

Restraint and Seclusion in Schools (Scotland) Bill Education, Children and Young People Committee – Call for Views June 2025

Background

The Scottish Commission for People with Learning Disabilities (SCLD) promotes respect, protection and fulfilment of the human rights of people with learning disabilities.

Our vision is of a fairer Scotland where people with learning disabilities live full, safe, loving and equal lives. We influence the development of policy, practice and legislation with a focus on human rights, leadership and evidence. We are respectful, inclusive, collaborative and pioneering.

SCLD hosts Restraint Reduction Scotland (RRS).¹ The aim of RRS is to eliminate the misuse of restrictive practices, including physical, chemical, environmental and mechanical restraints, and seclusion 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.

This submission has been co-signed by the Human Rights Consortium Scotland.

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

SCLD is supportive of the Restraint and Seclusion in Schools (Scotland) Bill as an opportunity to provide a positive, proactive and statutory approach to the elimination of misuse of restraint and seclusion in schools.

We believe this presents an opportunity for a legal framework which is aligned with the UN Convention on the Rights of the Child (UNCRC), UN Convention on the Rights of People with Disabilities (CRPD) and the Equality Act 2010 to protect all

¹ [Restraint Reduction Scotland \(RRS\)](#)

children in Scotland's schools including children with learning disabilities who may be most marginalised and whose rights are most at risk².

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.

In our view, all behaviour should be seen as communication and we believe that 'behaviours of concern' in schools are best understood as a response to unsuitable environments and experiences of distress.³ Therefore, it is imperative that every effort is made to understand the communication and behaviour of children with learning disabilities and offer the required support. This is especially crucial where children with learning disabilities experience barriers to communication.

In this respect, we believe that it is critical to move away from viewing the use of restraint in schools as a behaviour management issue and rather see its use in the context of the unmet support needs of children with learning disabilities.

We strongly welcome the duty in the Bill to issue statutory guidance on the use of restraint and seclusion in the education system.

The UN Committee on the Rights of the Child has called on the Scottish Government to *'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.'*⁴ We believe that such statutory guidance will help to uphold children with learning disabilities' rights through greater alignment with UNCRC as well as more effective adherence to the EHRC and CRPD.

² [The State of Our Rights, SCLD \(2023\)](#)

³ [Restrictive practices: A pathway to elimination \(2023\)](#)

⁴ [UN Committee on the Rights of the Child Concluding Observations 2023](#)

In our view, 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.

More specifically, we welcome the intention for the guidance to place a strong emphasis on de-escalation and provide advice about alternatives to restraint and seclusion and action that might be taken to prevent or minimise their use. In this process, we believe it is critical to focus on supporting and equipping staff to understand distressed behaviour of children with learning disabilities in the context of communication and through a trauma-informed lens.

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

SCLD believes strongly that it is critical to inform parents and carers of any incidents of seclusion or restraint as soon as possible. While we support the duty in the Bill to inform parents and carers with 24 hours of an incident of restraint and seclusion occurring, in most circumstances we believe they should reasonably expect to be contacted on the same day.

Through our work with Restraint Reduction Scotland, we are aware of incidents where parents and carers of children with learning disabilities have only found out that their child had been restrained because of visible injuries. We are convinced that sharing information with parents and carers, timeously and transparently, is essential for building trust and planning for the prevention of use of restraint and seclusion in future. Furthermore, the requirement to share information in this way is in line with the UNCRC, existing good practice, and mirrors the current experience for adults in services registered by the Care Inspectorate.

However, 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.

3. Do you agree this information should be recorded, collated, and reported to Parliament annually?

SCLD shares concerns at the current inconsistencies in how incidents of restraint and seclusion are recorded and reported – and at a general lack of robust data. This includes an absence of appropriately disaggregated data, for example by type of disability such as learning disability which is a requirement of the CRPD⁵.

The EHRC inquiry⁶ in England and Wales recommended that mandatory national minimum standards should be set for recording the use of restraint in schools, including:

- 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.

For Scotland to effectively address the misuse of restraint and seclusion in schools, we believe this level of data needs to be collected and analysed at both a local and national level.

At a local level, we believe that the responsibility for the recording and monitoring of data should sit at an individual school level and then be collated and analysed by each local education authority. This data and analysis should be used to identify any areas of concern, address problematic practices and to promote learning and the

⁵ [CRPD, Article 31 – Statistics and Data Collection](#)

⁶ [EHRC Restraint in Schools Inquiry \(2021\)](#)

use of alternative approaches. In this way, it can help to review support plans for pupils, inform staff development and practice and tackle any disproportionate use of restraint and seclusion on children who share a protected characteristic such as a learning disability.

At a national level, we agree that data collated at a local authority level should be reported to the Scottish Government and published to enable an appropriate level of parliamentary scrutiny. In addition, we believe it is important that this information is also made available to national scrutiny organisations and commissioner bodies to support analysis, oversight, and accountability.

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

The Bill places a duty on the Scottish Government to maintain a list of training providers on the use of restraint and seclusion that meet standards set by the Scottish Government.

SCLD recognises there may be some circumstances where intervention is necessary to ensure the safety of children with learning disabilities and protect them or others from serious harm. Therefore, teachers and support staff require support, including specialist training, on safe best practice and different levels and forms of training may be required for different roles. We believe this necessitates national training standards based on a human rights approach.

However, we have some concerns around whether training on restraint could in some instances encourage its use. The EHRC inquiry⁷ in England and Wales found evidence that *‘training may not always have a positive impact on the use of restraint’*. Furthermore, maintaining a list of training providers could be seen to legitimise restraint and potentially result in an increased use of restraint or seclusion due to increased availability of training.

In our view, it is crucial that any training emphasises alternative models of support which seek to de-escalate situations, or prevent escalation in the first place, without the need to resort to restraint or seclusion. This should include proactive training in

⁷ [EHRC Restraint in Schools Inquiry \(2021\)](#)

Positive Behaviour Support⁸ or other models of support. It is important for staff to be confident about what constitutes a 'last resort', how to apply reflective practice, how to support children after restraint or seclusion has been used and children's rights under the UNCRC and UNCRPD.

Therefore, we believe that the national training standards required by the Scottish Government must focus on minimising restraint and ensuring a human rights-based approach is taken. They should also be developed in co-production with children with learning disabilities and their families.

In our view, such an approach can help to ensure that training leads to a reduction in the use of restraint and improvements in human rights safeguards and more rights-compliant practice. However, we believe it is critical that there is external scrutiny of training and restraint data to monitor any link between training and an increased use of restraint. This is essential to for the adequate protection of the human rights of children with learning disabilities in Scotland.

Any other comments?

The impact of the misuse of restraint and seclusion is not unique to educational settings. The impact of restraint and the inherent risks to children with learning disabilities are the same whether they occur in residential childcare, children and young people's psychiatric units, or in secure care and justice settings.

The Children and Young People's Commissioner Scotland, the Scottish Human Rights Commission, The Promise Scotland and the Equality and Human Rights Commission have called for a unified statutory framework regulating the use of restraint and seclusion across all care and education settings.

Whilst this Bill, and the Committee's scrutiny, is focussed on the use of restraint and seclusion in schools, we believe consideration should be given to national human rights based legislative standards, guidance, recording and monitoring of restrictive practices across all settings.

⁸ [PBS Community of Practice Scotland](#)



For further information please contact:

Lorne Berkley
Strategic Lead: Policy and Rights
Scottish Commission for People with Learning Disabilities
lorne.b@sclcd.co.uk