

Included, engaged and involved part 3: A relationship and rights based approach to physical intervention in Scottish schools

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Introduction

‘Governments must do all they can to ensure that children are protected from all forms of violence, abuse, neglect and bad treatment by their parents or anyone else who looks after them.’

[\(Article 19, United Nations Convention of the Rights of the Child¹\)](#)

1. This guidance forms the third part of the Included, Engaged and Involved guidance series and replaces the existing guidance on physical intervention and seclusion within Part 2: preventing and managing school exclusions. Its purpose is to improve child or young person’s learning experiences by outlining best practice in:
 - promoting positive relationships, behaviour and wellbeing;
 - minimising the use of restraint and seclusion and eliminating their misuse;
 - ensuring children and young people’s rights are understood, respected and taken account of in all decisions around the use of physical intervention.
2. This non-statutory guidance applies to education authority, grant-aided and independent schools in Scotland. There is an expectation that education authorities, the managers of grant-aided schools and the proprietors of independent schools will use this guidance to review and revise existing local policies and procedures on physical intervention. These “education providers” should ensure all staff are aware of this guidance and the local policy on physical intervention, which should include details of how the use of restraint will be minimised.
3. The guidance introduces new definitions for physical intervention, restraint and seclusion. These are set out in Annex B.
4. The guidance promotes good practice in ensuring all children and young people are safe and protected within a nurturing environment where additional support needs are well understood and provided for. The guidance outlines the preventative approaches that should be in place to minimise the use of restraint. Where restraint is used, the guidance offers best practice advice on rights-based decision making and the necessary safeguards that must be in place to ensure lawful practice and protect the wellbeing of children and young people and staff. The guidance reflects education providers’ duty of care to children and young people in relation to their health, safety and wellbeing. Finally, the guidance offers advice on post-incident support for children and young people and others involved and outlines expectations for recording, monitoring and reporting the use of physical intervention.
5. The guidance contributes to the delivery of the Scottish Government’s national outcomes for children and young people, education, health and human rights¹. In all

¹ [National Performance Framework - National Outcomes](#)

circumstances, it is important that the principles of preventative practice outlined, in this guidance, as part of a restraint reduction approach, are applied.

The need to minimise the use of restraint

6. Education providers should ensure that restraint is only used as a last resort, to prevent harm, with the minimum necessary force, and for the minimum necessary time.
7. Minimising the use of restraint in schools is possible. An example of a school's journey away from the use of restraint is included on the national improvement hub²
8. The need for the UK to “adopt appropriate measures to eradicate the use of restraint for reasons related to disability within all settings” was noted by the UN Committee on the Rights of Persons with Disabilities in 2017³.
9. The Children and Young People's Commissioner Scotland's “No Safe Place” report⁴, published in 2018, highlighted inconsistencies in the definitions of restraint and seclusion in local policy and practice, and a lack of a standard approach for recording incidents. The importance of addressing the children's rights implications of restraint in Scotland's schools was again highlighted within ENABLE Scotland's “In Safe Hands?” Campaign⁵. In both reports, children and young people highlighted the trauma they suffered as a result of restraint in school. It was also highlighted that children and young people with additional support needs are more vulnerable to the inappropriate use of restraint.
10. In 2019, the Equality and Human Rights Commission published their Human Rights Framework for Restraint⁶, which sets out advice for policy makers on the human rights implications of restraint for service delivery.
11. In February 2020, the Independent Care Review published seven reports forming the Promise⁷, which includes the following commitment:

“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...”
12. Similarly, the Additional Support for Learning Review, published in June 2020, emphasises that “early intervention and preventative approaches reduce the need to consider exclusion, physical intervention and seclusion...”⁸

² [A leadership blueprint to eliminating the use of physical intervention and seclusion from a school setting | Research | National Improvement Hub \(education.gov.scot\)](#)

³ [Concluding observations on the initial report of the United Kingdom of Great Britain and Northern Ireland \(2017\), 37 \(a\).](#)

⁴ [No Safe Place: Restraint and Seclusion in Scotland's Schools](#)

⁵ [Enable Scotland In Safe Hands Campaign](#)

⁶ [EHRC - Human Rights Framework for Restraint](#)

⁷ [The Promise - education](#)

⁸ [Review of additional support for learning implementation: report - gov.scot \(www.gov.scot\)](#), p53

