

Response from CELCIS to the Scottish Parliament's Education, Children and Young People Committee's Call for Views on the Restraint and Seclusion in Schools (Scotland) Bill

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CELCIS, the Centre for Excellence for Children's Care and Protection, based at the University of Strathclyde, is a leading improvement and innovation centre. We improve children's lives by supporting people and organisations to drive long lasting change in the services they need, and the practices used by people responsible for their care. CELCIS welcomes the opportunity to submit our views in response to the Scottish Parliament's Education, Children and Young People Committee's call for views regarding the Restraint and Seclusion in Schools (Scotland) Bill.

Consultation questions:

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

We recognise that restraint and seclusion is a nuanced, complex and emotive area. It is right that there is a sophisticated level of debate and scrutiny on this topic due to the potential impact on children's rights. CELCIS agrees that the current situation regarding guidance within education is not sufficiently robust to prevent harm to children and young people and to uphold their rights. However, we do not believe that the measures within this Bill are effective enough to rectify the situation to a suitable standard for children and young people in Scotland.

We urge the Scottish Parliament to view this draft legislation, and the process around the passage of this Bill, not as an endpoint, but as a foundation for deeper systemic change. Any new legislation should be accompanied by a national strategy to reduce restraint and seclusion, with clear targets and investment in inclusive education. Restraint should only ever be used as a last resort, even then, it must be carried out relationally and with care. It should only occur when there is a risk of serious, imminent harm to the child or others, and when all other de-escalation strategies have failed or there is not time to attempt these.

While we support the Restraint and Seclusion in Schools (Scotland) Bill's intentions to protect children from inappropriate use of restraint, restrictive practice and seclusion, we are concerned that formalising these practices in legislation may inadvertently legitimise them. Codifying the use of restraint and restrictive practice – even if they are used as a last resort – risks embedding

such practices as a standard behavioural response¹, rather than encouraging a shift in culture towards trauma-informed, relational approaches that many, including CELCIS and the [Scottish Physical Restraint Action Group](#) (SPRAG) have consistently championed and advocated for. There is a potential danger that legal compliance could supersede best practice, discouraging innovation in preventative strategies.

We urge Parliament to ensure the Bill prioritises prevention, not just regulation, and to include strong mechanisms for review, reflection, and meaningful child participation.

The importance of children and young people's voices and participation here cannot be overstated. If the Bill does not strongly mandate child-led review processes after incidents, or if it lacks information on, or provisions for children's meaningful involvement in shaping school policies, it could fall short of practice which is required to be compatible with the UN Convention on the Rights of the Child (UNCRC). The voice of children, young people and their families is an area that both SPRAG and CELCIS have emphasised in our response to the bill at proposal stage in 2024.

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

Yes. We agree that those responsible for caring for children should be informed of any incidents of restraint, restrictive practice or seclusion involving the children they have responsibility for as soon as is possible, and no later than 24 hours after an incident. This timescale also aligns with the [Care Inspectorate's expectations for reporting of incidents](#).

It is important to note that living and care arrangements for care experienced children may be more complex than for their non care experienced peers. For example, some children will be living in residential or secure settings, but their parents may retain parental rights and responsibilities. In complex circumstances such as these it will be imperative that education staff are aware of which adults should be informed of such incidents, and wherever possible and appropriate, children should be involved and aware of who will be told.

A requirement for robust and proper record keeping around this process, and the rationale for informing parents and carers would support high quality decision making and due process in this area.

It is also important to note that due to the nature of these incidents, and the distress that these can cause to both children and adults, consideration should be given to what support is available, or should be provided, to parents and carers upon receiving information about an incident of restraint or restrictive practice involving their child.

¹ Scottish Parliament. (2024). *Proposed Restraint and Seclusion (Prevention in Schools) (Scotland) Bill: Summary of Consultation Responses*

3. Do you agree all incidents of restraint or seclusion in schools should be recorded, collated and reported to Parliament annually?

We welcome the proposal to improve understanding in this area through robust, coherent and aligned data collection, analysis and reporting.

The use of meaningful data through transparent reporting is a step forward that we support. We do caution that quantitative data alone cannot drive improvement. Without resources to support reflective practice or learning from incidents, data could become a compliance checkbox rather than a catalyst for change.

