and address these practices effectively. We believe everyone should be using the same language so there is no ambiguity.

There is a clear and urgent need for this guidance to be statutory. The guidance would support Scotland in fulfilling its obligations under Article 19 of the UNCRC as well as its commitments within The Promise to avoid retraumatising children through restrictive, humiliating and overly punitive responses to behaviour that challenges. Current guidance has failed to offer adequate protection precisely because it is non-mandatory and inconsistently applied. If staff don't have to do it, they simply will not do it.

Statutory guidance offers clarity, consistency and accountability. It sets firm expectations across all education settings, supporting teachers and staff with a safe, rights-based framework for decision-making. More importantly, it provides stronger protection for children, particularly those with additional support needs, from unnecessary or inappropriate use of restrictive practices.

By introducing statutory guidance, Scotland has an opportunity to lead the way across the United Kingdom in meaningful reform and change for its most vulnerable. PABSS has actively contributed to discussions in England and Northern Ireland as part of our wider campaigning efforts, and we believe Scotland could become the first nation to take decisive legislative action. This would send an unequivocal message: that children's dignity, safety and rights are non-negotiable, and that vague policies and hidden harm will no longer be tolerated in our education system.

Do you think the timescale for informing parents is reasonable?

PABSS strongly believes that families must be notified immediately when restraint or seclusion has taken place. After extensive reflection and consultation with affected families, we find the current proposal of a 24-hour reporting window to be inadequate.

In Scotland, when a child sustains a minor accidental injury, such as a bump to the head or a scraped knee, parents are typically informed straight away. It is therefore entirely inconsistent, and deeply concerning, that when a deliberate act is carried out by staff, potentially resulting in physical harm or emotional trauma, there is no comparable requirement for urgent communication.

Our research shows that the children most likely to be affected by restraint and seclusion are often small children with severe communication difficulties, including

many who are non-speaking. These children cannot “tell” their parents what has happened, leaving families to confront unexplained injuries or distressed behaviour with no immediate context.

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

We urge the Scottish Government to strengthen the Bill by mandating same-day, immediate notification to families, ideally before the child returns home, with full and honest information shared in an accessible way.

Timely transparency is not just good practice: it is a fundamental element of safeguarding, partnership, and respect for family rights."

Do you agree all incidents of restraint or seclusion in schools should be recorded, collated and reported to Parliament annually?

"PABSS fully supports the Bill's requirement for education providers to record all incidents of restraint and seclusion, and for this data to be collated and reported annually to the Scottish Government and Parliament. This is a vital step toward transparency, accountability, and systemic reform.

We urge the Scottish Government to provide detailed guidance on implementation, including standardised reporting formats and oversight mechanisms.

Critically, we also believe the data collected must include whether the affected child or young person has additional support needs (ASN). Our research and casework consistently show that restraint and seclusion disproportionately affect children with ASN, particularly those with learning disabilities, autism, and severe communication difficulties. Without this level of disaggregation, the data risks obscuring patterns of harm and failing to inform targeted interventions.

We recommend that the Bill be amended to require:

- Recording of protected characteristics, including disability and ASN status.
- Analysis of trends in restraint and seclusion involving children with ASN.
- Publication of anonymised data to support scrutiny by Parliament, families, and advocacy organisations.

This approach would align with the UN Convention on the Rights of Persons with Disabilities (CRPD) and ensure that Scotland's education system is equipped to identify and address disproportionate impacts on disabled children

What do you think about maintaining a list of training providers on the use of restraint and seclusion in schools?

PABSS believes the Scottish Government should absolutely maintain a list of approved training providers to ensure consistency, safety and rights-based practice in education settings. Indeed, there is a strong case for establishing a list of providers who must never be used. Some training organisations are currently operating with lack accreditation and fail to comply with the United Nations

Convention on the Rights of the Child (UNCRC), offering approaches that are outdated, punitive or incompatible with trauma-informed values.

The real priority must be quality assurance of training. This should come not only through the approval process but through ongoing evaluation, accountability and alignment with recognised standards. If robust quality assurance mechanisms are embedded, a reliable and maintained list of certified providers and excluded ones, will naturally follow.

Any training standards adopted must be rooted in human rights, focused on prevention, and shaped by the voices of those with lived experience of restraint. Training must go beyond physical techniques and instead equip staff with the understanding, empathy and skills to prevent escalation and support children compassionately.

