



## **Introduction**

Restraint Reduction Scotland (RRS) was established in 2020, and is led by a core group of stakeholders, including professionals and family carers, who have lived experience, expertise and a shared commitment to working towards the reduction of the misuse of restrictive practices. RRS works collaboratively with families and professionals across all health and social care, mental health, education and criminal justice services and settings. Our focus is on all children adults and older people who are at risk of restrictive practices including restraint and seclusion.

***Our vision is of a Scotland where the highest quality support, protection, education and health is delivered through services that are safe, respectful, and promote a culture of dignity and equality for all. A Scotland which respects and protects everyone's human rights, including those who need support, and is committed to the elimination of the misuse of restrictive practices.***

RRS welcomes the opportunity to respond to the Scottish Government's consultation on the Learning Disability, Autism and Neurodivergence Bill. We have limited our comments to Section 11 of the Consultation Document as we are aware that other organisations will be responding in detail to the other sections.

## **Restraint Reduction Scotland Background and Approach**

RRS's aim is to eliminate the misuse of restrictive practices (including restraint and seclusion) in Scotland and to ensure that where these are used, they are done so safely, with respect for people's human rights, and in a culture of openness and transparency<sup>1</sup>.

Restraint Reduction Scotland is human rights based and trauma informed in all that it does. Restrictive practices including restraint and seclusion are traumatic for the people who experience them, families and any staff and carers who are involved.

There are no less than six international human rights treaties which are relevant to the use of restrictive practices including restraint and seclusion in Scotland.

- International Covenant on Civil and Political Rights (INCCPR)<sup>2</sup>
- Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)<sup>3</sup>
- Convention on the Rights of Persons with Disabilities (CRPD)<sup>4</sup>

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<sup>1</sup> [Restraint Reduction Scotland - SCLD](#)

<sup>2</sup> [International Covenant on Civil and Political Rights | OHCHR](#)

<sup>3</sup> [Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment | OHCHR](#)

<sup>4</sup> [Convention on the Rights of Persons with Disabilities | OHCHR](#)

- Convention on the Rights of the Child (CRC)<sup>5</sup>
- International Convention on the Elimination of All Forms of Racial Discrimination (CERD)<sup>6</sup>
- Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)<sup>7</sup>

The United Kingdom has ratified all of these treaties.

The Scottish Government has incorporated the Convention of the Rights of the Child into Scots Law through the UNCRC (Incorporation) (Scotland) Act 2024<sup>8</sup> and is currently consulting on the incorporation of CRPD, CERD and CEDAW through its development of the Scottish Human Rights Bill.

The Equality Act 2010<sup>9</sup> is also relevant to the use and misuse of restrictive practices including restraint and seclusion in Scotland.

Any work done to address restrictive practices including restraint and seclusion in Scotland must pay due regard to this existing legislative framework.

Restrictive practices can include physical restraint, seclusion, chemical restraint, environmental restraint, psychological restraint, mechanical restraint, coercive control and blanket restrictions.

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<sup>5</sup> [Convention on the Rights of the Child | OHCHR](#)

<sup>6</sup> [International Convention on the Elimination of All Forms of Racial Discrimination | OHCHR](#)

<sup>7</sup> [Committee on the Elimination of Discrimination against Women | OHCHR](#)

<sup>8</sup> [United Nations Convention on the Rights of the Child \(Incorporation\) \(Scotland\) Act 2024 \(legislation.gov.uk\)](#)

<sup>9</sup> [Equality Act 2010 \(legislation.gov.uk\)](#)

We currently do not have comprehensive data regarding the use and misuse of restrictive practices in Scotland.

RRS focusses on promoting change within all settings in order to achieve its aim of eliminating the misuse of restrictive practices including restraint and seclusion and ensuring that where these are used, they are done so safely, with respect for people's human rights, and in a culture of openness and transparency. In order to deliver these changes we focus on capacity building and skills development in three key areas:

- Leadership and Culture Change
- Workforce Development and Practice Leadership
- Monitoring, Data and Evaluation

### **Consultation Response**

Due to limited time and resources, RRS is only responding to Section 11 of the Learning Disability, Autism and Neurodivergence (LDAN) Bill.

RRS is generally supportive of the outcomes proposed in Section 11 under 'The where do we want to get to' heading? However, we believe these should be much more ambitious in scope and should recognise the multiple settings in which children and adults who have a learning disability and/or autism and/or are neurodivergent experience restrictive practices including restraint and seclusion. They must also be linked to deliverable targets and timelines.

Similarly, we appreciate the information shared under the 'What rights do people have now' heading, however, we would urge the Scottish

Government to expand its understanding to the wider international and UK legislative framework which relates directly to the use and misuse of restrictive practices including restraint and seclusion (please see page 2 and 3 of this response).

Overall, we found that Section 11 of the consultation document was confused and confusing and believe it would have been far stronger and clearer if it conveyed a comprehensive policy approach on behalf of the whole Scottish Government.

