

ABERLOUR RESPONSE TO THE RESTRAINT AND SECLUSION IN SCHOOLS (SCOTLAND) BILL

July 2025

Aberlour is the largest solely Scottish children's charity. Delivering more than fifty services across Scotland, we work with disadvantaged, marginalised and discriminated against children, young people and families, providing services and support in communities around the country. We help to overcome significant challenges families face, such as the impact of drugs and alcohol, growing up in and leaving care, poor mental health, living with a disability, or the impact of poverty and disadvantage.

We aim to provide help and support at the earliest opportunity to prevent problems becoming intractable or spiralling out of control. We are committed to Keeping the Promise and to realising the human rights of all children and young people. This means working every day to make rights real for the children, young people, and families we support and being unwavering in our ambition to ensure all of Scotland's children have an equal chance regardless of their start in life.

Introduction

"He was in a room on his own, not even a cupboard, just alone in a room with all the windows high up. It was a horrible experience of singling out and isolating that had a massive impact...In the morning he would hold on to the banister in the house and say he didn't want to go in that room" - (Parent supported by Aberlour)

At Aberlour, we are committed to ensuring we do all that we can to ensure that children and young people grow up healthy and loved. Although our services are not provided in educational settings, our services have heard from children, young people and families, particularly those affected by disability, about the impact restraint and seclusion has had on them and our response to this consultation is informed by their experiences and views.

Aberlour was a member of the Scottish Physical Restraint Action Group working with other stakeholders to advocate for and influence policy and practice around reducing the use of physical restraint in care settings. Aberlour also worked alongside partners, including Kibble and Glasgow City Council, to help inform and influence practice that helps to reduce and avoid the use of physical restraint in residential children's houses.

From 2019 – 2022 we had a programme of work – Safer Places to Live and Work – that aimed to end the use of restraint entirely in our residential children's houses. This was a collaborative project with children and young

people who live with us and the adults who provide their care and support. We have been able to develop alternatives to the use of restraint by working in partnership with our children and young people to help us change culture and practice in a way that better responds to children and young people who experience significant distress. As a result of this work, we were able to reduce the use of physical restraint in our children's houses by more than 90% (Aberlour Internal Data, 2022).

We reflect on this piece of work as we look to respond to this consultation. It was clear from our experience that by ensuring trauma informed and responsive approaches in how we respond to children in significant distress, (including developing therapeutic spaces and nurturing, loving environments in our children's houses), we have fundamentally changed our practice. Not only are alternatives to the use of physical restraint effective, but the number of incidents that may have escalated to a point which resulted in the use of physical restraint in the past now happen rarely.

We, as we did then, support the call by the Children and Young People's Commissioner to see national rights-based, statutory guidance on the use of physical restraint¹. As we set out in our response in 2022 to the Scottish Government's Care and Justice Bill, we believe any legislation, policy and guidance intended to reduce and avoid the use of physical restraint must be driven by the ambition to end the use of physical restraint entirely, in all settings and circumstances.

Education, like care, should see restraint and seclusion in the context of other restrictive practices.

'Restrictive interventions refer to a range of actions which limit a person's freedom or rights. They can be obvious or subtle. They should be understood as part of a spectrum – from limiting choice, to a reactive response in an emergency, such as if a person is going to seriously harm themselves or others.'

We found that incidents ending in restraints often arose as a result of unnecessary restrictions or 'rules.' The education context needs rules of course, but the school could usefully carry out a self-evaluation on the restrictions or rules they have in place and whether they are necessary. Particular consideration of children with disabilities and use of environmental and mechanical restraint (wheelchairs / wheelchair breaks or using child's physical limitations to restrict their interaction with others without need to officially seclude).

We believe guidance should include legal justifications for restraint or seclusion - it could then give examples of scenarios that would or would not meet this.

Legal

1. Last Resort: It must be used only when no less restrictive options are viable.
2. Immediate Risk: It must be to prevent an immediate risk of injury to the child or others.
3. Minimum Force and Time: It must involve the minimum necessary force and be used for the shortest time possible.
4. Not Punitive: It must never be used as punishment, or in a way that is degrading, humiliating, or inhuman.

Prohibited

- Restraint or seclusion used to punish, humiliate, distress, or degrade a child.
- Any method that is inherently inhuman or degrading, or amounts to torture.
- Use that violates the UN Convention on the Rights of the Child (UNCRC), which is now incorporated into Scots law under the UNCRC (Incorporation) (Scotland) Act 2024.

¹ Children and Young People's Commissioner Scotland, Statement; 30th June 2024: <https://www.cypcs.org.uk/news-and-stories/urgent-call-for-statutory-guidance-on-child-restraint-and-seclusion/>

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

Yes.

