

Education, Children and Young People Committee
Wednesday 29 October 2025
30th 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 fourth evidence session on the Bill and the Committee will take evidence from the following witnesses—
 - Jenny Gilruth, Cabinet Secretary for Education and Skills;
 - Alison Taylor, Interim Director for Learning;
 - Stella Smith, Head of Supporting Learners Policy Unit;
 - Robert Eckhart, Supporting Learners Policy Team Leader; and
 - Nico McKenzie-Juetten, Head of School Education Branch, Scottish Government Legal Directorate

Background

4. SPICe has produced [a background briefing on the Bill](#) which is published on the website. SPICe has also produced a briefing paper for this session which is attached at **Annexe A**.

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 [SPICe summary of the responses received](#) has also been published on the website.

Oral evidence

7. At its meeting on 24 September 2025, the Committee took evidence from the following witnesses—

Panel 1

- Dr Simon Webster, Head of Research and Policy, 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 for Scotland
 - Ben Higgins, CEO, Restraint Reduction Network.
8. Then, on 1 October 2025, the Committee took evidence from the following witnesses—
- Lynne Binnie, Service Lead for Inclusion, Edinburgh City Council and Co-Chair of the Inclusion Network, the Association of Directors of Education in Scotland (ADES)
 - Tom Britton, Edinburgh Local Association Assistant Secretary, Educational Institute of Scotland (EIS)
 - Dr Pauline Stephen, Chief Executive and Registrar, The General Teaching Council for Scotland (GTCS)
 - Mike Corbett, National Officer, NASUWT
 - Gavin Calder, Chief Executive Officer of Harmeny School, and Board Member, the Scottish Council of Independent Schools (SCIS)
9. Meeting papers and transcripts from those meetings, including written submissions from witnesses, are published on the [website](#).

Scottish Government position

10. 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.”

11. 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.” The memorandum is attached at **Annexe B**.

Approach in England, Northern Ireland and Wales

12. 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?

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

Previous committee consideration

14. 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.

15. 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

16. 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

17. 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

18. The Committee will continue to take evidence on the Bill at its meeting on 12 November 2025.

Committee Clerks
October 2025

Annexe A

SPICe

The Information Centre
An t-Ionad Fiosrachaidh

Education, Children and Young People Committee
Wednesday 29 October 2025

Restraint and Seclusion in Schools (Scotland) Bill

Introduction

The Committee is the lead Committee at Stage 1 on the [Restraint and Seclusion in Schools \(Scotland\) Bill](#) (“the Bill”). The Bill is a Member’s Bill and was introduced by Daniel Johnson MSP on 17 March 2025.

The Committee took evidence from two panels on [24 September](#) and at that meeting there was a focus on the experience of children, young people and their families of the current system. On [1 October](#), the Committee took evidence from representatives of teachers, local authorities and independent schools.

This week the Committee will take evidence from the Cabinet Secretary for Education and Skills.

The Committee sought information from other nations in the UK on their policy-approaches in this area. The annexe to this paper provides a short summary.

The Bill

The Bill aims to improve the regulation and monitoring of the use of restraint and seclusion in Scottish schools. The Bill's provisions would apply to all school pupils.

The Bill defines restraint and seclusion and it has four further substantive sections. These will create duties:

- on Scottish Ministers to issue guidance on the use of restraint and seclusion in schools
- on schools to inform parents/carers if their child is subject to restraint or seclusion
- on education providers to record and report on the use of restraint and seclusion
- on Scottish Ministers to maintain a list of approved training providers on the use of restraint and seclusion in schools.

Current practice

Parliament has considered the issue of the use of restraint and seclusion over the past years, through petitions and other work. Campaigners have been particularly motivated by personal experiences of their children being injured at school following the use of restraint or seclusion.

The Committee has heard somewhat conflicting views on the nature of current practice. The Committee heard from some parents and organisations that restraint and seclusion is commonly misused and causes harm to disabled children in particular. However, the Committee also heard from teachers and local authorities that such techniques are used appropriately and only as a last resort.

On 24 September, the Committee took evidence from witnesses who highlighted concerning practice.

[Kate Sanger told the Committee](#) that through the work she has undertaken over the past decade, she has been told of children experiencing significant injuries following restraint practices including: severe bruising, broken teeth and broken bones. She continued, “we all hear that restraint should be the last resort, but restraint is happening as a first approach in many instances.” Ms Sanger reported that “since the schools went back in August, 81 families have contacted us in one month and shown us pictures and told us horror stories—yet again—of restraint”

[Suzi Martin from National Autistic Society Scotland \(“NASS”\) said](#) that her organisation is hearing of increased numbers of cases of restrictive practices being used in schools. [Ben Higgins from the Restraint Reduction Network](#) said that they have seen schools where children “are dragged” to seclusion rooms.

In [reference to chemical restraint](#), [Ms Sanger said](#) that parents had reported that schools have said that without the use of medicine children would not be able to attend the school. Talking about mechanical restraint, [Kate Sanger said](#):

“We have found that a lot of chairs have been used for children who are mobile and who can run about. They have been strapped in those chairs with brace straps and ankle straps in order to keep them in the chair and stop them from running about the classroom in order to manage the classroom. To me, that is a deprivation of liberty. It is a terrible thing. It happens a lot. That is the kind of restraint that I am extremely worried about, and it is being used today.”

Teachers that responded to the call for views said that restraint and seclusion is used as a last resort in response to dysregulated and dangerous behaviour. [On 1 October, Gavin Calder from SCIS](#) said that in his experience of specialist schools, there has been a drop in incidents. [Dr Lynne Binnie, talking on behalf of ADES](#), said that Children and Young People’s Commissioner Scotland’s 2018 report on the use of restraint “was the catalyst for significant work” and “local authorities have been working in this space to improve policy, procedures and training.” [She also suggested](#) that more recent policy changes have improved policy and practice in local authorities:

“As a result of the guidance, whereby physical restraint is a last resort, we are seeing a reduction in physical restraint training across local authorities and much more investment, and a bigger increase, in lower-level approaches around understanding relationships and de-escalation.”

[Tom Britton from the EIS, drawing on his experience in special schools, said](#) the use of restraint should only be used in the last resort. However, he warned that under-resourcing and staff shortages undermine good practice.