13. This guidance seeks to address these issues and provide clarity on best practice for Scotland's schools.

Children and young people's human rights

14. The United Nations Convention on the Rights of the Child (UNCRC)⁹ sets out the fundamental rights of all children and young people. The Scottish Government is committed to protecting the rights of children and young people and remains committed to the incorporation of the UNCRC into Scots law to the maximum extent possible as soon as practicable. While the Supreme Court judgment relating to the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill¹⁰ means that the Bill cannot receive Royal Assent in its current form, the Scottish Government is urgently and carefully considering the most effective way forward for this important legislation. The majority of work in relation to implementation of the UNCRC is continuing.
15. The UNCRC forms the basis of our national approach for supporting children, Getting it right for every child (GIRFEC). The use of restraint on children and young people has significant implications for their human rights, in particular with respect to:
- Article 2 (non-discrimination)
 - Article 3 (the best interests of a child)
 - Article 12 (respect for the views of the child)
 - Article 19 (protection from violence, abuse and neglect)
 - Article 23 (children with a disability)
 - Article 24 (health and health services)
 - Article 28 (right to education)
 - Article 29 (aims of education)
 - Article 37 (inhumane treatment and detention)
 - Article 39 (recovery from trauma and reintegration)
16. Legal safeguards are also be found in the European Convention on Human Rights ("ECHR", which is incorporated into Scots law by the Human Rights Act 1998). In particular:
- Article 3: Freedom from torture and inhuman or degrading treatment¹¹
 - Article 5: Right to liberty and security¹²
 - Article 8: Respect for private and family life, home and correspondence¹³
 - Article 14: Protection from discrimination¹⁴

⁹ [OHCHR | Convention on the Rights of the Child](#)

¹⁰ [Reference by the Attorney General and the Advocate General for Scotland – United Nations Convention on the Rights of the Child \(Incorporation\) \(Scotland\) Bill \[2021\] UKSC 42.](#)

¹¹ [Article 3: Freedom from torture and inhuman or degrading treatment | Equality and Human Rights Commission \(equalityhumanrights.com\)](#)

¹² [Article 5: Right to liberty and security | Equality and Human Rights Commission \(equalityhumanrights.com\)](#)

¹³ [Article 8: Respect for your private and family life | Equality and Human Rights Commission \(equalityhumanrights.com\)](#)

¹⁴ [Article 14: Protection from discrimination | Equality and Human Rights Commission \(equalityhumanrights.com\)](#)

17. Furthermore, the provisions of the Equality Act 2010 (“the 2010 Act”) and the United Nations Convention of the Rights of Persons with Disabilities are directly relevant to practice in this area (see Annex C).
18. These rights provide the framework upon which the best practice advice included within this guidance is based.

Guiding principles

19. Reflecting children’s human rights, and the nurture principles¹⁵, the key principles that should guide all policy and practice in relation to the use of physical intervention in schools and other education settings are:
 - all behaviour is communication and a child or young person’s distressed behaviour may indicate unmet needs. All efforts should be made to understand and address those needs.
 - all children and young people have a right to have their views sought and taken into account.
 - all children have the right to be cared for, protected from harm and grow up in a safe environment in which their rights are respected and their needs met.
 - restraint should not be viewed as, or become, routine practice in schools. It should not form part of any behaviour, education or care plan. It should only be used:
 - within a culture that prioritises positive relationships, behaviour, wellbeing, and planned preventative approaches;
 - to avert an immediate risk of injury to the child or young person, or to others, where no less restrictive option is viable (i.e. as a last resort);
 - for the shortest time necessary and in the safest, least restrictive manner;
 - by those who are trained;
 - with care; and
 - where they do not degrade, punish or deprive a child or young person of their liberty.

Universal and targeted support

20. All staff have a responsibility to know and respond to the needs of the children and young people in their care; to promote and support their wellbeing and their readiness to learn. This forms the basis of the universal and targeted school-based support provided in mainstream and specialist education settings.

¹⁵ [Applying Nurture as a Whole School Approach](#), p.12

21. Getting it right for every child (GIRFEC) values and principles¹⁶, the National Practice Model¹⁷ and the SHANARRI wellbeing indicators¹⁸ provide the framework that enables the delivery of safe, positive nurturing learning environments where all children and young people are included, engaged and involved. The framework enables the joined-up needs-based assessment, planning, implementation and review of support for children and young people, and helps prioritise early and staged interventions to support children and young people's wellbeing. This framework is complemented by the provisions of the Education (Additional Support for Learning) (Scotland) Act 2004 ("the 2004 Act") and the statutory Code of Practice¹⁹, which further enables children and young people to receive the support they need to benefit from their education.
22. Education providers also have duties to make reasonable adjustments for children and young people under the 2010 Act. The reasonable adjustments duty under the 2010 Act is anticipatory in nature, requiring forward planning based on what may be needed for the child or young person. The Education (Disability Strategies and Pupils' Educational Records) (Scotland) Act 2002 also includes duties for education providers to develop and publish accessibility strategies to increase children and young people's access to the curriculum, access to the physical environment of schools and improve communication with children and young people with disabilities.