The Restraint Reduction Network (RRN) Training Standards, already referenced in the 2024 Scottish Government guidance on physical intervention in schools, offer a strong foundation. Making these standards statutory would ensure that all staff receive preventative, proportionate and rights-based training, and that any use of restrictive practices is justified and safely implemented.

In addition, we recommend that schools review and incorporate mandatory training in learning disability and autism, such as the Oliver McGowan Mandatory Training, which is now recognised in England as the government's preferred standard within health and social care. This training is co-produced with autistic people and those with learning disabilities, and focuses on person-centred care, communication and understanding, all of which are essential in preventing the misuse of restraint and seclusion.

Together, these measures would significantly improve practice, reduce harm and ensure that Scotland's education workforce is equipped to uphold the dignity and rights of every child.

Any other comments?

Final Reflection

PABSS warmly welcomes the introduction of the Restraint and Seclusion in Schools (Scotland) Bill 2025 and offers our full support for its principles. This Bill represents a critical opportunity to embed trauma-informed, rights-based practice throughout Scotland's education system and to correct long-standing inconsistencies that have failed too many children.

Through our close work with families, we have witnessed the harm caused by inadequate guidance, euphemistic language, and the unmonitored use of restrictive practices. Many of the children affected cannot speak for themselves — and many families have been left with unanswered questions, unexplained injuries, and fractured trust.

Scotland must now take the lead in reform by establishing clear statutory definitions of restraint and seclusion and ensuring families are notified immediately when such incidents occur. The Bill should mandate the collection of disaggregated data,

particularly regarding children with additional support needs, to drive transparency and improvement. Statutory guidance must be introduced, aligned with UNCRC Article 19 and The Promise, so that restrictive, humiliating and stigmatising practices can no longer be hidden behind vague policies or ""fluffy"" language.

Equally vital is the reform of workforce training. All staff should receive human rights-based, preventative training, shaped by the voices of those with lived experience. The Restraint Reduction Networks Training Standards are already there to be adopted. Quality assurance must be embedded to ensure only accredited training organisations are used.

The accompanying PABSS Report provides further evidence to support these calls for change. We offer it not only as a record of harm, but as a roadmap for building a safer, more compassionate, and more accountable education system.

PABSS would welcome the opportunity to collaborate in any further development of this legislation, including the drafting of statutory guidance, training standards, and monitoring frameworks. We bring not only a decade of advocacy experience, but the lived insights of families who have been directly affected by restraint and seclusion in Scottish schools. Our commitment is not only to highlight the problems, but to help co-design the solutions.

We stand ready to support this process alongside policymakers, families, professionals and children's rights organisations to ensure this Bill delivers the protection and cultural change that children across Scotland deserve.

Let this be Scotland's moment to lead, to declare that children's dignity, safety and rights are non-negotiable, and to commit to a future where all children feel safe in school, every day."

Response from the National Autistic Society Scotland

About the Organisation

National Autistic Society Scotland advocates with autistic people, and their families, to help create a society that works for autistic people. We have done this across Scotland for over 25 years. We know that at least 1 in 100 people are autistic, which means there are at least 56,000 autistic people living in Scotland, supported by 225,000 people in families and support networks.

Autism influences how people experience and interact with the world. It is a lifelong neurodivergence and disability. Autistic people are different from each other, but for a diagnosis they must share differences from non-autistic people in how they think, feel and communicate.

Do you agree with the Bill's approach?

"According to the Scottish Government's 2024 Pupil Census, there are 36,773 autistic children and young people currently enrolled at local authority schools in Scotland, ultimately comprising 5% of the country's total school population. There will be many more autistic children and young people whose support needs will be unidentified and will, therefore, not appear in datasets. Regardless, the number of pupils with Additional Support Needs (ASN) continues to grow significantly, as demonstrated by a 3.8% increase between 2023 and 2024, and a 2.5% increase between 2022 and 2023. As such, there are growing concerns about the educational experiences of children and young people with additional support needs, including autistic children and young people, and the education systems ability to meet those needs.

Following the Not Included, Not Engaged, Not Involved report which we published alongside Scottish Autism and Children in Scotland in 2018 (available at <https://www.notengaged.com/>) we learned that the rates of exclusion and part-time timetabling remain high and are commonplace for lots of autistic children and young people. The report gathered evidence from autistic families on their experiences. Some quotations include:

"He also had great anxiety with the teachers not understanding autism and treating him like a bad child when overwhelmed. He was at the stage of saying it would be easier for everyone if he was dead."