“In an ideal scenario, a well-resourced and experienced staff team would recognise the signs of dysregulation in a young person before it happens. That is fundamental. However, ... if adults are coming in on a daily basis so that there is another adult in the room, that will be a source of dysregulation for the young people in the class. When it gets to that critical moment that you talked

about, it is a huge and challenging situation, and restraint must be the last possible action to be taken.”

Current Scottish Government Guidance

The current policy and guidance on the restraint and seclusion of pupils is set out in the Scottish Government’s guidance, [Included, engaged and involved part 3: A relationships and rights-based approach to physical intervention in schools](#) (“IEI3”), which was published in November last year. Prior to that, the guidance on the use of “De-escalation and Physical Intervention” was included in [Included, Engaged and Involved Part 2: A Positive Approach to Preventing and Managing School Exclusions](#). There is also wider guidance on the restraint of children in a range of settings in the 2005 (updated in 2014) guidance [Holding Safely](#).

For several years, the Government’s position¹ in relation to guidance on restraint and seclusion was that it should be seen in the context of early intervention, positive relationships and therefore would be best included within ‘[Included, Engaged and Involved Part 2: A Positive Approach to preventing and Managing School Exclusions](#)’. This guidance includes sections on ‘De-escalation and Physical Intervention’ and ‘seclusion’.

The Children and Young People’s Commissioner undertook an investigation into the practices of restraint and seclusion in 2018 and published a report in December of that year. The report was critical of the Government’s position at the time; these criticisms included the content of the existing guidance and also that it was included in guidance on behaviour management and exclusions.

The Commissioner found that the “use of restraint and seclusion on pupils across Scotland is largely unmonitored, with glaring inconsistencies across local authorities.” The report’s recommendations included:

- The Scottish Government should publish a rights-based national policy and guidance on restraint and seclusion in schools. Children and young people should be involved at all stages of this process to inform its development.
- Local authorities should record all incidents of restraint and seclusion in schools on a standardised national form. Anonymised statistical data should be reported to the Scottish Government’s Children and Families Directorate. The Scottish Government should analyse and publish this data as part of its official statistics.
- Local authorities should ensure that all children considered to potentially require physical intervention have a plan agreed in advance with the child and their parent(s) and/or carer(s).
- Local authorities should ensure that restraint and seclusion is only carried out by staff members who are trained to do so.
- Education Scotland and the Care Inspectorate should further scrutinise the use of restraint and seclusion in schools as part of their inspection regimes.

¹ See for example, the Government’s response to the Public Petitions Committee in relation to PE1548.
<https://webarchive.nrscotland.gov.uk/20240327032412/http://archive2021.parliament.scot/GettingInvolved/Petitions/PE01548>

The organisations should involve children and young people [in developing their approaches to this].

The [Government's initial response to this report](#) highlighted the existing guidance on this which is included in [Included, engaged and involved part 2: preventing and managing school exclusions](#) ("IEI2") and did not commit to developing new guidance. The Commissioner and the Equalities and Human Rights Commission Scotland (EHRC) were not satisfied with the Scottish Government's initial response. The [EHRC argued](#) that "without new guidance [the Scottish Government] was in breach of its human rights obligations to children" and sought to initiate a judicial review.

The Scottish Government undertook further discussions with the EHRC and the Commissioner and legal proceedings were not pursued. The Commissioner reported that the Scottish Government agreed to:

1. Produce human rights-based guidance on restraint and seclusion and review the effectiveness of that guidance,
2. Involve children, young people and their families in the drafting and review of the guidance,
3. Consider statutory action should the guidance prove to be ineffective, and
4. Develop and introduce a standard dataset to be implemented across Scotland to ensure consistent recording and monitoring of incidents of restraint and seclusion.

[This agreement was in December 2019.](#)

To develop new guidance and take forward other issues raised by the Commissioner, the Scottish Government convened a Physical Intervention Working Group in early 2020. The membership of the group was large, with a total of [30 organisations listed in the Group's terms of reference](#). It was anticipated that the new guidance would be produced by early 2021, although this timescale was, no doubt, interrupted by the pandemic. It is difficult to follow the progress of this group as the published minutes do not, at the time of writing, appear to be up to date.

In 2022, the [Scottish Government consulted on draft guidance](#). The Scottish Government published [Included, engaged and involved part 3: A relationships and rights-based approach to physical intervention in schools](#) in November 2024.

The guidance covers a lot of the issues that the Bill addresses and that have arisen so far in the Committee's work.

- The guidance set out **Guiding Principles** which included the importance of promoting positive relationships, behaviour, and wellbeing among children. It aims to minimise and eliminate the misuse of restraint and seclusion, ensuring that all decisions respect and comply with children's rights.
- IEI3 highlighted the importance of **preventative approaches** to avoid distressed behaviour. It says that regular planning and review of support are essential, and it is important to engage children, young people, and their parents in developing these preventative strategies.
- The Guidance highlighted **co-regulation and de-escalation techniques** to support children in regulating their emotions and behaviour. Strategies such

as pupil-led and staff-led withdrawal were identified as alternatives to restraint and seclusion to help manage situations effectively.

- The Guidance differentiated between physical intervention, restraint, and seclusion. It said that restraint should only be used as a last resort to prevent immediate risk of injury, and all practices must follow legal frameworks and safeguards to ensure they are lawful.
- **After incidents**, the Guidance said that immediate support should be provided. The Government suggested conducting learning reviews to help to understand and prevent future incidents. These should involve children (when appropriate) and their parents/carers.
- The Guidance stated that incidents of restraint and seclusion must be **reported and recorded and parents/carers informed**. It said that monitoring data is essential to identify trends and improve practices, ensuring transparency and accountability in the reporting process.
- The Guidance said that **training** should be provided on promoting positive relationships and behaviour, with a focus on trauma-informed and nurturing approaches. Staff should also be trained in safe restraint techniques if necessary.

[The Cabinet Secretary has said](#) that the Scottish Government would “monitor the progress and development of the guidance throughout the year to ensure that it is being used effectively”. She said that the review would be completed by “autumn 2025”. COSLA’s submission indicated that a review is expected to take place from November 2025.

The need for statutory guidance

Statutory guidance is guidance that has been prepared and published under a statutory power. There is normally an associated statutory duty on certain bodies to “have regard to” this type of guidance in carrying out certain functions – this is the approach in this Bill.

