



OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Education, Children and Young People Committee

Wednesday 4 March 2026

Session 6



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EDUCATION, CHILDREN AND YOUNG PEOPLE COMMITTEE
9th Meeting 2026, Session 6

CONVENER

*Douglas Ross (Highlands and Islands) (Con)

DEPUTY CONVENER

*Jackie Dunbar (Aberdeen Donside) (SNP)

COMMITTEE MEMBERS

*George Adam (Paisley) (SNP)
*Miles Briggs (Lothian) (Con)
*Ross Greer (West Scotland) (Green)
*Bill Kidd (Glasgow Anniesland) (SNP)
*John Mason (Glasgow Shettleston) (Ind)
*Paul McLennan (East Lothian) (SNP)
*Paul O’Kane (West Scotland) (Lab)
Willie Rennie (North East Fife) (LD)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Jenny Gilruth (Cabinet Secretary for Education and Skills)

CLERK TO THE COMMITTEE

Pauline McIntyre

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Education, Children and Young People Committee

Wednesday 4 March 2026

[The Convener opened the meeting at 09:45]

Subordinate Legislation

Education (Fees and Student Support) (Miscellaneous Amendment) (Scotland) Regulations 2026 (SSI 2026/63)

The Convener (Douglas Ross): Good morning and welcome to the ninth meeting in 2026 of the Education, Children and Young People Committee. We have received apologies from Willie Rennie.

The first agenda item is consideration of the Education (Fees and Student Support) (Miscellaneous Amendment) (Scotland) Regulations 2026, which is subordinate legislation that is subject to the negative procedure. As no member wishes to comment on the instrument, do members agree that the committee does not wish to make any recommendations in relation to it?

Members *indicated agreement.*

Restraint and Seclusion in Schools (Scotland) Bill: Stage 2

09:45

The Convener: Our next item is stage 2 proceedings on the Restraint and Seclusion in Schools (Scotland) Bill. I welcome to the meeting Daniel Johnson, the member in charge of the bill, along with his supporting officials, and the Cabinet Secretary for Education and Skills, along with her supporting officials. I remind members that the officials who are seated at the table are here to support the member in charge or the cabinet secretary, but they are not able to speak in the debates on amendments. Members should therefore direct their comments or questions to the member in charge or the cabinet secretary.

Before we begin, I will briefly explain the procedure that we will be following for anyone who is watching. The amendments to the bill have been grouped together. There will be one debate on each group of amendments. All the amendments have been lodged by the member in charge. I will therefore call Daniel Johnson to speak to and move the first amendment and speak to any other amendments in the group. Other members who wish to speak should catch my attention. The

debate on the group will be concluded by me inviting Daniel Johnson to wind up.

Following the debate on each group, I will check whether Daniel Johnson wishes to press the first amendment in the group or to withdraw it. If he wishes to press it, I will put the question on that amendment. If he wishes to withdraw his amendment after it has been moved, he must seek the agreement of other members to do so. If any committee member objects, the committee immediately moves to a division on the amendment.

If Daniel Johnson does not want to move an amendment when called, he should say, "Not moved." Please note that any other member present may move such an amendment. If no one moves the amendment, I will immediately call the next amendment on the marshalled list.

Only committee members are allowed to vote. Voting in any division is by show of hands. It is important that members keep their hands clearly raised until the clerks have recorded the vote. The committee is required to indicate formally that it has considered and agreed each section of the bill, and I will put a question on each section at the appropriate point.

Section 1—Restraint and seclusion

The Convener: Now that we have covered the procedure that we will follow, we will move to the substantive business. Amendment 1, in the name of Daniel Johnson, is grouped with amendments 2, 3, 7 and 23.

Daniel Johnson (Edinburgh Southern) (Lab): Before I address the amendments in group 1, I reiterate my thanks to the committee for its detailed work at stage 1. I hope that, during this morning, you will see that I have addressed most of the substantive concerns that were set out in your stage 1 report. I have also written separately about some of the other amendments. I would also like to thank the Government for its detailed and engaged dialogue with me and the non-Government bills unit.