Prevention

23. It is recognised that for some children and young people, particularly those with complex additional support needs, some forms of physical intervention can play an important role in supporting their physical wellbeing. Examples include the provision of postural support, headrests and the use of moving and handling equipment such as hoists and mobility aids. In such cases, the form of physical intervention should be part of an agreed plan and efforts should focus on ensuring its use is always safe, proportionate and non-discriminatory, rather than preventing its use. Similarly, some forms of non-restrictive physical intervention play an important role in supporting children at an early stage of development. Examples include giving a young child a hug if they are upset or a helping hand if they have fallen over. Further advice on these considerations is included within the section on physical intervention.
24. Where physical intervention involves the use of any form of restraint, education providers must take active steps to minimise its use and eliminate its misuse. We explain what we mean by this type of physical intervention at paragraph 49 in this guidance. This section outlines how the use of preventative approaches can contribute towards this aim. The focus is on creating a positive whole school ethos that promotes positive relationships, behaviour and wellbeing, based on robust assessment and planning

¹⁶ [Getting it right for every child \(GIRFEC\): GIRFEC principles and values - gov.scot \(www.gov.scot\)](http://www.gov.scot)

¹⁷ [GIRFEC National Practice Model - gov.scot \(www.gov.scot\)](http://www.gov.scot)

¹⁸ [Getting it right for every child \(GIRFEC\): Wellbeing \(SHANARRI\) - gov.scot \(www.gov.scot\)](http://www.gov.scot)

¹⁹ [Supporting children's learning: code of practice \(revised 2010\) - gov.scot \(www.gov.scot\)](http://www.gov.scot)

processes. An example of a school's journey away from the use of restraint is included on the national improvement hub²⁰.

25. All behaviour is communication and distressed behaviour in a child or young person may indicate an unmet learning or wellbeing need or a child or young person experiencing a stressor too great for them to manage. Disabled children may display behaviours related to their disability over which they cannot exercise control. The purpose of preventative approaches is to understand their needs and, where possible, meet those needs. Preventative approaches form part of the provision that schools may be required to make for children and young people under "the 2004 Act" and/or reasonable adjustments under the 2010 Act. Where a child or young person is beginning to evidence distress in an educational context, an assessment of their needs should be undertaken with the aim of preventing the behaviours occurring over time.

Getting it right for every child and additional support for learning

26. The Getting it right for every child (GIRFEC) framework is central to the successful implementation of preventative approaches. Where there is a likelihood of a child or young person becoming distressed in their learning environment, or where that has previously occurred, schools should use the GIRFEC framework to put in place individual preventative support. In line with the current framework, agreed preventative approaches should feature in or link to any plan - Child's Plan, Coordinated Support Plan and/or an educational support plan (Personalised Learning Plan or an Individualised Educational Programme as part of additional support for learning provision).²¹ Where a Child's Plan is in place the Lead Professional will play an important role in agreeing preventative approaches. Where a Coordinated Support Plan is in place, specific text should usually be included setting out preventative measures as part of the support required for the child or young person. In these circumstances all agencies as well as children and young people, parents and carers should agree to the approach.
27. All support, including preventative support, should be kept under regular review to ensure its effectiveness.
28. Trauma-informed approaches are key to the success of preventative approaches as these are generally in keeping with whole school approaches, such as 'Nurture as a Whole School Approach'. They help to build an understanding of children and young people's development and how stress and adversity can impact on how they present and what they might need in an educational setting. Information on how schools might embed trauma-informed approaches are available on the national improvement hub²².

²⁰ [A leadership blueprint to eliminating the use of physical intervention and seclusion from a school setting | Research | National Improvement Hub \(education.gov.scot\)](#)

²¹ [Additional support for learning: statutory guidance 2017 - gov.scot \(www.gov.scot\)](#), Chapter 5

²² [Nurture and trauma-informed approaches: A summary of supports and resources | Learning resources | National Improvement Hub \(education.gov.scot\)](#)