Making guidance subject to a “must have regard to” requirement places those to whom it applies under a statutory duty. This does not amount to an obligation to comply with the contents of the guidance. However, if a person to whom such guidance was directed were to disregard it and were challenged, they would need to be able to show that they had at least given adequate consideration to the guidance and that, if they decided not to follow it, they had justifiable reasons for not doing so.

The Bill would require the Scottish Government to issue statutory guidance which would be required to include guidance on matters that are included in IEI3. The Bill would require guidance to include some matters that are not covered in IEI3, for example IEI3 does not explicitly cover “appropriate and inappropriate forms of restraint and seclusion”.

The policy memorandum accompanying the Bill stated—

“Available evidence would suggest, in the absence of statutory guidance, incidents of seclusion and restraint have not reduced in the time that non-statutory guidance has been in place.” (Para 51)

The Bill was introduced in March 2025 and the policy memorandum is referring to the guidance included in IEI2, the 2017 guidance, rather than specifically IEI3.

The Committee has heard conflicting views on the efficacy of the current guidance.

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." On 1 October Dr Lynne Binnie, representing ADES, [said she understood](#) that all 32 local authorities had updated their policies in light of the new guidance. [She said that](#) she hoped that "improvement has been made since the implementation of the guidance".

On 24 September, [Ben Higgins from the Restraint Reduction Network said](#) the "guidance that came out last year was a positive step; the bill will be a further step forward and, of course, what is in it will be statutory". [Dr Webster from Enable expressed](#) surprise why legislation to provide greater protection of children in this area has taken so long. Nicola Killean, [the Children and Young People's Commissioner Scotland, said—](#)

"We believe that [statutory guidance] will increase protection for children and young people and ensure that all children and young people across Scotland have the same protections in law."

NASUWT's submission included a briefing on the development of IEI3, which it described as being "completely unfit for purpose". [Mike Corbett from NASUWT told the Committee on 1 October](#) "Although much of it is commendable, it offers very little to teachers in terms of specifics about what they should or should not do in certain circumstances ... our members would need much more reassurance about what they could and could not be expected to do in certain circumstances". He suggested that the current guidance should be improved, rather than moving to statutory guidance.

Definitions

The Bill would create definitions for both restraint and seclusion. These definitions are key to how the Bill would work in practice. They would determine the type of intervention that would be covered by the statutory guidance and the reporting duties under the Bill.

The Bill's definitions are:

- a) "restraint" means anything done by a member of the staff of an education provider with the intention of restricting the physical movement of a child or young person, including restricting their freedom of movement or ability to move independently,
- (b) "seclusion" means anything done by a member of the staff of an education provider with the intention of isolating a child or young person from other children or young people and preventing them from leaving the place where they are isolated.

The Bill also provides that the statutory guidance would be able to "elaborate" on these definitions. EIS's submission suggested replacing "elaborate" with "exemplify" in the Bill to avoid unintended expansion of scope.

These definitions closely match the definitions in IEI3. The definitions of restraint and seclusion used in that guidance are:

- Restraint: “An act carried out with the purpose of restricting a child or young person’s movement, liberty and/or freedom to act independently”.
- Seclusion: “An act carried out with the purpose of isolating a child or young person, away from other children and young people and staff, in an area in which they are prevented from leaving.”

[The Scottish Government’s memorandum](#) stated:

“Creating definitions in primary legislation, which it is noted closely align with those used in the 2024 guidance, could assist further with this policy aim. However, such a broad definition of restraint in primary legislation could risk, in the Scottish Government’s view, defining practices that are not of obvious concern as restraint (examples include holding a child’s hand as they cross a road or the use of hoists or other ‘moving and handling’ equipment for children with complex healthcare needs). Clarification in the supporting statutory guidance, as envisaged by the Member, may not allow such practices, currently termed ‘physical interventions’ within the 2024 guidance, to be excluded from the Bill’s definition of restraint. The Scottish Government therefore believes there to be merit in exploring whether a narrower definition of restraint that includes the practices of the highest concern, such as physical and mechanical restraint, would achieve the aims of the Bill.”

Within responses to the call for views, concerns about the breadth of the definition tended to be in the context of over-reporting matters and incidents that are not of concern. Beyond these issues, it is not clear how having a potentially over-expansive definition would create difficulties. The [current guidance](#) discusses “physical intervention” in broad terms.

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, “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.

The Bill reflects the terminology of the [Education \(Scotland\) Act 1980](#) when defining children and young people. In that Act, a child “means a person who is not over school age” [around 16] and young person “means a person over school age who has not attained the age of eighteen years”. [The Commissioner suggested](#) that the Bill “excludes 16 and 17-year-olds, making that definition incompatible with the UNCRC.” The Commissioner suggested that the Bill align more closely with the definition of a child under the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024.

Use of seclusion

On 24 September, the Committee explored whether seclusion should be included in the Bill at all, given that some respondents had questioned the legality of the practice. CLAN Childlaw’s response to the Committee’s call for views was 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.”

IEI3 suggests that schools should be cautious in using seclusion. It said:

“Seclusion, similar to other types of restraint, places an additional level of temporary restriction on an individual child or young person’s freedom of movement. While much will depend on the circumstances of each individual case, the use of seclusion also carries the risk of overstepping the line and depriving a child or young person of their liberty. There is no legal process for authorising a deprivation of liberty in a school context. This means that the use of an act which goes beyond a restriction of movement and deprives a child or young person of their liberty would, in that context, not be prescribed by law, and the education provider may be acting unlawfully. ...

“Seclusion should only ever be used in an emergency to avert an immediate risk of injury to a child or young person, or others, where no less restrictive option is viable (i.e. as a last resort). It should end as soon as the immediate risk of injury is reduced.” (Paras 72 and 74)

On 24 October, the [Commissioner said](#) “any use of seclusion where a child is unable to choose to leave that space would be a deprivation of liberty.” [Suzi Martin from NASS](#) gave an example of a child who was routinely “taught at a desk behind the stage in the hall with very little teacher input”. Ms Martin said that her view was that this is seclusion.