We welcome the approach to creating statutory guidance on the use of restraint and seclusion in schools. The Bill aims to minimise restraint and seclusions in schools which we support. However, we would also like to see the Bill and its accompanying guidance explicitly set out an ambition to end such practices in schools in line with a rights-based approach.

This approach would be a step in the right direction towards realising protections for children and young people under the UNCRC (Incorporation) (Scotland) Act 2024. Article 19 of the UNCRC guarantees children's right to protection from violence and to be kept safe.² The practice of physical restraint, even when the intention is to keep children safe, is likely in many circumstances to breach this right due to lack of effective training or guidance which often results in physical restraint being used when alternative approaches can and should be used instead.

Additionally, making this bold ambition would fulfil an action Scotland needs to make to Keep the Promise to Scotland's care-experienced community, who are often most affected by restraint and seclusion. The Promise calls on all corporate parents to cease all violence towards young people and avoid the use of seclusion and instead adopt more trauma-informed practices.³

Specifically, in education, the Promise highlights that:

"Schools in Scotland must also not exacerbate the trauma of children by imposing consequences for challenging behaviour that are restrictive, humiliating and stigmatising. This includes seclusion or restraint and can include certain use of behaviour reward systems. Scotland must properly support and resource the workforce to step in to put theory into good practice by supporting and building relationships with children."⁴

This Bill can support implementation of The Promise and UNCRC in practice. We agree that guidance should include alternatives to restraint and seclusion, and a requirement for all those working in education to consider the impact of using restraint or seclusion.

Do you think this timescale for informing parents is reasonable?

Yes.

Families need to be informed when their child has experienced seclusion and restraint so that those at home can help support the child as much as possible, as early as possible, with any resulting

² The Articles of the United Nations' Rights of the Child, UNICEF UK; page 7: <https://www.unicef.org.uk/wp-content/uploads/2016/08/unicef-convention-rights-child-uncrc.pdf>

³ The Promise, Independent Care Review, 2020; page 86: https://www.carereview.scot/wp-content/uploads/2020/03/The-Promise_v7.pdf

⁴ The Promise, Independent Care Review, 2020; page 72: https://www.carereview.scot/wp-content/uploads/2020/03/The-Promise_v7.pdf

distress. We know from parents they are not always informed and therefore haven't in order to sensitively respond to their child, put adequate supports in place following the use of restraint and seclusion in a school environment.

We recognise the workload demands on teachers but believe that reporting this back to home should be prioritised as soon as possible and believe this gives the school and those at home an opportunity to sensitively respond to the child affected.

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

Yes.

Sensitively recorded information should be reported back to the Scottish Parliament to help understand the trends across Scotland and to focus attention to the issue of restraint and seclusion in schools. We would hope that this increases accountability for relevant agencies and helps evidence progress toward delivering the Promise and the UNCRC. We would also hope that recording and reporting of this data will help drive a significant reduction in the use of restraint and seclusion in practice.

However, we wonder if there is scope for each instance of restraint or seclusion to be reportable to the education authority or HMIE. We believe to wait a year to discover that a school is using restraint / seclusion without adequate legal justification is quite a substantial amount of time without intervention.

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

We agree with this approach.

Maintaining a list of approved training providers who can effectively support and advise relevant agencies on the use of restraint and seclusion would ensure consistency in practice approaches. Alignment in approach is crucial in ensuring equity for children and families.

Training providers should be fully aware of the rights of children and young people and should ensure the voices and experiences of children are embedded in their courses.

Any other comments?

(In a learning support base) 'She doesn't get to leave at all. She is not involved in anything else that goes on in the school and they wonder why she wants to escape and run a mock in the school. No one wants to be locked in a room when everyone else comes and goes smiling...' - Parent supported by Aberlour

We believe that the voices of children, young people and families should be heard throughout the Bill's journey through parliament and inform any agreed statutory guidance. We have heard from our children, young people and families about the impact of this practice on them. We need to ensure that any guidance is developed in conjunction with the families with children and young people who are the more vulnerable to experiencing restraint and seclusion, such as care-experienced and disabled children and young people.

We have heard that for some young people and children, learning support bases and reduced timetables are tools used to manage pupil behaviour and remove students from the classroom. While there are some young people who benefit from access to learning support bases and reduced timetables, we believe decisions around their use should be taken in consultation with children, young people and their parents or carers. One parent told us of a situation where their child was sent to a designated area outside to 'let off steam' which was fenced in by a wire. The mum had completely disagreed with this approach, but it was still used despite her concerns about this.

We hope that the voices of families are centred in the Bill as we need change and children, young people and families can lead this as they know the areas we need to address for change to happen.