29. Preventative approaches in any Child's Plan should focus on what may be implemented with the goal of preventing distressed behaviour occurring, rather than focussing solely on approaches to be used when it does.
30. As outlined in the GIRFEC and additional support for learning policy frameworks, children and young people and their parents or carers should be actively involved in the development of preventative approaches to distressed behaviour. Schools can also draw upon specialist support through the input of educational psychologists and allied health partners such as counsellors, clinical psychologists, speech and language therapists, occupational therapists, Skills Development Scotland and the child or young person's social worker, where appropriate. Schools can also make formal requests for support to other agencies under the 2004 Act²³. Where such a request is made, it must be complied with by the other agency, except in limited circumstances.
31. The effectiveness of preventative approaches should be kept under constant review. Planned supports should be based on up-to-date risk assessments, an analysis of occurrences of distress and knowledge of the child or young person's additional support needs. It is expected that all staff working with a child or young person should be aware of, consistently apply and provide feedback on the agreed preventative approaches included within any Child's Plan.
32. In line with their duties²⁴ to support children and young people's transitions, education authorities should share any agreed preventative approaches outlined in a child's plan with relevant staff, ahead of key transition points. This is particularly important following periods of home learning during the Covid-19 pandemic and in major transitions such as moving to primary and secondary schools. The Association for Real Change principles outline best practice in this area²⁵.

Positive relationships, behaviour and wellbeing

33. Building positive relationships is one of the fundamental values and skills expected of teachers. This is reflected within the General Teaching Council for Scotland's (GTCS) Professional Standards²⁶. The value placed on building positive, respectful and supportive relationships between all members of the school community will also play an important role in shaping a school's culture and children and young people's experience of learning. Building positive relationships forms a key part of curricular learning in health and wellbeing and existing strategies to promote school connectedness, resilience, inclusive culture and the development of children and young people's social and emotional competences.
34. The ability to build and maintain relationships to support wellbeing and learning are part of the GTCS, Scottish Social Services Council and CLD Standards Council Scotland professional standards. A number of resources that teachers and school staff can use to

²³ [Additional support for learning: statutory guidance 2017 - gov.scot \(www.gov.scot\)](#), Chapter 3

²⁴ [Additional support for learning: statutory guidance 2017](#)

²⁵ [Principles of Good Transitions 3 – ARC Scotland](#)

²⁶ [Professional Standards for Teachers - The General Teaching Council for Scotland \(gtcs.org.uk\)](#)

build positive relationships and support children and young people's mental wellbeing are available on the National Improvement Hub²⁷.

35. The process of child or young person participation in decision making is important for building respectful and trusting relationships and a culture where their views are listened to and acted upon. It also helps to develop, through practice, children and young people's capacity for decision making in general, and aid learner participation in decisions about their wellbeing and life choices. It is important to allow children and young people to make decisions, as far as possible, about their environment, their support and any preventative approaches. Children and young people will often be able to offer a unique insight and perspective into the types of preventative approaches and tools, which best assist them when they are distressed.
36. Children and young people with specific communication support needs may require a range of appropriate evidence-based approaches to enable them to become actively involved in decision making. This may involve the use of visual supports, the benefits of which are discussed in the 'Can Scotland be Brave? Incorporating UNCRC Article 12 in Practice' report²⁸. The Lundy Checklist of Participation²⁹ may be a helpful starting point in assessing approaches for participation.
37. It is recognised that children and young people can build strong and trusting relationships with individual members of staff, who can help them during times of distress. The names of any preferred contact (and where possible, substitute support) should be included in any Child's Plan. Leadership teams should continue to be alert to the potential for distress caused by the absence of any staff member who normally supports a child or young person. For children and young people at risk of significant distress, schools should work towards having a small number of adults that the child or young person progresses to feeling safe with. This will help reduce dependency on one member staff and help with continuity of support.
38. Where distress has led to a relationship breaking down, or following the use of restraint, restorative approaches; where implemented well, and where all of those involved are in a state to be able to engage in this, can be used to help repair this rupture. It is important that restorative approaches only take place at a time when the child or young person feels able to engage in them. This is not usually immediately following the use of restraint.

²⁷ [Positive mental wellbeing - resources to support children and young people](#)

²⁸ [Can Scotland be Brave – Incorporating UNCRC Article 12 in practice](#)

²⁹ [The Lundy Checklist of Participation](#)

