



Children and Young People's
Centre for Justice

Response from the Children and Young People's Centre for Justice (CYCJ) to the call for views on the Restraint and Seclusion in Schools (Scotland) Bill

Education, Children and Young People
Committee, Scottish Parliament

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Overview

The Children and Young People's Centre for Justice (CYCJ) very much welcomes the opportunity to respond to the call for views by the Education, Children and Young People's Committee on the Restraint and Seclusion in Schools (Scotland) Bill.

The Bill is a member's bill from Daniel Johnson MSP and proposes to create statutory guidance and duties in relation to the use of restraint and seclusion in schools. It is currently at Stage 1 and more information can be found [here](#).

Summary of CYCJ position

Our response draws from our practice, participation, research and policy expertise and evidence. In summary, we welcome the focus on ensuring restraint and seclusion are only used as a last resort, where there is an immediate risk of harm and is carried out in the most appropriate way. In order to realise this, we believe there needs to be a greater consistency of definition and practice, alongside other key ingredients including increased workforce support and training, awareness raising of what constitutes restraint and seclusion, and the meaningful participation of children, young people and staff.

Questions

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

The Children and Young People's Centre for Justice (CYCJ) works towards ensuring that Scotland's approach to children and young people in conflict with the law is rights-respecting, contributing to better outcomes for our children, young people, and communities. We have been a member of the Scottish Physical Restraint Action Group (SPRAG) and although our work on restrictive practice has focused exclusively on care settings, we are responding to this call for views to share our understanding as we believe there needs to be far greater consistency of definition and practice across all services and settings where children could experience restraint and/or seclusion.

We welcome the primary aim of the Bill to ensure that restraint and seclusion is only used as a last resort where there is an immediate risk of harm and is carried out in the most appropriate way. We believe this should be the main focus at this current position in time, though we urge that sight is not lost of the longer-term goal of Scotland becoming a place that does not subject its children to restraint or seclusion. To progress this, there are several key ingredients needed, focused around supporting staff, creating safer environments, increasing confidence in being able to hold distress behaviour safely, eradicating the need for restraint and seclusion. This requires the meaningful participation of children, young people, and staff to develop and work towards this aim. In this regard we believe the bill has a comprehensive approach, though we have some notable concerns.

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In line with the Promise, it is imperative that the workforce is nurtured and supported and it is recognised that at times they will be asked to respond to behaviour that may pose a risk of serious harm to self and others. The Promise also noted the traumatic impact of restraint on the individual child and staff involved, as well as other children who witness any such situations. There is, therefore, a need for comprehensive staff training around models of co-regulation as stated within the Promise Plan (2024-2030) to strictly limit restraint to such times it is the only option to ensure safety. As such, we welcome the focus in the bill on embedding ways to avoid restraint and seclusion, recognising the UNCRC Article 19 that children should be protected from all forms of violence and injury. In the exceptional situations where there is no other way to ensure a child's safety then it must be carried out using minimum necessary force that does not induce or cause pain and for the shortest time possible. Specialist training must be provided to enable staff to act safely, confidently, and reflectively, with follow up supervision and support.

This applies equally to seclusion, which we believe needs a greater level of scrutiny. Seclusion, where a child is isolated in a room on their own, particularly without their agreement or ongoing support can, in many instances, amount to a deprivation of liberty. When used without legal authority, safeguards, or justification, it may breach a child's rights under Article 5 (right to liberty) and Article 3 (protection from degrading treatment) of the European Convention on Human Rights. Following the incorporation of the United Nations' Convention on the Rights of the Child (UNCRC) into Scots law in 2024, the bill must address the legal duty to align with UNCRC articles, including Article 3 (best interests of the child), 19 (protect from all forms of violence), and 37 (cruel, inhuman or degrading treatment or punishment). The practice of seclusion also raises questions in relation to the Equality Act 2010, particularly in relation to disabled children who are disproportionately affected. Without clear statutory boundaries, the use of seclusion risks becoming unregulated and inconsistent, with potentially serious consequences.

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.

Alongside this, for the practitioner workforce and beyond, we welcome the inclusion in the bill of the need for an increased awareness of what constitutes restraint and seclusion, including legal considerations. This is vital to ensure any use is lawful, proportionate, informed by child development and trauma informed, and aligned with children's rights. Clear and consistent reporting, monitoring and oversight mechanisms will be essential, as outlined in more detail in response to question three, particularly when it comes to seclusion, which has often been poorly recorded or labelled under less accurate terms.