The Scottish Government’s guidance [Schools - fostering a positive, inclusive and safe environment: guidance](#) includes illustrative examples of how consequences might apply in schools. This suggested that a response to low-level disruptive behaviour may be “being asked to take a break from the class or activity for a short time”. And in response to “unsafe, anti-social, or otherwise unacceptable behaviour”, “in-school alternative provision for a period of time (to allow matters to calm, time for planning, parental meetings etc)”.

The [Committee asked the witnesses on 1 October when it would be lawful to seclude a child in school](#). The panel were reluctant to address where the legal line may be. Rather they explained how seclusion may be used currently. [Tom Britton from the EIS said](#), “it sometimes benefits a young person who shows signs of dysregulation if they have a bit of time out and an opportunity to self-regulate and bring themselves back in.” [Dr Binnie from ADES](#) said—

“The previous practice that I witnessed over the years—a long time ago, I would like to say—was that seclusion was, at times, part of a child’s plan, and it was part of how their education was delivered day to day. I do not feel that we are in that place any more. If there has been seclusion, it has been used as a strategy to reduce risk.”

Other sectors

Another concern is that the Bill would solidify different regimes for education and other children's services, for example those services regulated by the Care Inspectorate. The Scottish Government's memorandum noted "the contrast between the school reporting position and residential care accommodation and secure care accommodation services." Nevertheless, its [position as set out in answer to a question in March](#) is that "any scaffolding and support for children and young people in relation to restraint and seclusion, is best considered and addressed by each area independently to ensure that any support, training, guidance and reporting meets their needs in those particular settings."

The Children and Young People's Commissioner Scotland's submission said—

"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."

GTCS' submission said that there should be a focus on creating a coherent and holistic "child protection and safeguarding landscape to ensure that roles and responsibilities are clear, and that appropriate checks and balances are in place". [Dr Pauline Stephen from the GTCS told the Committee](#) that GTCS supports the Bill but that there is a missed opportunity to develop an overarching child protection policy aimed at schools.

[On 24 September, the Commissioner suggested](#) that the Bill ought to cover nurseries. Currently childcare settings are regulated by the Care Inspectorate and subject to its [policy and reporting requirements around restrictive practices](#). [Gavin Calder from SCIS explained](#) what this regulation by the Care Inspectorate may look like:

"The Care Inspectorate has an overview and it tends to do annual visits. Any seclusion or restraint that takes place in care and in nurseries has to be recorded and that information is sent to the Care Inspectorate so that it can see the numbers and determine whether some institutions are using the practices more than others. The Care Inspectorate will pick up the phone and say, 'Can we check why this happened? Will you talk us through it?' That gives accountability."

Communication with parents/carers

The policy memorandum accompanying the Bill states—

"Evidence, including details of many experiences provided directly to the Member, clearly demonstrates that parents are not being told timeously and as a matter of course that seclusion or restraint has been used on their child. Parents have reported to the Member that they are regularly not being informed by schools at all and often learn of an incident from their child if they come home upset, or from observing injuries sustained by their child. In the absence of a statutory requirement to inform parents (including guardians and carers), the Member contends that it is challenging to see how this situation will improve." (Para 52)

The view that parents/carers are not always informed was reflected in the evidence the Committee heard on 24 September.

IEI3 provides guidance on informing parents. It also suggests a different timescale for reporting to the Local authority/manager of the school and for completing a full written record of the incident. The guidance says:

“Parents and carers of the child or young person who was subject to restraint or seclusion should be notified at the earliest possible opportunity. This must take place as soon as possible during the school day and, exceptionally, within 24 hours of restraint or seclusion being used where it has not been possible to make contact or unless alternative contact arrangements have been agreed. The use of restraint and seclusion should be reported to the education authority, the managers of the grant-aided school or the proprietors of the independent school within two working days, with the full written record shared within five working days.”

The Bill reflects the timescales in the guidance for reporting incidents to parents/carers.

[Dr Lynne Binnie from ADES said](#) local authorities should follow this guidance and that “parents and carers should be informed within 24 hours—in practice, that should happen immediately—of any instances of physical restraint or seclusion.”

[Tom Britton from EIS agreed](#), he said that EIS “generally support parents being told as soon as possible”. He continued, “the issue is fundamentally about relationships and resourcing, and parents are a crucial part of those relationships.”. [Mike Corbett from NASUWT agreed in principle](#) but said that there may be rare occasions where such contact would be inappropriate. He said—

“If a pupil is at risk, their social worker might say that when the school advises the parent or carer that restraint has been applied, that parent or carer might blame the child and ask what they have done wrong. There is that need for caution in some individual cases.”

The Bill provides that the statutory guidance under Section 2 would include guidance on the process for making complaints and the information that should be provided on these avenues. The policy memorandum noted that in some, serious, circumstances, parents or carers may wish to explore and utilise complaints mechanisms. It said—

“The Member believes that the duty to inform and record could increase take-up of existing complaints processes. However, he also considers that it is likely that with improved processes and practices in place as a result of the guidance, for example more mediation at school and education authority level, most issues could be addressed at this level without the need for the tribunal or other processes.”

Recording and reporting

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. A theme of the evidence the Committee has received is that it is difficult to know the extent to which restraint and seclusion is used across Scotland because the data is not available. This was also a key finding of the Commissioner’s 2018 report, No Safe Place. EHRC’s written submission 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.”

[Dr Pauline Stephen from the GTCS](#) suggested that confidence in the system would improve if there was better data and “checks and balances”. Dr Binnie is an officer at the City of Edinburgh Council. Referring to data for that local authority [she said that](#) “the majority of incidents [of physical intervention and restraint] happen in primary schools... the second-highest number of incidents is within the special school sector.” She also said that the main reasons for staff using physical intervention and restraint were to stop peer-on-peer aggression.

Some respondents to the Committee’s call for views, including some local authorities were concerned that the publication of national data would create ‘league tables’ without this data being contextualised. 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”. EIS’ submission argued against taking an “accountability and oversight” approach and the possibility of ‘league tables’, it said:

“This is unhelpful; it detracts from the focus of support for children and young people; and could, in a system where performativity is pervasive, conversely result in practice which would discourage recording and reporting, as a result of concern about how a local authority or school might be perceived.”