Leadership and culture of a school

39. A school's culture, ethos and values are fundamental to promoting positive relationships, behaviour and wellbeing³⁰. An inclusive ethos where everyone's contribution is valued and encouraged should be promoted. The review of additional support for learning implementation (2020) found that positive school cultures develop where the key conditions for implementation are in place:
- values-driven leadership;
 - an open and robust culture of communication, support and challenge - underpinned by trust, respect and positive relationships;
 - resource alignment, including time for communication and planning processes; and
 - methodology for delivery of knowledge learning and practice development, which incorporates time for coaching, mentoring, reflection and embedding into practice³¹.
40. It is recognised that these conditions are evident in many schools. Nevertheless, all schools may benefit from considering their individual culture and ethos in light of the above points; in particular, reflecting on whether there are any remaining barriers to achieving or maintaining the key conditions set out above.
41. Highly effective leadership at all levels is key to ensuring the highest possible standards and expectations around the use of preventative approaches and restraint reduction are shared across schools. Highly effective leaders are best placed to improve outcomes for children and young people. They can drive further improvement, by ensuring that key information on preventative approaches and restraint reduction is cascaded throughout the school, by working collegiately with staff and collaborating across boundaries to engage positively the entire learning community.
42. The information gathered in the standard dataset for recording and monitoring physical intervention at school and education authority level, in combination with the 'How Good is Our School? (4th edition) self-evaluation framework'³², will support reflective discussion and constructive challenge of current practice.

Assessment

43. As part of a Getting it right for every child approach, care is required in order to proactively meet children and young people's physical, neurodevelopmental, sensory, emotional and communication needs. This is particularly important where additional support is required with speech and language communication or where a child or young person cannot communicate what they want or need verbally. In such circumstances, extra care and assessment is required to develop an effective non-verbal method of communication with the child or young person to allow learning, and the learning environment, to be tailored to meet their individual needs.

³⁰ [Developing a positive whole school ethos and culture: relationships, learning and behaviour - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/developing-a-positive-whole-school-ethos-and-culture-relationships-learning-and-behaviour-2020/pages/1-2.aspx)

³¹ Page 27, Review of Additional Support for Learning Implementation (June 2020):

[https://www.gov.scot/publications/review-additional-support-learning-implementation/](https://www.gov.scot/publications/review-additional-support-learning-implementation/pages/1-2.aspx)

³² [How good is our school? - HGIOS 4 | Self-evaluation | National Improvement Hub \(education.gov.scot\)](https://www.gov.scot/publications/how-good-is-our-school-4-self-evaluation/pages/1-2.aspx)

44. If a child or young person can communicate (verbally or non-verbally) and their physical, neurodevelopmental, sensory and emotional needs can be met, distressed behaviour is less likely to occur. In addition, when children are extremely stressed, their ability to express themselves appropriately diminishes, and those supporting them need to be mindful of trying to understand what the behaviour is communicating in that moment. For example, defiance and refusal may be a function of anxiety due to an over-stimulating learning environment or a fear of a change.
39. In order to best understand whether a child or young person may be experiencing sensory integration difficulties, a trauma trigger or, for example, stress due to the cognitive load of the task being too high, a functional analysis of the distressed behaviour(s) should form a part of the assessment of the child or young person's additional support needs.
40. Parents and carers, who are likely to have years of experience of effective communication with their child are a valuable source of advice. The communication passport³³ can be a useful tool in recording and sharing parental views and experience in communicating with their child. Visiting health professionals and partner services often hold valuable information and can help staff build positive and effective communication with children and young people.

Positive learning environments

41. When considering preventative approaches, thought should be given to the potential impact of the physical learning environment. As part of a nurturing approach to practice, the learning environment offers a safe base. Careful consideration should be given to ways in which the school estate aids the delivery of a positive learning environment; one that supports child or young person's learning and wellbeing, engenders a sense of safety, encourages participation and reduces stress. In particular, consideration should be given to:
 - classrooms and common areas that are not over-stimulating;
 - spaces that children and young people can choose to access themselves if they find this helpful (including an individualised safe space), which may also include safe opportunities to move freely around, should this be supportive to the child or young person. This should not include lockable spaces such as toilets;
 - quieter spaces that can be used to facilitate positive child or young person participation and decision making or where additional communication support may be required;
 - spaces that can facilitate both low- and high-stimulus activity to support any specific sensory needs; and
 - in line with the development and implementation of accessibility strategies, any safe spaces that may become associated with physical intervention should be assessed to ensure they do not increase, rather than reduce, the stress levels of children and young people and associations of shame or stigma.