Having a well nurtured and supported workforce will contribute significantly to having the right environmental conditions in place to help to prevent the escalation of tensions to a situation

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where restraint would be required. Strong visible leadership is crucial in setting the culture for how we respond to distress, and how children's rights are upheld in practice. This includes children and young people having meaningful input into how safe environments are designed and managed along with practitioners and parents to. Sufficient attention must be given in tandem to legislative change to develop these key ingredients if we are to reduce the use of restraint and seclusion and we recognise the Bill's appreciation of the need for greater resources.

However, CYCJ is concerned that the definitions proposed in the Bill do not align with those currently being used within the childcare sector. We believe strongly in the need for consistency of approach across services and settings where children could experience restraint and/or seclusion, recognising the complexity of circumstances. SPRAG have undertaken a lot of work on definitions and data, along with the Care Inspectorate and it is important to ensure definitions are aligned. If these existing definitions cannot be used, work should be undertaken to ensure greater alignment across all settings.

Linked to this point, we are concerned about providing a legal framework for only one setting where a child could experience restraint or seclusion. We deem that there should be a cohesive approach rather than attempts to change and inform practice only in education, given a child may experience such practices in multiple contexts, including care, justice, transport, and health. In addition, in some settings, including secure care, functions like care and education are provided within the one environment and with a shared/ overlapping workforce, at times without clear parameters and boundaries. We need to avoid unintended consequences of trying to make practice clearer in one area but simultaneously creating inconsistencies and confusion in approaches, responses and reporting across others.

This was identified as an issue earlier this year when, due to concerns about the reporting requirements for education settings that are connected to care services, an agreement was reached that, as an interim measure, all incidents of restraint and restrictive practices that occur in secure accommodation services (whether in education, or in care) be reported to the Care Inspectorate, who would then pass these issues to Education Scotland colleagues to follow up accordingly.

Consistent definitions across all settings would lead to better understanding and monitoring of these practices nationally, and greater cohesion across all sectors aligns with the principle of the indivisibility and universality of children's rights under the UNCRC, which underpins all legislation and guidance for children. Connected with this, is the Bill's proposed use of definitions from the Education (Scotland) Act 1980, where a child "means a person who is not over school age" and a young person "means a person over school age who has not attained the age of eighteen years". This raises potential areas of confusion in rights and entitlement and protections given the UNCRC states a child is anyone under the age of 18.

Guidance could bring greater consistency of approaches, accountability, and enable further practice change. Guidance must be coproduced with children and young people (who we note

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are not included in s.2(6) of the Bill), as well as parents, and practitioners from across sectors that guidance applies to. This requires time, skill and investment to do well. CYCJ were involved in the co-production of the Secure Care Pathway and Standards which set out strong, rights-based expectations on restraint and seclusion:

Standard 30 - I am well supported to manage my feelings and I am only ever restrained when this is absolutely necessary to prevent harm. I am treated with respect, dignity and compassion and I am held in the least restrictive way for the shortest time possible. I am well supported afterwards.

Standard 31 - I get the care, comfort and individual support I need when I am distressed and so I am only ever isolated from other people when this is absolutely necessary to keep me or others safe. This is for the shortest time possible.

Standard 32 - I fully understand the reasons for any decision to further restrict my rights and freedoms. These are proportionate and recorded

CYCJ recognises international evidence, including from New Zealand, Finland, Sweden, USA and CANADA, on legislating for the cessation of seclusion and limited restraint. This has involved providing greater clarity of rights and duties through legally binding definitions and limits and safeguards with enforcement supported through inspection, audits, and data collection.

CYCJ notes that there continues to be a disproportionate impact of restraint and seclusion upon children with disabilities, additional support needs and children in conflict with the law, recognising that these are often not exclusive groups of children. This also includes neurodivergent children, children in and on the edges of care, and children who are racialised, or at risk of exclusion all which underlines the intersectional nature of how restraint and seclusion are experienced. A failure to regulate these practices through a rights-based framework risks perpetuating systemic discrimination.