"I've had a few meetings with the school trying to put things in place and its always the same: "we don't have the resources"."

"They just did risk assessments and made him sign documents saying he would stop behaving in that manner. He was just 7 at the time and could barely write his name."

More recently, in December 2023, the National Autistic Society Scotland ran a survey of more than 100 autistic young people, their parents, and education professionals. We found that:

- 80% of respondents believe Scotland does not have a fully inclusive education system
- 96% of respondents believe that autistic children and young people need more support to benefit from a mainstream education
- 91% of respondents believe that education in mainstream settings must be more flexible than it is currently

Autistic young people can (and should) receive education, where it is appropriate, in a mainstream setting; however, we know that many learners continue to be let-down by the lack of support in such environments – as the following quotations make clear:

“[The staff] had no training or real understanding of autism or dyspraxia and in his time at mainstream school, my son was taught at a desk behind the stage in the hall with very little teacher input. It was a very traumatic time for my son and myself. I couldn't even walk from one room to another without my phone in my hand, expecting the almost daily phone calls. The resentment from other parents and staff themselves is something that will never leave either of us”

“Support always had to be sought; it was never offered”

It is clear that autistic children and young people's experience of education in Scotland is being adversely impacted by an insufficient level of support and a lack of understanding in their schools. In some instances, this can result in teachers feeling a need to use restrictive practice.

Autistic children and young people may respond with behaviour that is perceived as challenging when they are confronted with situations or environments that they cannot easily cope with. They can often experience difficulty with managing unexpected changes to their environment or routine, or with processing sensory information. Sensory overload can cause anxiety and sometimes physical pain, which can result in a child behaving in ways that appear challenging.

However, it is not always obvious that a young person is struggling until they reach the point at which they become overwhelmed. Their behaviour may be perceived as 'naughty' if they are unable to follow instructions or adhere to existing rules and structures; but an autism meltdown or shutdown is not 'bad behaviour' and should not be considered as such. It is more helpful to think of it as 'distressed behaviour', and to focus on identifying the causes of this, recognising that behaviour is an important form of communication for children and young people who may have communication and sensory differences.

We know that teachers in Scotland want to be able to better meet the needs of the autistic learners in their classrooms; however, they need more resources and effective guidance from national government to do this. Particularly with regard to restraint and seclusion, we believe legislation is required to prevent unnecessary use of restrictive practice in schools. There is work underway already in other parts of the U.K to explore a legal framework and we urge the Scottish Government to follow suit and support this Bill.

Existing non-statutory guidance on the use of restraint and seclusion in schools is still not being put into practice; moreover, we are concerned that the guidance is

framed to promote the safe use of restrictive practice, as opposed to avoiding restrictive practice. There is also still no requirement for training, or the reporting and recording of instances of restrictive practice.

From the beginning, we have stressed the importance of a legal framework which places future guidance in law and establishes lines of responsibility, training standards, and reporting requirements. It would also necessitate robust scrutiny of schools' use of restrictive practice, with appropriate redress available when guidance is not adhered to.

Specifically, we want statutory guidance to:

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

Autistic children and children with a learning disability continue to be let down by the arbitrary use of restrictive practice and a lack of proper scrutiny or training – Scotland's Children and Young People's Commissioner set this out clearly in 2018 in their report, No Safe Place. Despite the Commissioner's investigation, two further reports by ENABLE, and relentless campaigning by families, very little progress has been made to reduce the use of restrictive practice in schools and the measures that are in place are not adequate.

That is why the National Autistic Society Scotland supports this Bill, as it will provide a legal framework around the use, and misuse, of restrictive practices in educational settings. It is unacceptable that children and young people are not protected in law from unnecessary restrictive practice in school.

Do you think the timescale for informing parents is reasonable?

As we stated in our submission to the 2023 consultation, every school in Scotland should be legally obliged to report incidents of restrictive practice to parents or guardians and the relevant local authorities. We want local authorities to record reported incidents and the education regulator to carry out a monitoring role. In practice, the monitoring role would necessitate the collation of local authority records relating to reported incidents, with a view to identifying all incidents that are not in line with statutory guidance. Where statutory guidance has not been followed, a regulator and local authority must be obliged to work with the school to implement guidance going forward and provide redress for a family.