³³ [Practice exemplars - communication passports](#)

Co-regulation to de-escalate in the moment

42. In the context of whole school approaches to relationships and behaviour and the practice outline above, there will still be situations where a child or young person requires support from adults to regulate their emotions, behaviours and stresses. Some children, over time and with support, will be able to self-regulate when they are distressed, but some children and young people with complex additional support needs, and younger children, will require support from adults to “co-regulate”. Both approaches are closely linked and share the same aim of de-escalating emotions, behaviours or stresses in the moment.
43. Children and young people, their parents or carers and all staff involved in supporting them should be actively involved in agreeing de-escalation and co-regulation approaches, which should be subject to regular review. All staff working with the child or young person, including pupil support assistants and supply teachers, should be informed of the approaches agreed in the plan to enable them to respond appropriately.
44. The same stages of individualised needs-based assessment, planning, implementation and review should be followed when agreeing de-escalation and co-regulation strategies. These may differ greatly from child to child, in response to assessed need, but the principles outlined below are likely to be helpful.
45. The least restrictive approach to supporting a child or young person whose stress levels are rising is to use de-escalation strategies. The use of de-escalation should always be considered as a first response. De-escalation is most effective when planned and tailored to the individual child or young person. However, de-escalation strategies can still be used when unplanned. Principles of de-escalation include:
 - communicating in a calm, non-judgemental and non-threatening manner;
 - maintaining a quiet sensory environment by speaking in a quiet voice, reducing the number of people present, noise and if possible, reducing lighting;
 - giving the child or young person time to de-stress;
 - distraction in the moment where this is helpful to the child or young person;
 - an activity or movement break that supports self-regulation;
 - time with a trusted adult or time alone, with an adult in close proximity (within sight and hearing) if the child or young person identifies that this is helpful to them;
 - respecting their personal space at all times, by maintaining a suitable distance;
 - being mindful of open and engaged body language, facial expressions and tone of voice (and not speaking, when appropriate);
 - identifying what would be most helpful to them; and
 - accommodating, where possible, any previously agreed strategies or unplanned requests that de-escalate, including a pupil-led withdrawal.

46. More information on de-escalation is available on the National Improvement Hub³⁴.
47. The use and effectiveness of de-escalation should be kept under review and any child's plan must be promptly updated following any incident with what was found to be helpful.

Unplanned use and duty of care

48. It is recognised that despite the most thorough planning, distressed or unsafe behaviour may still occur unexpectedly, with no plan in place. In such circumstances, staff should use the least restrictive option available to them to support the child or young person to regulate their emotions or behaviour and reduce any risk of injury (see duty of care, Annex C). Knowledge of the Principles of de-escalation (para 45 above) will assist staff to respond. The use of unplanned de-escalation or co-regulation should be reviewed and recorded within any child's plan to inform the assessment, planning and implementation of agreed preventative approaches in future.

Physical intervention

49. Definition of physical intervention:

"A physical act carried out with the purpose of influencing, modifying or preventing the actions of a child or young person. Physical intervention includes direct physical contact and actions affecting the movement of a child or young person."

The use of physical intervention

50. The term physical intervention includes a wide range of practices (see Annex B): from non-restrictive support to restraint, which carries a risk of injury as well as having significant human rights and wellbeing implications. An example of an action affecting the movement of a child or young person would be a member of staff asking a child or young person to move to another space (i.e. staff-led withdrawal). Physical intervention can also be used in a variety of ways; from being an agreed support as part of a child's plan to decisions taken following a dynamic risk assessment in an emergency situation. Common factors in all of these decisions are the best interests of the child or young person and the duty of care education providers have to protect them and others from harm. This section outlines the different types of physical intervention that may be encountered in schools and the key considerations and safeguards that should determine their use.

³⁴ [The Compassionate and Connected Classroom: A health and wellbeing curricular resource for upper primary | Learning resources | National Improvement Hub \(education.gov.scot\)](#)

Non-restrictive physical intervention

51. Physical contact between a member of staff and a child or young person for the purpose of education, communication, providing aid, reassurance or comfort where there is no element of restriction would not be considered restraint. An example may include giving a young child a hug if they are upset or a helping hand if they have fallen over. Non-restrictive contact may also be an important part of communicating with children and young people with complex speech and language communication needs. Such contact must always be in line with the principles of safeguarding and child protection; their use does not need to be recorded.
52. Considerations for using non-restrictive physical intervention are as follows:
- The level and form of contact would be determined by a dynamic risk assessment of the child or young person's education or wellbeing needs.
 - Some children and young people may find physical contact with other people to be an additional and unnecessary cause of stress.
 - For many children and young people this will form part of sensory integration and sensory learning programmes to support them to reduced sensory overload.
 - Such contact would not require any follow up action or recording, unless any wellbeing concerns are identified, first aid is administered or there are any safeguarding or child protection concerns.

Pupil-led withdrawal

53. Definition of pupil-led withdrawal:

"Where a child or young person temporarily moves away, at their request, from a situation which they are finding challenging to a place where they have a better chance of regulating their emotions and behaviour."