However, alongside any guidance and/or legislative change, sufficient attention, planning, time and resource will need to be given to implementation to ensure the aims are met and the implementation gap avoided. Cognisance also needs to be taken of the current challenges being faced by the children's sector in terms of demand, need, recruitment and retention; the current cluttered policy landscape; and the time that improvement and implementation work takes, all whilst continuing to provide services to the children who need them the most. Guidance must also be adaptable and responsive. If legislation creates delays to necessary updates, we risk falling behind what children and the workforce need.

We welcome the focus on information, processes for the making of complaints about the use of restraint and seclusion, and action to be taken to resolve or remedy complaints as part of the

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Guidance. Child-friendly complaints processes will be crucial if children's rights are to be realised, as in accordance with the UNCRC.

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

We welcome the requirement to inform parents/guardians in a timely manner. This respects the rights and responsibilities of parents, carers or other guardians, this is particularly important in upholding the child's right to be supported and protected by those who care for them, in line with the UNCRC. These adults are usually best placed to support children after what can often be a traumatic experience, and their timely involvement can be protective in helping a child regulate and deal with what has happened.

We would stress 24 hours should be the maximum permitted timeframe, and that notification should happen by the end of the working day in which the incident occurred. This is not simply a procedural matter but a crucial element of supporting children's recovery and regulation. Many children who are restrained or secluded may have speech, language and communication needs or experience emotional shutdown, shame, fear of blame, or dissociation in response to what has happened making it unlikely they will disclose the incident themselves when they return home. Without timely information, parents may unintentionally respond in ways that escalate distress or confusion, when what the child needs is attuned, informed support.

CYCJ also notes the importance from a safeguarding and accountability perspective of informing parents/ guardians of the details of the incident, such as the rationale, duration, conditions, and any support offered to the child after a period of seclusion. This is particularly important given seclusion can be difficult to identify and label, being described instead in looser or more minimised terms, such as a 'time out'.

We do however question the definition of children and young people that is being proposed given this does not align with GIRFEC or UNCRC. The Bill references the Education (Scotland) Act 1980, where a child "means a person who is not over school age" and young person "means a person over school age who has not attained the age of eighteen years". As noted in response to question 1, this raises potential areas of confusion given the UNCRC states a child is anyone under the age of 18.

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

Ensuring robust accountability through consistent, transparent, inclusive, and detailed reporting to Parliament is an integral feature of embedding a rights-respecting approach and should be mandatory for practices such as restraint and seclusion. However, that would be a challenge to realise in practice currently due to pronounced inconsistencies of measurement and data approaches. A much greater alignment of terminology would aid in the recording of

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accurate data and in providing a clearer picture of the prevalence of restraint and seclusion across Scotland. This would also bring sizeable benefit to practice through the potential greater identification of measures which could reduce the unnecessary use of restraint and seclusion. As noted, seclusion is sometimes referred to as ‘withdrawal’ or ‘time out,’ leading to incorrect or under reporting. Clear guidance that defines seclusion in line with international human rights standards is critical for data collection to be meaningful and transparent. Such alignment would bring significant value to practice, enabling the identification of trends, inequalities, and preventative approaches that reduce reliance on restraint and seclusion.

However, 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. Numbers themselves do not always illustrate the journey of improvement and/or the nuances of each incident and may reduce the public discussion to headline figures. Meaningful qualitative data from children, young people and staff is needed to provide a more comprehensive picture of how restraint and seclusion is being used and its impact. This is particularly important in understanding the impact of seclusion, which may not involve force but can still be traumatising, especially when used repeatedly or inappropriately with disabled children or those in distress.

There is also a wider question of how this data will be used and any potential unintended consequences which could arise from this. If it is used purely for compliance, and not as a tool for effective policy and practice development, then this could result in the avoidance of restraint and seclusion, and a reliance on other, potentially more harmful, actions. This could include increased police contact in respect of children, with the subsequent risks of criminalisation this can bring, alongside school exclusion. CYCJ has previously written about the interconnections within complex systems and we need to be alert to these risks and holistically consider data and information on children’s experiences.