Overall, in relation to group 1—which concerns the meaning and recording of restraint and seclusion—the bill must provide clarity through its scope, which is the focus of the definitions, while recognising that practice must be guided with nuance, which is the purpose of the accompanying guidance. I am aware of the concerns that were raised about whether the clarity of scope was sufficient in the definitions as drafted, which is why I have lodged the amendments at stage 2. In principle, amendments 3, 7 and 23 provide that clarity and the assurance that the guidance will deliver the necessary nuance of practice.

Amendment 3 will insert the word “significantly” into the definition of restraint, amending the term to

“significantly restricting the physical movement”.

That makes it clear that the definition captures only meaningful or material restrictions on a child’s movement. That will ensure that minor, incidental or fleeting physical contact does not fall within the statutory definition of restraint. Practices such as holding a child’s hand while walking down the road or the supportive hand on a shoulder as a child goes on stage for a school assembly are clearly not significant restrictions on physical movement and are therefore outside the scope. It is important to have that clarification. Amendments 1 and 2 are minor drafting amendments that will clarify those matters.

Amendment 7 will require that statutory guidance includes an explanation of what constitutes significantly restricting physical movement. The bill already provides that statutory guidance can elaborate on the definitions of restraint and seclusion, as set out in section 2(4). In other words, nothing was preventing the Scottish ministers from explaining that in guidance to the bill, but amendment 7 will ensure that they are required to do so explicitly.

Alongside section 2(4), amendment 7 provides the additional opportunity for examples to be provided in the guidance of what does and does not constitute restraint and seclusion for the purpose of the bill, as recommended by the committee. It will ensure that all education providers receive clear statutory guidance on the threshold for significant restriction within the definition of restraint, supporting consistent interpretation and application of the legislation.

Amendment 23 will give the Scottish ministers the power to exempt categories of restraint and seclusion from recording and reporting requirements. The amendment will enable them to specify by regulations, subject to consultation and the affirmative procedure, types of restraint or seclusion that need not be recorded or reported. That will allow proportionate exemptions for physical interventions that are not of obvious concern and would not warrant formal data collection.

The Convener: I wonder what the member’s response is to the Children and Young People’s Commissioner Scotland’s letter yesterday saying that they opposed amendments 3, 7 and 23, and whether he would like to put on record his thoughts about the commissioner’s opposition, their reasoning and any mitigations that he believes are in place to respond to the points that they have articulated.

Daniel Johnson: On amendment 3, the insertion of the word “significantly” and tightening up the definition are important. As we discussed when I gave evidence at stage 1, providing clarity of what is in scope and what is not is important. I think that the word “significantly” usefully does that. Ensuring that there is clarification in the guidance of what that means is important, which is what amendment 7 seeks to do. Finally, I understand the concerns that the commissioner raises in respect of amendment 23, I note that, rather than requiring the Government to exempt interventions, it enables it to do so.

Throughout the discussion of the bill, in front of this committee and outwith the Parliament, there has been a very strong voice about the need for balance. There are absolutely benign and reasonable practices that we would not want to capture, and there are very serious ones that we absolutely must, but there must be balance and nuance. If any practices are inadvertently caught by the definitions, we must have the ability to fine tune or recalibrate them. Amendment 23 provides for that.

I would also emphasise that this would be subject to consultation and the affirmative procedure. If the Government were to bring forward any exemptions for either restraint or seclusion, they would be subject to public consultation, parliamentary scrutiny and a parliamentary vote. I believe that that is a balanced and proportionate approach, but it is crucial that we have legislation that enables Parliament and the Government to calibrate such exemptions should concerns arise following the passing of the bill.

I move amendment 1.

The Cabinet Secretary for Education and Skills (Jenny Gilruth): I thank Daniel Johnson for working with me to lodge a package of amendments that will strengthen the bill. The amendments on the definition of restraint were requested by the committee and by stakeholders because the original one that was used in the bill was considered to be too broad.