The Bill sets out a suite of legal requirements and compliance measures for schools and local authorities, which we believe would be the basis of proposed reporting. If schools focus on meeting minimum legal requirements for restraint and seclusion, they may have less incentive to invest in proactive, child led alternatives such as restorative practices, sensory regulation, and relationship-based practice. Equipping adults with the skills, knowledge and emotional insight to respond to distress without coercion is fundamental. The legislation may crowd out or overshadow these progressive methods, which are crucial in not just preventing harm but in nurturing the protective relationships where children and young people can regulate and heal.

There is a risk that teachers, education and care staff might become more cautious and focus on legal compliance, relying on restraint, restrictive practice and seclusion for fear of not meeting their statutory duties, or to protect themselves from liability. This could increase the numbers of restraint and seclusion incidents rather than decrease them, without helping to understand the impact this is having on children and young people.

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

Training, reporting, and parental communication are welcome. However, this must be accompanied by adequate resources to embed practice and culture change. Maintaining a list of training providers will not ensure quality or meaningful professional growth. That is dependent on ongoing support, reflective practice and sustained implementation.

Without investment in staff support, reflective supervision, and skilled debriefs, the duties within the Bill may lead to unintentional defensive or procedural compliance rather than meaningful improvement in practice.

There are currently a range of models of physical intervention delivered by various training providers. The wording of the Bill states that training, and training providers, should “meet such standards as Scottish Ministers may approve.” We would strongly advocate for any criteria for standards to be developed collaboratively with children and young people, parents and carers, practitioners, leaders and training providers. The development of criteria should

also be led by considerations around upholding children's rights and pay attention to the areas that we know are imperative in facilitating and enabling high-quality practice such as legal and ethical responsibilities of all people and organisations involved, a reflective practice culture, coaching models, support, and implementation.

The Bill also states that the guidance, and thus responsibility for compliance with the new legislation should the Bill succeed, would extend to cover contractors or other staff "working under the authority." We welcome the recognition that all interactions between staff and children are important, regardless of the job role of staff members, alongside the implicit recognition that situations which may potentially involve restraint or seclusion might not involve only 'school' staff. However, we also recognise the significant number, and diversity of roles, held by staff members in and around education who may fall under the definition given above. The definition within the Bill may extend to roles such as third sector staff, transport, catering and/or counselling and wellbeing focused staff, amongst a myriad of others.

The capacity and expertise required to ensure not just that staff are appropriately trained, but crucially, that they are well supported regarding their involvement in any potential physical restraint and seclusion of children and young people should not be underestimated.

5. Any other comments?

We believe the definitions of restraint and seclusion require refinement. SPRAG has advocated for clear, child-centred terminology that distinguishes between physical intervention for safety, physical restraint and seclusion. Ambiguity in definitions risks inconsistent application, skewed data collection and undermines accountability and future learning.

Our significant concern is that the definitions used within current guidance for education settings (Included, Engaged and Involved Part 3: A Relationships and Rights-Based Approach to Physical Intervention in Schools, published in November 2024), do not align with those used in other settings, or by regulatory bodies such as the Care Inspectorate, nor do they align with the definitions within this Bill.

Residential and secure settings for children and young people, where care and education are provided by the same organisation, within the same setting, are already subject to the use of two different sets of definitions regarding restraint and restrictive practice, risking ambiguity and potential infringement of children's rights. The definitions within the Bill do not remedy this situation.

It is critically important to ensure definitions of restraint and restrictive practices are understood by children and young people, their families, and practitioners, and are transferrable across all sectors, given the limited purpose and function

they might serve if these are not understood in the same way by those directly affected by them.

We also have concerns regarding how a 'child' is defined within the Bill. The Bill states that the definition of a child will be taken from the Education (Scotland) 1980 Act which defines a child as "a person who is not over school age." According to Section 31 of the same Act, a person is of school age if they have attained the age of five years and have not attained the age of sixteen years. This is in direct contrast to the Children and Young People (Scotland) Act 2014 and the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 which define a child as anyone under the age of 18. Many children start school before the age of 5 or continue in school past the age of 16. If this Bill were to use the definition of a child as defined in the 1980 Act, there is a risk that children under the age of 5 and over the age of 16 would not be protected by any statutory measures.

We also have concerns that the Bill does not extend to early learning and childcare settings. These are places where children may be subject to the use of restraint and restrictive practice too. Children's rights should be protected and upheld at all ages, and in all settings in which they may come to harm.

These two examples of misalignment heighten the risk of children's rights being infringed and of legal loopholes being created and we would urge the Committee to consider these.

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