We agree with the annual reporting to Parliament which will provide oversight and monitoring of the impact of the legislative change. However, we question whether this information should also be routinely reported to an independent regulatory body, akin to existing practice with the Care Inspectorate for care settings. Further, we recommend establishing a Children and Young People’s Scrutiny Group, a national lived experience advisory group who would review restraint and seclusion data annually and co-develop recommendations for training, practice, and system change. This would uphold the principles of Article 12 of the UNCRC (right to be heard) and strengthen the legitimacy and impact of the reporting system.

We would also urge that the Bill commits to a national review of impact after a set period to evaluate effectiveness and any unintended consequences, including shifts toward other exclusionary practices.

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

Maintaining a national list of approved training providers could be a positive step in supporting greater consistency, transparency, and rights-based practice across Scotland. Linking this to standards approved by Scottish Ministers creates an opportunity to embed a shared understanding of what safe, proportionate, and rights respecting responses to distress look like in an educational setting or, for greater consistency, across any settings a child may be restrained or secluded. Again, these standards must be developed in partnership with children, young people, families, and the workforce, with those who have experienced such practices specifically included. There must also be consideration as to how such standards and training providers will be assessed, how regularly they will be reviewed, how schools are supported to access appropriate providers, and how often lists of providers will be updated and by who.

It is vital that training does not just focus on physical restraint. Seclusion, though often less visible, can be just as harmful. In some cases, spaces intended to support self-regulation can end up becoming isolating or even punitive, especially if children are left alone, unable to leave, or removed repeatedly without clear justification or support. Training must equip staff to recognise when a 'withdrawal' space becomes seclusion, and to understand the emotional and relational impact this can have on children.

We need to be clear: restraint and seclusion are not interchangeable, but they often arise from the same place, distress, unmet need, or escalating situations. Training must reflect this. It should support staff to build relationships, understand behaviour in context, and respond in a way that upholds safety and dignity. That includes practical strategies for de-escalation, emotional co-regulation, and relational repair, as well as an understanding of when and how any intervention whether physical or isolating might cause harm.

It also needs to emphasise reflective practice and post-incident learning. Children and staff both need support after something has gone wrong, and good training should help create a culture where people are confident to learn, adapt, and reduce the likelihood of future incidents.

Thus, the Bill should empower Scottish Ministers to set and regularly review minimum national standards for training in restraint and seclusion, co-produced with children, families, and practitioners. These standards should be applicable across settings and training providers, with a requirement that training covers both physical and non-physical interventions, relational approaches, child development, trauma, and rights.

5. Any other comments?

We welcome the introduction of this Bill and the recognition that restraint and seclusion practices require legislative regulation, rights-based framing, and transparent accountability.

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For too long, responses to children's distress in schools have been inconsistent, with many practices falling into legal and ethical grey areas, often resulting in harm to children, families, and the workforce.

However, we must be clear that legislative change alone will not create the cultural shift needed. We urge the Scottish Government to view this Bill as a component of current deeper system-wide reform including but not limited to the incorporation of the UNCRC, The Promise, the Children (Care and Justice) (Scotland) Act 2024, the National Guidance for Child Protection, and Reimagining Secure Care. The use of restraint and seclusion, even when lawfully applied, represents a system response to unmet need and distress. It is a signal that something has not worked earlier in relationships, environments, support systems, or policy.

From CYCJ's work with children in conflict with the law, we know that restrictive practices are disproportionately experienced by those who face other systemic disadvantage: children with disabilities or neurodivergence, those in and on the edges of care, and those whose distress is responded to as risk or behaviour to be managed. These are also the children most likely to be criminalised, excluded, or further harmed by the system response. Legislative regulation is therefore not only a matter of education reform, but a critical protection within the continuum of rights, safeguarding, and justice. The child should experience a coherent and safe response across all settings. Fragmentation between care and education responses, or between policy and implementation, risks undermining the protection this Bill seeks to offer.

We call for the voices of children and families with lived experience to remain central throughout implementation. Co-production should not be a token gesture but embedded in the design, review, and accountability structures that follow. Children have the right not only to be protected from harm, but to influence the decisions, policies and systems that shape their lives.

Finally, while we understand the Bill is focused on regulating current practice, it should include a stated commitment either within the Bill or accompanying policy memorandum to work towards the long-term elimination of restraint and seclusion. This aligns with international best practice and the UN Committee's recommendations and would ensure that reform efforts remain focused on systemic change, not just procedural compliance.

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