Independent Schools and dual reporting

The Bill would require independent and grant-aided schools to report the number of incidents to the local authority in which they are situated. The Scottish Government’s memorandum suggested that there were two issues that may have to be considered during scrutiny of the Bill or in the production of the resulting statutory guidance:

- Whether grant-aided and independent special schools should report to the local authority which placed the child in the school, which may not be the local authority in which the school is situated.
- How to manage any possible dual reporting of residential care accommodation and secure care accommodation services - i.e. the reporting envisaged in the Bill in addition to duties to report to the Care Inspectorate.

SCIS’ submission was also concerned with the suggested reporting mechanism for independent schools. It 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.”

Role of the inspectorate

The guidance under Section 2 of the Bill would include guidance on “the inspection of the practice of restraint and seclusion”.

As noted above, the Care Inspectorate monitors the use of restrictive practice and the Committee has heard that it does so continuously and can take an active and prompt approach to monitoring care settings’ practice and approaches. HMle has been suggested as the body that should collate and analyse data on restraint and seclusion, and to respond to any concerns about over-use or inappropriate use in certain schools or areas.

Training

The Bill would require the Scottish Government to maintain a list of approved training providers on the use of restraint and seclusion. This will link to the statutory guidance produced under Section 2, which would need to include guidance on the training of staff. The Explanatory Notes accompanying the Bill explained that the list is “intended to be the authoritative source of appropriate training for school staff, particularly those in roles involving contact with children and young people who are likely to be subject to restraint or seclusion”. (Para 16)

There are a number of organisations that currently accredit or certify courses in how and when to undertake physical restraint. For example, the [Restraint Reduction Network has developed training standards](#) and these are certified by Bild Association of Certified Training under licence. IEI3 says that “where restraint is a foreseeable possibility, schools should use restraint training that is certified as complying with [RNN standards].”

In response to the Committee’s call for views, 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). [Dr Lynne Binnie from ADES told the Committee on 1 October](#):

“Currently, there is variance across our 32 local authorities. Some local authorities, such as mine in Edinburgh, use a regulated training provider: CALM Training. There are a number of different examples across local authorities, and some have in-house training. There is a decision to be made, therefore, as to whether to make it statutory or mandatory for a training provider to be accredited through a particular organisation or set of credentials.”

Witnesses on 24 September emphasised the potential dangers of restraint and the need for high-quality, accredited training to ensure safe and appropriate practice in schools. The panel stressed that the training should focus on prevention and de-escalation.

On 1 October, [Tom Britton from the EIS said](#) that he supports a focus on de-escalation. He also explained that in the specialist settings the teams “are practising weekly, and they will tailor their approach to the young people in their classes as regards possible responses to a dysregulated and distressed young person.” Mr Britton could not see how this could be achieved in mainstream settings.

On 24 September, [Suzi Martin from NASS said](#) that all teachers should have a “basic level of understanding of autism, learning disabilities, communication differences,

sensory differences and support needs”. [She also said that](#) there should be more specialists in both special and mainstream schools.

[Ben Higgins from the RRN suggested](#) a training needs analysis to understand who needs what in a setting is “critical”. Mr Higgins said that most staff would not need training in restrictive practice, and that more individuals may need training on de-escalation techniques. He also said that anyone who is trained on restrictive techniques must have had training on de-escalation as well.

Resources and culture

The Scottish Government's memorandum suggested that there would not necessarily be significant additional costs of the Bill. It said:

"Aside from a duty on education authorities to report restraint and seclusion to Scottish Ministers, which will have resource implications not currently set out in the Financial Memorandum, the Bill's provisions reflect the existing non-statutory policy position set out in our [IEI3]. It is therefore not clear, to the Scottish Government, what additional implementation costs education authorities would incur as a result of the Bill."

Some of the debates and commentary around the Bill argue that a wider lack of resource in the schools sector contributes to the use of restraint or seclusion. [Dr Simon Webster from Enable told the Committee:](#)

"The context in which restraint and seclusion are being overused is one in which teachers and other staff are under extreme stress and they are trying to work with children and young people who are experiencing extreme distress in a system that requires more investment. Until it has that investment, conditions will continue to lead to distress and staff will continue to struggle to support children and young people, and to work in the environment and the circumstances that exist in schools."

EIS's submission said that a lack of resources is "the major barrier to implementation of effective practice in this area". [Tom Britton from EIS told the Committee:](#)

"In a classroom situation, where a school is short staffed and teachers have young people with multiple complex learning needs who are struggling to cope in that environment, it is very difficult to move forward positively. Without the context of more funding and more staff, it is difficult to get beyond that. The situation is getting much more complex and challenging in mainstream schools. Just now, primary schools in particular can often be highly challenging environments, with young people with complex additional support needs struggling to cope. "

As well as a perceived lack of resource, some witnesses suggested that a culture change is required. [Suzi Martin from NASS said that the issue of in appropriate use of restraint and seclusion is systemic.](#) She said, "it is not necessarily about individual teachers; it is a case of the whole system not working to support children and young people—especially those with additional support for learning needs, autistic children and young people, and those with learning disabilities." [Ben Higgins from the Restraint Reduction Network said—](#)

"On what we mean by restraint reduction, it is really a culture change programme. There are lots of brilliant schools out there with really positive cultures that are focused on young people's wellbeing and having nurturing conversations, and they have minimal reliance on restrictive practices. There

are other schools that do not have the benefit of that really positive culture; they have a more toxic culture, they take a highly punitive approach and they have an overreliance on restrictive practices.”

EIS’s submission argued that the Bill would have a negative impact on culture in schools. It said:

“[The] adoption of statutory provisions which will be legalistic in nature could militate against a culture of openness, collegiality and partnership working, rather engendering a culture of fear and leading to increased anxiety and feelings of isolation in teachers and school staff.”

Ned Sharratt, Researcher (Education and Culture), SPICe

Date: 16/10/2025

Note: Committee briefing papers are provided by SPICe for the use of Scottish Parliament committees and clerking staff. They provide focused information or respond to specific questions or areas of interest to committees and are not intended to offer comprehensive coverage of a subject area.

The Scottish Parliament, Edinburgh, EH99 1SP www.parliament.scot

Annexe: Policy in other nations of the UK

Prior to the consideration of the Bill at Stage 1, the Committee wrote to the UK Government, the Welsh Government and the Northern Ireland Executive seeking information on the policies around restraint and seclusion in those jurisdictions.

Responses were received from the Welsh Government and the Northern Ireland Executive.