The definition of restraint will continue to be based on restricting a pupil’s movement, as we have heard from Mr Johnson, but amendment 1 makes it clear that it must involve physical contact. Amendment 3 will ensure that the intention of that contact must be to significantly restrict the pupil’s movement, and that allows us to distinguish restraint from everyday supportive contact, as we have also heard from Mr Johnson. Amendment 7 provides for what is “significant” to be set out through statutory guidance.

The ministerial regulation power set out in amendment 23 will provide increased flexibility to

adjust recording and reporting requirements in the future, to reflect developing policy.

These amendments strike the right balance, preserving the bill's broad protective definitions and its presumption that restraint and seclusion should be recorded, while enabling future provisions to address any unintended over-reporting issues that arise. I invite the committee to support them.

Amendment 1 agreed to.

Amendments 2 and 3 moved—[Daniel Johnson]—and agreed to.

The Convener: We move to group 2. Amendment 4, in the name of Daniel Johnson, is grouped with amendments 5, 6, 8, 9, 11 to 14, 28 and 32.

Daniel Johnson: Amendments 4 to 6, 8, 9, 11 to 14, 28 and 32 collectively replace references to “child or young person” with the term “pupil”, which is given the same meaning as in the Education (Scotland) Act 1980. These amendments respond to an issue that was identified by the Children and Young People’s Commissioner Scotland at stage 1, which I discussed with the cabinet secretary in preparation for stage 2. The purpose of these amendments is to ensure that all children and young people who attend school are fully covered by the bill’s provisions and associated statutory guidance. The issue is that children who are aged four commencing primary 1 might not be captured by the bill. Bringing the references in line with the definition of “pupil” means that those children will be included in the scope of the bill.

I move amendment 4.

The Convener: I call the cabinet secretary to respond.

Jenny Gilruth: These amendments are technical in nature, but they carry meaningful implications, by guaranteeing that all pupils are afforded the same protections by the bill. The issue was raised with Daniel Johnson by the Children and Young People’s Commissioner Scotland, as has been mentioned, and shared with the Government for consideration. I am grateful to the commissioner and her team for raising that point. The bill’s original terminology risked unintentionally excluding four-year-olds who are attending school from the protections that the bill is designed to provide. I welcome Daniel Johnson’s proposed solution to use the term and definition of “pupil” used in the Education (Scotland) Act 1980 throughout the bill, and I encourage members to support the amendments.

Amendment 4 agreed to.

Amendments 5 and 6 moved—[Daniel Johnson]—and agreed to.

Section 1, as amended, agreed to.

Section 2— Guidance on restraint and seclusion in schools

Amendments 7 to 9 moved—[Daniel Johnson]—and agreed to.

The Convener: Amendment 10, in the name of Daniel Johnson, is in a group on its own.

Daniel Johnson: Amendment 10, which relates to the consultation requirements for the creation of statutory guidance, adds children and young people to the list of statutory consultees and ensures that the experiences of children and young people inform the development of the guidance or any revised guidance. Amendment 10 gives effect to the committee’s recommendation that a consultation should include direct consultation with children and young people. The committee also recommended that it should include consultation with grant-aided special schools and independent schools. It is expected that those schools would be consulted as part of the bill’s existing requirement to consult education providers, so an amendment is not necessary to allow that to happen.

I move amendment 10.

The Convener: I call the cabinet secretary to respond.

Jenny Gilruth: Amendment 10 is an important amendment that adds children and young people to the list of statutory consultees with whom ministers must engage before issuing or revising guidance under section 2. The bill already requires consultation with education providers, parents’ representatives, trade unions and the Children and Young People’s Commissioner Scotland. However, as I highlighted in my memorandum to the committee in June last year, children and young people themselves were omitted. I am pleased that the committee agreed with me on the matter in its stage 1 report and recommended that the voices of children and young people be explicitly recognised in the process.