54. A pupil-led withdrawal can be reactive, in response to an unexpected situation, or part of a planned approach. The child or young person is not prevented from leaving the space to which they have gone. It is therefore not considered a restraint and does not need to be recorded for the education providers' monitoring purposes, but should be documented within the establishment and added to any child's plan.
55. Considerations for using pupil-led withdrawal:
- The child or young person's wishes must be taken into account and, where possible, accommodated.
 - The child or young person may have previously agreed safe spaces that they can withdraw to in their plan. This could be any safe and comfortable space (indoors or out) on the school campus.
 - For some children and young people, a physical activity, such as a walk, may be more beneficial than calm space.

- Any planned use of pupil-led withdrawal must be fully documented as an integrated part of any child’s plan, including a Co-ordinated Support Plan, describing the reasons and likely situations arising for use. If agreed, all staff should be made aware.
- The child or young person and their family should be active participants in the consideration of and planning for the use of pupil-led withdrawal.
- A risk assessment may be required to determine whether pupil-led withdrawal is a safe approach for the individual child or young person, should this become a recognised support. For example, this may not be a suitable option for a child or young person who is prone to running away.

56. Safeguards for using pupil-led withdrawal:

- Staff planning and facilitating a pupil-led withdrawal should be supported to be trauma-informed and trauma-responsive.
- The most effective way to monitor and support a distressed child or young person is often to be in the same room with them. There are however exceptions to this. For example, if a child or young person asks to be left alone or the proximity of another person is clearly distressing them, it might be more effective to allow them some appropriate space. It is important to consider that some children and young people may find the close proximity of other people to be an additional and unnecessary cause of stress. This is particularly relevant for children and young people who have previously experienced harm through relationships with adults.
- Even if not physically in the room with the child or young person, staff responsible must remain close enough to monitor the situation, offer immediate reassurance and support.
- The child or young person must be free to leave the space when they wish otherwise this would be categorised as seclusion.
- The child or young person should be supported to return to their class, once they are feeling composed, safe and ready.
- If the use of pupil-led withdrawal is considered, it is important to review the effectiveness of this on a regular basis. Reflective questions may include:
 - Does this approach offer a lower level of intrusion?
 - Does it help the child or young person to calm more effectively than other strategies?
 - Does it offer improved safety for those around?

Restraint

57. Definition of restraint:

“An act carried out with the purpose of restricting a child or young person’s movement, liberty and/or freedom to act independently.”

Identifying restraint

58. There are many forms of restraint, which is sometimes referred to as restrictive intervention. **Restraint can involve direct physical contact (e.g. physical and mechanical restraint) or indirect acts such as seclusion.** These types of restraint are defined in more detail below. This list is not exhaustive; it is intended to cover the types most likely to be encountered by school staff. Should there be any doubt whether an action is restraint, it is important to bear in mind that “the key issue is the nature of the act, not how it is described.”³⁵ Any act which restricts a child or young person’s freedom to move or act could fall within the definition of restraint.

Legal framework for restraint in schools

59. The legal framework is outlined in Annex C.

General considerations and safeguards for using any form of restraint

60. While this guidance provides advice on the types of restraint most likely to be encountered in an education setting, all of the following general considerations must be satisfied in the event of any restraint.
- Restraint should only be used to avert immediate danger of physical injury to any person where no less restrictive option is viable. This reflects the principle of last resort.
 - Education providers should be actively taking measures to reduce the use of restraint on all children and young people and eliminating its use for reasons relating to disability³⁶.
 - The use of restraint for reasons relating to disability without evidence of reasonable adjustments being made is unlikely to be considered proportionate.
 - Restraint must never be used as a form of punishment or as a means of securing compliance.
61. General safeguards for using any form of restraint:
- Wherever possible, restraint is only used by staff who have been appropriately trained in its safe use.
 - A planned or, in emergency situations, a dynamic risk assessment should always take place. This should consider:
 - the best interests of the child or young person;
 - the risk of injury posed to the child or young person and to others;
 - the age of the child or young person, physical health, additional support needs, disability and any known experience of trauma;
 - the least restrictive response available, including all viable alternatives, including de-escalation, and the option of not intervening.

³⁵ [Human rights framework for restraint: principles for the lawful use of physical, chemical, mechanical and coercive restrictive interventions](#)

³⁶ [Technical Guidance for Schools in Scotland \(equalityhumanrights.com\)](#), (5.40).