Wales

[Lynne Neagle AS/MS, the Cabinet Secretary for Education in the Welsh Government wrote to the Committee on 30 June 2025.](#)

Ms Neagle explained that Wales operates under a non-statutory framework titled [Reducing Restrictive Practices](#), published in 2022. This framework emphasises that restrictive practices should only be used as a last resort to prevent harm and promotes a human rights-based, person-centred approach. She said that the framework sets expectations for policy and practice across childcare, education, health, and social care. Inspectorates such as Estyn, Healthcare Inspectorate Wales, and Care Inspectorate Wales consider compliance with this framework during inspections.

The letter said that professional training is expected to be values-based and ongoing. The letter outlined a number of preventative models that may be utilised.

In Wales, each school must appoint a Designated Safeguarding Person who is responsible for ensuring that staff, learners, and parents feel confident in raising concerns, and that these concerns are taken seriously. In cases of safeguarding issues, the Welsh Government works with local authorities to ensure proper procedures are followed.

Ms Neagle explained that she convened a National Summit on behaviour in schools and colleges on 22 May. Following this, she committed to updating guidance on reasonable force and searching for weapons, as part of a broader set of immediate actions to address behavioural issues.

The [Reducing Restrictive Practices](#) framework says that there should be local policies that outline conditions for the use of restrictive practices. This says:

“Any intended use of restrictive practices as a last resort should be in the individual’s behaviour support guidelines in their individual plan and should be reviewed regularly. Any use of a restrictive practice that is not in the individual’s personal plan should trigger an immediate review. There should be guidelines in the individual’s personal plan of how the use of the restrictive practices will be reduced in the future.”

It also says that local policies should “provide clear guidance for recording information following the use of any restrictive practice in relation to what is to be recorded when, by whom, and the purpose of the recording”.

Northern Ireland

The [Minister for Education, Paul Givan MLA, wrote to the Committee on 12 June.](#)

This letter stated that the NI Education Department is preparing statutory guidance on these practices and this is expected to be implemented during the 2025/26 school year. Currently, schools operate under non-statutory guidance issued in 2021, which sets out the department’s position on reasonable force and seclusion.

There is a single Education Authority in Northern Ireland (in contrast to 32 in Scotland). Training for school staff is provided by the Education Authority which offers a range of support and professional learning opportunities. A new programme, Connecting & Caring Across the Whole School Community, was piloted in early 2024 to help mainstream schools with specialist provisions. For specialist settings, accredited training is provided by Team Teach Ltd.

There is currently no mandatory requirement for schools in Northern Ireland to record or report incidents of restraint or seclusion, though existing guidance advises that such incidents should be documented at the school level. The forthcoming statutory guidance is expected to introduce more formal monitoring arrangements.

There is no formal duty to report restraint and seclusion data to the Northern Ireland Assembly. However, the Department of Education is considering commissioning periodic reviews and publishing reports once the new guidance is in place.

England

The UK Government recently published [Keeping children safe in education 2025](#). In relation to physical interventions by staff, the guidance discusses the use of 'reasonable force'. This guidance states:

"The term 'reasonable force' covers the broad range of actions used by staff that involve a degree of physical contact to control or restrain children. This can range from guiding a child to safety by the arm, to more extreme circumstances such as breaking up a fight or where a child needs to be restrained to prevent violence or injury. 'Reasonable' in these circumstances means 'using no more force than is needed'. The use of force may involve either passive physical contact, such as standing between pupils or blocking a pupil's path, or active physical contact such as leading a pupil by the arm out of the classroom."

The guidance notes that staff should consider the additional vulnerability of children with SEND or mental health conditions when using force. It highlights:

- Non-statutory departmental advice for schools is available at [Use of Reasonable Force in Schools](#) (2013); and
- HM Government guidance [Reducing the need for restraint and restrictive intervention](#) (2019) which sets out how to support children and young people with learning disabilities, autistic spectrum conditions and mental health difficulties who are at risk of restrictive intervention in special education settings.

The [Reducing the need for restraint and restrictive intervention](#) notes that there is a statutory power under Section 93 of the Education and Inspections Act 2006 which allows the use of reasonable force to:

- prevent or stop the committing of any offence by a pupil;
- prevent or stop personal injury to, or damage to the property of any person (including the pupil themselves) by a pupil; or
- prevent or stop a pupil prejudicing the maintenance good order and discipline.

This guidance was intended to help services understand the root causes and triggers of challenging behaviour in children and young people, and to identify ways to support

them, particularly through behaviour support plans. Its goal was to reduce the frequency and risks associated with such behaviour, safeguard wellbeing, and improve quality of life. A key part of this is eliminating the unnecessary and inappropriate use of restraint. The Guidance noted that this is “particularly important in relation to children, who are still developing both physically and emotionally, and for whom any potentially traumatic experience at this formative stage in their development could be very damaging and have long-term consequences.”

[Reducing the need for restraint and restrictive intervention](#) suggests that settings take a “positive and proactive approach to behaviour” which includes:

- policies, strategies and practices which promote a positive culture;
- arrangements which identify, assess and manage risk well;
- high quality training for staff;
- involvement of children and young people, parents and carers, and advocates as appropriate;
- arrangements for carefully assessing the needs of children and young people and the underlying causes of their behaviour, including through developing behaviour support plans;
- tailored support for individual children and young people that takes account of their particular wishes, vulnerabilities, learning disability, medical condition or impairments, and their interaction with the environment in which they are taught and cared for and responds to their growth and development over time; and
- clear arrangements for governance and accountability in respect of behaviour and responses to behaviour that challenges.

[Reducing the need for restraint and restrictive intervention](#) said that it would be ‘good practice’ for local policies to include (among other things):

- arrangements for reporting and recording use of restraint (depending on the type of setting or service, this may be a requirement.), including informing parents or carers;
- details of how staff restraint practice will be reviewed and evaluated; and
- arrangements for monitoring the use of restraint and patterns and trends in its use, including consideration of whether interventions were reasonable and proportionate to the risks they presented and whether changes can be made to practice to reduce the use of restraint.

This guidance noted that inspection bodies “take into account the quality and impact of the recording of restraint in their inspection activity” and “where this fails to meet the requirements or good practice expectations set out in the relevant regulations, guidance or standards they will take action as appropriate, including enforcement action.”