Amendment 10 would ensure that all those affected by the statutory guidance are actively involved in its development. It also reflects our commitment to meaningful participation, in line with the expectations of the United Nations Convention on the Rights of the Child. In relation to this particular aspect, the wording “children and young people”, rather than “pupils”, ensures that the requirement captures those who have recently left school or who are temporarily not in school but whose experiences remain highly relevant. I encourage members to support amendment 10.

10:00

Amendment 10 agreed to.

Section 2, as amended, agreed to.

Section 3—Duty to inform parents of use of restraint or seclusion

Amendments 11 to 14 moved—[Daniel Johnson]—and agreed to.

The Convener: Amendment 15, in the name of Daniel Johnson, is grouped with amendments 16 and 18.

Daniel Johnson: When I was giving evidence at stage 1, I absolutely agreed with the committee that parents, carers and guardians should be informed as quickly and efficiently as possible whenever incidents occur. The question was how best to capture that in legislation. As the bill is currently framed, it requires that that is done no later than 24 hours after the incident occurs, but the committee was of the view that same-day notification should be the norm. This group of amendments gives effect to the committee's recommendation.

Amendment 15 relates to the timing of parental notification. It will make it clear that parents must be informed by the end of the school day on which the incident occurred or, if that is not reasonably practical, within 24 hours of the incident. In consequence of amendment 15, amendment 18 will create a statutory definition for the end of the school day in order to avoid ambiguity in the application of notification duties. Amendment 16 will allow parents to nominate another person to be notified of restraint or seclusion. That will provide families with greater flexibility in how information is conveyed when parents cannot be contacted. If a parent indicates that another person may be notified, the school may comply with the notification duty by informing the other person instead of the parent.

As a whole, I believe that the amendments strike the balance between efficiency and some of the reasonable adjustments that may require to be made in particular circumstances.

I move amendment 15.

Jenny Gilruth: I welcome the amendments in the group, which strengthen the notification requirements in section 3, which were discussed during stage 1. They ensure that there are clear and robust timelines for reporting of incidents. At present, the bill requires schools to notify parents or carers as soon as possible and, in any event, within 24 hours, which differs from our 2024 guidance.

Concerns were raised at stage 1 that the notification provision does not sufficiently prioritise

same-day notification. Amendments 15 and 18 address that by making it clear that parents or carers should normally be notified before the end of the school day, unless an alternative arrangement has been agreed to. An exception is included for circumstances in which same-day notification is not practicable, but notification must still occur within 24 hours.

Amendment 16 seeks to bring clarity in relation to looked-after children. It ensures that notification is made to the appropriate corporate parent or carer who is responsible for the child, preventing any risk of wrongful disclosure. I encourage the committee to support the amendments.

Amendment 15 agreed to.

Amendment 16 moved—[Daniel Johnson]—and agreed to.

The Convener: Amendment 17, in the name of Daniel Johnson, is grouped with amendments 27 and 29 to 31.

Daniel Johnson: Amendments 17, 27, and 29 to 31 relate to regulations regarding commencement. It is fair to say that, with any member's bill, a member will always want their bill to be enacted as quickly as possible and the Government will always want time to get its affairs in order, which is reasonable. The amendments strike a balance between ensuring that we put the provisions of the bill into effect as speedily as possible and ensuring that we get the detail and the preparation right. The group includes amendments that make provision related to regulation-making powers for the bill's commencement, as well as minor amendments that are intended to tidy up the language.

Amendments 17 and 27 are minor amendments that tidy up drafting of the bill to remove from sections 3(3)(a) and 6(1)(a) the words "or control", which are superfluous.

Amendment 29 creates a new section relating to the regulation-making powers in the bill. It specifies that the regulation-making powers include

"the power to make different provision for different purposes or different areas."

In addition, it specifies that regulations other than the ancillary provision regulations are subject to the affirmative procedure. This section does not apply to commencement regulations, which amendment 31 will provide for.