In principle, we believe the timescale for informing parents of an incident of restraint, as presented in the draft Bill, is reasonable. However, we have concerns that 24 hours could mean the child is back in school, potentially having been traumatized, before the parent is informed. A more appropriate time limit may be before the start of the next school day, to ensure the parent has reasonable time to assess the physical and psychological safety of their child at the school.

Do you agree all incidents of restraint or seclusion in schools should be recorded, collated and reported to Parliament annually?

We support requirements for reporting, recording, and monitoring of incidents of restrictive practice in schools as well as the publication of data on the use of restrictive practice.

Specifically, the Scottish Government should publish data on the use of restrictive practice in schools annually as this would allow for public scrutiny of the effort to reduce, and ultimately eradicate, the use of restrictive practices in schools. It will also allow local and national government to target support, guidance, and resource where it is needed most.

We would suggest that data on the numbers of reported incidents is published. Additionally, data on incidents that were deemed unnecessary (and outside of statutory guidance) should be published, so there is a clear picture of how effectively guidance is being implemented. Data should also be disaggregated to establish if specific groups are more at risk of restrictive practice.

We are also supportive of annual reporting to the Scottish Parliament. This will allow Parliament to scrutinise progress on reducing restraint and seclusion in schools and hold the Scottish Government to account where necessary.

What do you think about maintaining a list of training providers on the use of restraint and seclusion in schools?

Training is essential to ensuring guidance is put into practice in an appropriate, effective, and safe way. While we recognise that all teachers face workloads and time pressures that can prevent them from undertaking training, such restraint and seclusion training is paramount to ensuring the use of safe and appropriate practices in schools. To this end, a list of training providers could drastically reduce the possibility of teachers employing unsafe practices.

Although we agree that restrictive practices must be safe and appropriate, there is no form of restraint or seclusion that should ever be considered the default approach. Instead, the goal for the Scottish Government should be to eliminate the need for such practices through better support for children with Additional Support Needs, including autistic children and young people.

Therefore, in addition to a list of approved training providers, education providers should develop policies around restrictive practice. Such policies must outline the measures in place and the steps education providers will take to make the school environment inclusive of autistic children and young people, with a view to avoiding restrictive practice. These policies should include clear steps schools will take to identify the 'triggers' of distressed behaviour with the involvement of the child or young person and their family.

Any other comments?

In 2022, the National Autistic Society Scotland responded to the Scottish Government's consultation Included, Engaged, Involved Part 3 regarding the draft

non-statutory guidance on physical intervention in schools and, in 2023, submitted a response to Daniel Johnson MSP's consultation on the proposed Restraint and Seclusion (Prevention in Schools) (Scotland) Bill. We therefore welcome the opportunity to respond further on this subject, as we believe all children and young people, including autistic children and young people, have the right to education; and to feel supported while they are exercising this basic right.

We commend the long-term work of Beth Morrison, her family, and other campaigners for the progress they have made on this very emotive issue, and hope that the Scottish Government supports this Bill – or incorporates its aims and ambitions into existing or forthcoming legislation. As such, we have continuously engaged with Daniel Johnson MSP during the development of a Member's Bill over the last three years.

In formulating our response to this call for views, we spoke to several young people about their experience of restrictive practice in the context of this proposed Bill, and have engaged with other key stakeholders, including Scotland's Children & Young People's Commissioner, the Restraint Reduction Scotland Network, ENABLE Scotland, and Scottish Autism."

Response from the Restraint Reduction Network

About the Organisation

The Restraint Reduction Network (RRN) is a national charity with an ambitious vision to eliminate the unnecessary use of restrictive practices in health, social care and education. We seek to create a culture of respect for human rights, where services are safe, dignified and respect people's autonomy and wellbeing.

As a network of committed organisations and individuals, the RRN is working toward this mission by sharing learning, developing quality standards and tools to support restraint reduction and promote culture change.

Do you agree with the Bill's approach?