In relation to informing parents, the [Use of Reasonable Force in Schools](#) guidance says:

“It is good practice for schools to speak to parents about serious incidents involving the use of force and to consider how best to record such serious incidents. It is up to schools to decide whether it is appropriate to report the use of force to parents.”

A [report by the EHRC on the use of restraint in both England and Wales](#) recommended:

“Restraint data from schools should be collated, published and analysed, including by protected characteristic in line with recommendations from the UN Committee on the Rights of the Child, ensuring that disaggregated data is available for England and Wales.”

Annexe B

26 June 2025

Dear Convener

CALL FOR VIEWS: RESTRAINT AND SECLUSION IN SCHOOLS (SCOTLAND) BILL

I am enclosing a memorandum setting out the Scottish Government's position on the general principles of the above Bill, introduced by Daniel Johnson MSP on 17 March 2025.

I hope this memorandum assists the Committee in its consideration of the Bill. I look forward to continuing to engage constructively with the Committee and Mr Johnson on this important issue.

I am copying this letter to the Finance and Public Administration Committee in response to their call for views on the Bill's Financial Memorandum.

Yours sincerely,

JENNY GILRUTH

MEMORANDUM FROM THE SCOTTISH GOVERNMENT TO THE EDUCATION, CHILDREN AND YOUNG PEOPLE COMMITTEE

Introduction

1. This memorandum has been prepared by the Scottish Government to assist the consideration by the Education, Children and Young People Committee of the Restraint and Seclusion in Schools (Scotland) Bill ("the Bill"), which was introduced by Daniel Johnson MSP on 17 March 2025.

Background

2. The Bill as introduced:
 - provides definitions of restraint and seclusion in an education context;
 - requires Scottish Ministers to issue statutory guidance on the appropriate use of restraint and seclusion; imposes a duty on education authorities, proprietors of independent schools and managers of grant-aided schools (collectively described as 'education providers' in the Bill), to have regard to such guidance; provides a detailed list of what such guidance must include;
 - requires education providers to inform parents of the use of restraint or seclusion on their child as soon as possible (and no later than 24 hours after the occurrence of the incident);
 - requires education providers to record all incidents of restraint or seclusion in their schools;
 - requires the managers of a grant-aided school and the proprietors of an independent school to report the number of incidences of restraint and seclusion in their schools to the education authority in whose area the school is located;
 - Requires education authorities to report to Scottish Ministers the number of incidences of restraint and seclusion in schools in its area;
 - requires Scottish Ministers to publish a report and lay it before Parliament on an annual basis, detailing the number of incidents of restraint or seclusion in schools in Scotland; and
 - requires Scottish Ministers to maintain a list of training providers on the use of seclusion and restraint that meet standards set by the Scottish Government, and to publish the list.
3. The most important provisions of the Bill are:

Section 1: The Bill defines restraint and seclusion in broad terms. Further detail regarding the various forms of behaviour that constitute these practices will be set out in the statutory guidance that would be issued under the Bill.

Section 2: The Bill requires Scottish Ministers to issue (and keep under review) guidance on the use of restraint and seclusion in schools, thus putting it on a statutory footing. Education providers are required to have regard to this guidance, which must include: details of appropriate and inappropriate forms of restraint and seclusion; advice on alternatives to restraint and seclusion, emphasising de-

escalation techniques to prevent or minimise the use of restraint and seclusion; processes to follow after an incident including informing parents. This section also specifies the types of stakeholders that must be consulted before publication and any subsequent revisions. These include: trade unions representing school staff; bodies representing the interests of parents; education providers; the Children and Young People's Commissioner Scotland; and other voluntary organisations.

Section 3: The Bill outlines a duty on education providers to inform parents of the use of restraint and seclusion on their child within 24 hours.

Section 4: The Bill creates a duty for education providers to record instances of restraint and seclusion. Grant-aided and independent schools are required to report restraint to the education authority in whose area they are situated. Each education authority must report the number of instances of restraint and seclusion in schools in its area to Scottish Ministers. Ministers in turn are obliged to present an annual report to Parliament for scrutiny, with data used to help identify areas for improvement.

Section 5: The Bill requires Scottish Ministers, through statutory guidance, to specify training standards for school staff. A list of approved training providers and their courses must be included to bring clarity to training requirements.

Section 6: The Bill defines key terms such as "child," "education authority," "parent," and "young person" based on the Education (Scotland) Act 1980. The term "school" includes primary, secondary and special schools in all three sectors (public, grant-aided, independent), but excludes nursery schools.

Section 7: The Act will come into force 6 months after receiving Royal Assent.

Consultation

4. The Scottish Government notes that Mr Johnson consulted on his proposals between June and September 2023 and that the following responses were received in relation to his Bill provisions:

General aim of the Bill

- His published analysis noted that a 'significant majority of respondents (128, or 92.09% of those that responded to the question) supported the proposed Bill, with 112 (87.77%) fully supportive, and 16 (11.51%) partially supportive. Only a small proportion (9, or 6.47%) were opposed in principle, with 3 (2.16%) partially opposed and 6 (4.32%) fully opposed.'

Should guidance be statutory?

- 139 respondents (93.92% of the total) answered this question. 122 of those (87.77%) were supportive, with 116 respondents (83.45%) fully supportive and 6 (4.32%) partially supportive. A total of 10 respondents (7.19%) were opposed, with 2 respondents partially opposed (1.44%) and 8 (5.76%) fully opposed.

Should data on restraint and seclusion to be published?

- 138 (93.24%) of the total number of respondents answered this question. Of those, 113 (81.88%) were fully supportive, while 10 (7.25%) were partially supportive. A total of 4 respondents (2.90%) were partially opposed, while 257 (1.45%) were fully opposed. 5 respondents (3.62%) gave a neutral response, and 4 (2.90%) selected that they did not wish to express a view. Should parents, carers and guardians be provided with details of every incident?
- 135 (91.22%) of the total number of respondents answered this question. Of those, 121 (89.63%) were fully supportive, while 7 (5.19%) were partially supportive. A total of 3 respondents (2.22%) were partially opposed, while 1 (0.74%) was fully opposed. A response of 'neutral' was given by 2 respondents (1.48%), while 1 did not wish to express a view (0.74%).