Amendment 30 creates a new section, giving the Scottish ministers the power to make

"incidental, supplementary, consequential, transitional, transitory or saving provision"

for

“the purposes of”

or

“in connection with”

the act. The effect is to provide a standard ancillary power, with the affirmative procedure required when primary legislation is amended.

Amendment 31 amends the commencement provisions in the bill. This follows my discussions with the cabinet secretary about the committee’s recommendation that the future act should not commence until the review of the current non-statutory guidance has been undertaken. Amendment 31 provides for the commencement of the regulation-making ancillary powers in section 8, “Short title”, on the day after royal assent. The substantive provisions in sections 1 to 5 will be commenced by regulations, which must be made no later than 31 July 2028. That will allow ministers time to prepare for the commencement of the act, while also providing a deadline by which commencement regulations must be made.

I move amendment 17.

Jenny Gilruth: I thank Daniel Johnson for these pragmatic amendments. Amendments 29 and 30 are standard provisions, ensuring that the bill works as intended in the light of changes made by other amendments. I am happy to support them.

I am also pleased that, having discussed the question of commencement with Mr Johnson, we have been able to agree on a practical and workable way forward. We agree with the committee’s recommendation from stage 1 that the act should not commence until the review of the current non-statutory guidance is complete. That review is currently under way, and we agree with the chosen backstop date of July 2028. I anticipate that commencement could take place before that date, as we would begin work to implement the bill as soon as it becomes law. I encourage members to support all amendments in this group.

Amendment 17 agreed to.

Amendment 18 moved—[Daniel Johnson]—and agreed to.

Section 3, as amended, agreed to.

Section 4—Duty to record and report on use of restraint and seclusion

The Convener: Amendment 19, in the name of Daniel Johnson, is grouped with amendments 20 to 22. I call Daniel Johnson to move amendment 19 and speak to all amendments in the group.

Daniel Johnson: At stage 1, the committee recommended that independent and grant-aided schools should report directly to the Scottish

Government rather than to the local authority in whose area they are situated. Amendment 19 gives effect to that recommendation by redirecting reporting obligations from local authorities to the Scottish ministers for the schools that are not managed by local authorities.

Amendment 20 is a minor amendment to ensure that the provision reads correctly in consequence of amendment 19. Amendment 21 is intended to clarify the scope of local authority reporting and to amend section 4(3) to specify that each education authority must report incidences of restraint and seclusion in schools “under its management” rather than “in its area”. Amendment 21 is consequential to amendment 19, which changes the reporting requirements in relation to independent and grant-aided schools. It clarifies that an education authority’s duty applies only to schools that it manages and aligns terminology with section 6.

Amendment 22 arose from my discussions with the cabinet secretary and relates to the committee’s conclusion that there is a role for His Majesty’s Inspectorate of Education in Scotland in the implementation of the bill. I have already written to the committee on the matter. The amendment creates a regulation-making power that will allow ministers to require education providers

“to report incidents of ... restraint or seclusion ... to a person specified in regulations”

and to set out operational detail such as timescales and format. This amendment gives the Scottish ministers the option of establishing a duty for the schools to report each incident in real time to a suitable national body, such as HMIE, once on-going discussions about HMIE’s remit have concluded. That would align with existing Care Inspectorate incident reporting arrangements and proposed Mental Welfare Commission for Scotland reporting requirements for restraint in certain settings. This system would allow the relevant national body to identify and act on immediate wellbeing concerns, whether they arise from a single incident or from patterns of repeated use of restraint or seclusion.

I move amendment 19.

Jenny Gilruth: Amendments 19 and 20 make simple but important changes to the reporting arrangements in section 4. Under the bill as introduced, independent and grant-aided schools would be required to submit their data on restraint and seclusion incidents to the education authority in whose area they are physically located. That approach would create an unnecessary step in data handling and risk distorting local authorities’ statistical returns. Amendment 19 will address that by ensuring that independent and grant-aided

schools will report directly to the Scottish ministers, streamlining the system.