The Restraint Reduction Network strongly agrees with the Bill's approach on the following grounds:

- Restraint and seclusion cause distress and trauma, well as physical harm. The use of both undermines dignity and leaves children and young people vulnerable. We know that children with additional needs are more likely to experience restraint and seclusion than others.
- To date, lack of statutory guidance has limited the meaningful change non statutory guidance can make to practice in Scotland's schools, leaving schools with widely varying policies, practices and procurement of training. This has left both teachers and pupils at risk.
- There is a clear need for statutory guidance regarding the use of restraint and seclusion in schools. It is a further step towards Scottish Government fulfilling requirements of article 19 of the United Nations Convention of the Rights of the Child and the commitment in The Promise not to exacerbate trauma by imposing restrictive, humiliating or stigmatising consequences for challenging behaviour. These have not been adequately addressed through current guidance due to it not being mandated.
- Statutory guidance is supportive to teachers, creating clear expectations that are consistent across schools, and, through this clarity of what is and is not acceptable, better protects children from unnecessary and inappropriate use of restrictive practices.
- In bringing about statutory guidance, Scotland would lead the way across the United Kingdom in committing to meaningful change in the use of restrictive practices in schools.

Do you think the timescale for informing parents is reasonable?

The RRN agrees with and welcomes the inclusion of the requirement to inform parents of any incident involving restraint or seclusion within 24 hours. However, we believe this should be done on the same day of the incident as standard, and within 24 hours as an exception.

It is essential that parents and carers are informed if their child is involved in an incident in school, what happened and why, and this must be done promptly. Children's wellbeing at home is impacted by experiences at school, and parents have a right to know when an incident occurs. If children have a bad experience at school, it is essential that parents are aware so they can be assured that the child has the right emotional and medical support to minimise harm.

Do you agree all incidents of restraint or seclusion in schools should be recorded, collated and reported to Parliament annually?

The Restraint Reduction Network agrees with and strongly supports the requirement that all incidents of restraint and seclusion in schools be recorded, collated and reported to Parliament annually.

The guidance would be strengthened further by clear timeframes in which recording of incidents is required.

There should be a clear expectation with regard to required reporting e.g. to school leadership, education authority etc.

The RRN further believes that, in addition to reporting to Parliament, annual reporting of incidents of restraint and seclusion should be published in the public domain.

If accurate data is not collected it will be impossible to implement a coherent restraint reduction strategy either at individual, whole school or national level.

What do you think about maintaining a list of training providers on the use of restraint and seclusion in schools?

The priority over and above having a list of training providers is to have quality assurance of training. If this is in place it would by default provide a maintained list of training providers working in Scottish schools.

Any standards for training must prioritise human rights, prevention and hearing from people with lived experience of restraint, rather than focusing on physical techniques.

The RRN Training Standards are one such example currently in place and included in the 2024 Scottish Government guidance on physical intervention in schools, build around the six core strategies of restraint reduction: leadership, data collection and analysis, prevention, workforce development, prevention, coproduction and post incident debriefing. Making this an element of current guidance statutory would ensure teachers receive preventative training and where restrictive practices are necessary it is proportional and only used where it meets the right based proportionality principle.

The proposal should be amended as there needs to be caution about standardising training as it is not a one size fits all. It is important training is proportional to the

needs of the school. Certified training requires a training needs analysis (TNA) to ensure this is the case.

It would be beneficial for schools to also review mandatory training in learning disability and autism such as the Oliver McGowan Mandatory Training on Learning Disability and Autism, which is a statutory requirement for health and social care staff in England, in addition to certified training. Ensuring schools only use certified training and all teachers receive Oliver McGowan Mandatory Training would significantly improve practice.

Any other comments?

If this were made statutory and all teachers also received Oliver McGowan Mandatory Training in learning disabilities and autism this would significantly improve practice and reduce reliance on harmful restrictive practices.

We propose the following model for (section 5 of) Daniel Johnson's Bill (Calum's Law).

Training for teachers and schools should cover three key areas:

1. Learning disability & autism

Who: all teachers and schools

Mechanism: Oliver McGowan Mandatory Training

Suggested statutory requirement: All teachers must receive

2. Prevention, de-escalation and rights

Who: all teachers and schools

Mechanism: Certified training that meets RRN Training Standards

Suggested statutory requirement: All teachers must receive training in prevention, de-escalation and rights that is certified as complying with RRN Training Standards

3. Training in restrictive practices such as physical restraint

Who: Only teachers and schools that really need it

Mechanism: Certified training that meets RRN Training Standards

Suggested statutory requirement: Where training in restrictive practices is required it must be certified as meeting the RRN Training Standards"