There is an urgent need for an integrated response to the challenges posed by the use and misuse of restrictive practices including restraint and seclusion in Scotland. RRS have heard on multiple occasions about the lifelong impact of the misuse of restrictive practices from individuals, parents and carers, and paid staff. For example, Beth Morrison and Kate Sanger<sup>10</sup>, two parent activists who have been demanding change for many years, update RRS members on a regular basis on the ongoing data and information that they collect across Scotland. This data is alarming.

RRS believes the time for action and change is now. The current piecemeal approach to policy and restrictive practices cannot continue. There is an urgent need for an integrated and detailed national strategy and this should be a priority.

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<sup>10</sup> [www.pabss.org](http://www.pabss.org)

We realise that an integrated national approach would require significant work, but this could be developed in such a way as to recognise and build on the work done by RRS and other bodies/networks such as the Scottish Physical Restraint Action Group (SPRAG) at CELCIS and the Violence and Aggression Reduction Network (VARN) within the NHS.

RRS is also aware a good practice happening in a number of different settings with diverse groups of people – this good practice could also be used to inform the development of an integrated national strategy.

With regard to the specific pieces of work mentioned in Section 11, RRS has been supportive of the development of the Physical Interventions in Schools Guidance and has previously stated that we believe these should be introduced on a statutory basis. We are supportive of Calum's Law and we are supportive of, and involved in, the Mental Health and Capacity Law Reform Programme through the RRS Chair's role at SCLD. RRS believes these pieces of work form only part of the required national response to issues and concerns regarding the use and misuse of restrictive practices including restraint and seclusion.

Fundamentally, it is essential that we understand the use of restrictive practices including restraint and seclusion in all settings and across all ages. For example, people with learning disabilities and/or autism and/or who are neurodivergent are not only present in schools and mental health services. Furthermore, whilst it could be argued that they are

particularly at risk<sup>11</sup>, we also understand that they are not the only people to experience the misuse of restrictive practices including restraint and seclusion in a wide range of settings.

A national strategy must acknowledge the value of a relational approach to support that recognises and values continuity of relationships when supporting people. All too often current services are reactive and impersonal. The people who generally work with you do not know you. Many services do little or no preventative work to enable the stranger/practitioner to understand and engage with the person receiving the support. Care plans are often focussed upon an abstract outcome (such as a course of treatment) rather than the social reality and aspirations of the person being supported. However, we know that the principal metric that people value is an established relationship with the practitioner that supports them.

A national strategy should also adopt preventative working as a foundation in order to enable staff, individuals and their family carers to anticipate challenges and mitigate against the possible use of restrictions.

We would argue that the scope and scale of the issue for everyone reinforces the need for a clear and comprehensive Scottish Government strategy and policy focussing on all these concerns.

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<sup>11</sup> ['The State of Our Rights' - report and resources now live - SCLD](#)

## Conclusion

In conclusion, RRS is disappointed that the one concrete proposal by the Scottish Government in this consultation document is subsequently dismissed. RRS believe this is a missed opportunity to deliver real and lasting change for people with learning disabilities, and/or autism and/or who are neurodivergent.

RRS appreciates that the LDAN Bill may not be considered the appropriate place in which to proceed to legislate for change in relation to restraint and seclusion (as proposed by the Scottish Government in Section 11) for all children and young people. However, this lack of action within the LDAN Bill can only be countenanced if the Scottish Government commit to the production of a national strategy and action plan focussing on the elimination of the misuse of restrictive practices including restraint and seclusion. Furthermore, the need for action in relation to children and young people is critical and must be moved forward as a priority by those responsible in the Government.

Given the complexities of the issues Scotland faces in relation to the use and misuse of restrictive practices including restraint and seclusion; the existing international, UK and Scottish legislative framework already in place; and the urgent need for change as evidenced through people's experience, the current lack of concrete proposals in the LDAN Bill feels like a significant omission.



RRS would argue that the Bill could have been used to enact other related proposal which would drive forward much needed changes for people who have a learning disability and/autism, and/or who are neurodivergent. These proposals could be developed in relation to RRS' three priority areas for action - Leadership and Culture Change; Workforce Development and Practice Leadership; Monitoring, Data and Evaluation.

For example, a proposal to require all public bodies to nominate a member of their Board to become the nominated lead for the reduction of the misuse of restrictive practices including restraint and seclusion (similar to existing Corporate Parenting legislation) and give them responsibilities in relation to culture change, monitoring and workforce development could deliver significant improvement in the lives of people. This could be a key building block for a national strategy.

Another proposal could be to create a comprehensive national data collection process for the groups of people covered in the LDAN Bill. This could advance our understanding of the issues considerably and could be a building block for a national strategy.

Finally, another proposal could be to require all relevant public sector organisations to produce a regular updated and reviewed workforce development plan in relation to the reduction of the misuse of restrictive practices including restraint and seclusion.

We would encourage the Scottish Government to reconsider the need for concrete proposals in the final draft LDAN Bill dealing with the reduction of misuse of restrictive practices including restraint and seclusion, whilst understanding that this will only address part of the solution.

The current situation is unacceptable and must change. RRS is committed to assisting in this change process and believes the Scottish Government needs to do more using all levers available to it to produce a cohesive and integrated cross government strategy to provide much needed leadership and action on this issue.

**Restraint Reduction Scotland  
April 2024**