The power for the Scottish ministers in amendment 22 will allow for the development and alignment over time of national reporting requirements for restraint and seclusion across children's services. At present, the bill requires education providers to submit annual returns to ministers. Although that remains appropriate for now, we recognise that it may be desirable in the future to have more immediate incident-level reporting, thereby strengthening national oversight of the protection of children's wellbeing. That approach will provide time to implement the bill's annual reporting provisions and assess their impact before considering the next steps.

I hope that members can see the long-term benefits in these amendments and that they will be able to support them.

Amendment 19 agreed to.

Amendments 20 to 23 moved—[Daniel Johnson]—and agreed to.

Section 4, as amended, agreed to.

Section 5—List of approved training providers

The Convener: Amendment 24, in the name of Daniel Johnson, is grouped with amendments 25 and 26.

Daniel Johnson: Following my discussions with the cabinet secretary, the amendments in this group seek to strengthen the training provisions in the bill. At stage 1, some stakeholders suggested adding the development of training standards alongside the approved list of training providers that was set out in the bill as introduced. In its report, the committee recommended that the approved training providers on the list

“must be quality assured and certified training providers.”

In response to those views, amendment 24 would create a new subsection to section 5, which would enable ministers to develop training standards for the use of restraint and seclusion in schools and to maintain a list of recognised training standards developed by others and a list of providers who meet those standards.

Amendment 25 would remove the existing subsection (1) of section 5, which would be unnecessary due to the expanded provision introduced by amendment 24. Amendment 26 would require the Scottish ministers to publish any training standards and lists that they maintain, which would ensure transparency.

For the avoidance of doubt, it is not expected that all teachers and school staff will require training on restraint techniques. I have written to the committee on that matter. The provision of

professional learning is a matter for local authorities, who are the employers of teachers and other classroom practitioners, and the bill does not propose to change that. It is expected that relevant teachers and staff would understand the need for de-escalation in the first instance, and that the smaller number of those who may need to use restraint techniques as a last resort would be provided with training on appropriate, safe techniques in order to minimise the risk of any physical or mental injury. The specifics of that would be determined through bespoke training and needs analysis in relevant school settings for those practitioners who would reasonably be expected to need it.

I move amendment 24.

Jenny Gilruth: As drafted, section 5 would require ministers to maintain and publish a list of approved training providers and the details of their courses. However, there are already well-recognised and established national frameworks and training standards in place, including the Restraint Reduction Network standards, which are widely used and which are referenced in the 2024 guidance. It would be unhelpful for the bill to cut across good practice or to create an overly rigid system.

As we have heard, amendments 24 to 26 seek to address those concerns. I thank Daniel Johnson for lodging those amendments and explaining the intent behind them. The amendments will give ministers flexibility to develop new training standards or to adopt existing ones, and to publish information about providers in the most appropriate way. That approach will avoid unnecessary duplication while ensuring transparency and consistency, and it strikes the right balance between maintaining high standards and allowing the system to evolve as practice develops. I invite the committee to support the amendments.

Amendment 24 agreed to.

Amendments 25 and 26 moved—[Daniel Johnson]—and agreed to.

Section 5, as amended, agreed to.

10:15

Section 6—Interpretation

Amendments 27 and 28 moved—[Daniel Johnson]—and agreed to.

Section 6, as amended, agreed to.

After section 6

Amendments 29 and 30 moved—[Daniel Johnson]—and agreed to.

Section 7—Commencement

Amendment 31 moved—[Daniel Johnson]—and agreed to.

Section 7, as amended, agreed to.

Section 8 agreed to.

Long title

Amendment 32 moved—[Daniel Johnson]—and agreed to.

Long title, as amended, agreed to.

The Convener: That concludes consideration of the Restraint and Seclusion in Schools (Scotland) Bill at stage 2. I thank Daniel Johnson, the cabinet secretary and their supporting officials for their attendance today.

10:16

Meeting continued in private until 10:33.

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