Overlap with existing powers

5. In relation to Section 4 (Duty to record and report on use of restraint and seclusion), Scottish Ministers already have the power to collect data from education authorities under Section 82 of the 1980 Act. However, this does not extend to independent or grant-aided schools, which are in scope of this Bill.
6. Whilst not a direct overlap, the Scottish Government notes that registered school care accommodation services and secure care accommodation services are required to report instances of restraint and seclusion occurring in their care service to the Care Inspectorate. This is relevant for any schools that offer these care services (primarily independent and grant-aided schools) as they would be required by the Bill to report any restraint occurring in their school education provision to the education authority in whose area the school is situated.

Financial Impact

7. The Financial Memorandum accompanying the Bill provides a summary of the estimated costs of the Bill's provisions on the Scottish Administration:
 - £44,396 for the initial production of guidance, and £44,396 for any revised versions of the guidance (it is assumed such revisions will take place every 5 years);
 - £2686 for the review of any consultation responses on the terms of the initial guidance, and £2686 for the review of consultation responses on

- revised versions of the guidance (it is assumed such revisions will take place every 5 years);
- £1,628,370 to £3,256,740 each year to support the implementation of guidance (allocated to education authorities and also to grant-aided schools);
 - £5,000 to publish an initial list of training standards and £5,000 to update this list (it is assumed every 5 years); and
 - £14,719 to produce and publish an initial annual report, and £14,719 every year that follows to produce and publish an annual report.
8. The estimated annual cost for education authorities is £1,628,370 to £3,256,740 and £47,286 to £94,572 for independent schools.
9. The Scottish Government notes that the largest individual cost associated with the proposals is for annual implementation by education authorities (between £1,628,370 to £3,256,740). This has been calculated based on a cost of £333 per day based on teacher salary and on-costs divided by 190 days a year, an assumption of 2 to 4 days of a teacher's time per school covering 2445 schools. The Scottish Government has analysed these figures and notes that the £333 rate has recently been re-calculated to capture an increase in salaries and revised on-cost conditions and is now estimated at £356 per day (a 7% rise). Based on the same formula, these Year 1 implementation costs for education authorities could be estimated at between £1,740,840 and £3,481,680. In addition, it should be noted that the recurring costs estimated in the Financial Memorandum have not been adjusted for inflation.
10. The Scottish Government notes that schools and education authorities currently meet costs associated with any restraint training that is required and that these costs have not been referenced in the Financial Memorandum.
11. Aside from a duty on education authorities to report restraint and seclusion to Scottish Ministers, which will have resource implications not currently set out in the Financial Memorandum, the Bill's provisions reflect the existing non-statutory policy position set out in our [Included, Engaged and Involved Part 3: A Relationships and Rights-based Approach to Physical Intervention in Schools](#) guidance ("the 2024 guidance"). It is therefore not clear, to the Scottish Government, what additional implementation costs education authorities would incur as a result of the Bill.

Scottish Government's Position

12. 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.

13. The Scottish Government also recognises that there have been calls for legislative change in this area. Alongside the development of the 2024 guidance, we have been exploring opportunities to strengthen the legal framework in this area. This consideration has included the areas that have been included within the Member's Bill.

14. At this initial stage of consideration, the Scottish Government notes:

Section 1 (Restraint and seclusion):

- The 2024 guidance provides a standard set of definitions for use in schools to support a common understanding of restraint and the consistency of recording. Creating definitions in primary legislation, which it is noted closely align with those used in the 2024 guidance, could assist further with this policy aim. However, such a broad definition of restraint in primary legislation could risk, in the Scottish Government's view, defining practices that are not of obvious concern as restraint (examples include holding a child's hand as they cross a road or the use of hoists or other 'moving and handling' equipment for children with complex healthcare needs). Clarification in the supporting statutory guidance, as envisaged by the Member, may not allow such practices, currently termed 'physical interventions' within the 2024 guidance, to be excluded from the Bill's definition of restraint. The Scottish Government therefore believes there to be merit in exploring whether a narrower definition of restraint that includes the practices of the highest concern, such as physical and mechanical restraint, would achieve the aims of the Bill.

Section 2 (Guidance on restraint and seclusion in schools):

- The Scottish Government notes the specific consultation requirements for trade unions representing school staff; bodies representing the interests of parents; education providers; the Children and Young People's Commissioner Scotland; and other voluntary organisations. The Scottish Government believes consideration should be given to including children and young people themselves in this list of consultees.

Section 4 (Duty to record and report on use of restraint and seclusion):

- The 2024 guidance is clear that restraint and seclusion should be recorded locally and monitored at education authority level. There is currently no requirement for education authorities, independent or grant-aided schools to report the use of restraint and seclusion at a national level.
- The Scottish Government is aware of stakeholder concerns regarding this position and welcomes the opportunity to consider whether the Bill presents an opportunity to address their concerns. In considering a national reporting provision, the Scottish Government's desired outcome is to support constructive scrutiny and transparency around the use of restraint within a robust reporting framework that avoids any data collection gaps.

- The Scottish Government is not clear from the policy memorandum why the Bill requires independent and grant-aided schools to report restraint to the education authority in which they are situated. The 2024 guidance advises these grant-aided and independent special schools to report restraint to the education authority responsible for the placement. As pupils are often placed outwith their education authority, the Scottish Government would have concerns regarding the handling of this data by education authorities without a clear justification. The Scottish Government believes there to be merit in considering whether these schools should report at a national level in the same way as the Bill requires of education authorities.
- The Scottish Government notes the contrast between the school reporting position and residential care accommodation and secure care accommodation services. Registered care services are under a legal duty from The Regulation of Care (Requirements as to Care Services) (Scotland) Regulations 2002 to record restraint. In addition, the Care Inspectorate request reports to be submitted to them from registered care services on the use of restraint and seclusion using the powers to request information under section 53(6) of the Public Services Reform (Scotland) Act 2010.
- Scottish Government considers that, were a new national reporting approach to be agreed through the Bill, clarity would be required in the supporting statutory guidance to ensure residential schools and secure care establishments understood any dual reporting requirements whilst avoiding double reporting wherever possible.

Conclusion

15. For the reasons given, the Scottish Government will support the general principles of the Bill.
16. The Scottish Government will also consider the detail of the provisions and may propose amendments to address any issues that are identified with the Bill.