- Where necessary, restraint should only be used for the shortest time and in the least restrictive manner possible.
- There must be a rational and proportionate connection between the method, severity and duration of the restraint, and the risk of injury posed.
- Every effort should be taken to protect the dignity of the child or young person being restrained, including taking account of their wishes and preferences.
- The child or young person's welfare should be closely monitored by an adult witness not involved in applying the restraint throughout the period of restraint and action taken to reduce the risk of injury.
- During the restraint, appropriate non-verbal communication should be used to convey a strong sense of care and concern. Increased verbal communication should be initiated when the child or young person is once again emotionally able to engage in order to end the restraint as soon as possible.
- Post-restraint:
 - support to the child or young person and all involved should be provided and learning reviews should always take place following the use of restraint.
 - this should always involve an immediate health, safety and wellbeing assessment of the child or young person who was restrained and anyone else who may have been injured. This may be led by the witness monitoring the incident, where available, or a member of the school leadership team.
 - where a child or young person has been physically injured or needs medical assistance, this should be sought immediately from the first-aider or, if appropriate, the relevant health service.
 - any specific post-restraint support identified in the child or young person's support plan should be followed as soon as possible after the restraint ends.
 - children and young people and staff may benefit from a learning review after the incident to support them to process the events. However, this should only happen when they feel composed and safe enough to participate. Additionally, some children and young people may not be able to participate in a reflective process due to their stage of cognitive development. See post-restraint support and learning review section.
 - if a child or young person has been physically injured or is considered to have suffered significant harm as a result of any form of the restraint, child protection procedures³⁷ should be followed. Local disciplinary procedures may also run parallel to the child protection investigation.
 - preventative approaches must be considered following the use of restraint to ensure restraint does not become a frequent occurrence in a child or young person's school life.
 - if restraint is being used frequently, assessment of the child or young person's additional support needs and a review of the child's plan and support should be undertaken. Consultation with Educational Psychology teams should be considered.
 - parents and carers must be notified of the use of restraint as soon as possible after the incident and within 24 hours of the event.

³⁷ [national-guidance-child-protection-scotland-2021.pdf](#), p88.

Reporting, recording and monitoring restraint

62. All uses of restraint must be accurately recorded, monitored and reported (see recording and monitoring section). Following any use of restraint, post incident support and learning review should also take place (see post incident support and review section).

Physical Restraint

63. Definition of physical restraint:

“The use of direct physical force to restrict freedom of movement.”

64. Considerations for using physical restraint:

- Physical restraint should only be used to avert immediate danger of physical injury to any person where no less restrictive option is viable.
- Physical restraint on a child or young person for any other purpose may be considered an assault.
- Physical restraint must never be used as a form of punishment or as a means of securing compliance.
- Physical restraints vary in severity, use of force and level of restrictiveness.
- Children are developing physically and psychologically, making them particularly vulnerable to harm from physical restraint.

Safeguards for using physical restraint

65. In addition to the general safeguards for using any restraint, the following specific safeguards apply to the use of physical restraint.

- A witness should be present to monitor the risk to the child or young person during the use of physical restraint, while ensuring the minimum number of staff attend that can safely support the child or young person.
- All physical restraint techniques must be risk assessed before use in school and again on their appropriateness for use on individual children or young people. Assessments should describe any specific risks which may be associated with the use of the agreed physical restraint techniques specified for use with any individual child or young person and how these should be minimised. These assessments and agreed approaches must be shared with all staff who may be required to use them.
- Certain types of physical restraint carry elevated risks such as prone, supine, basket holds, neck holds and techniques that involve the use of pain. These **should not be used** as they pose a higher risk of injury to children and young people. Holding children and young people in positions where their torso is heavily bent forward (hyperflexion) and/or their joints are taken to the end of their range of movement (locked out) **must also be avoided**.
- All steps should be taken by the person or persons applying the physical restraint and the witness monitoring, to minimise the risk of injury during the physical restraint, including using the minimum necessary force and ending it at the earliest opportunity possible.

- Where it is possible and is safe for them to do so, no other children and young people should be present when the physical restraint is occurring, for example, they may require to be moved to another area where they will be supervised.
- Where risk assessments indicate that distressed behaviour may be exhibited by a child or young person, a means by which a member of staff working with them can summon immediate support should be agreed.

Mechanical restraint

66. Definition of mechanical restraint:

“The use of equipment to restrict freedom of movement.”

Recognising mechanical restraint

67. The provision of equipment that is used to increase the access to independence for children and young people with complex additional support needs is an essential component of an integrated health and social care service. Examples of such equipment include postural supports, headrests, wheelchairs to assist independent mobility and hoists to assist with moving and handling. Where the use of equipment involves an element of restriction of movement, for example a wheelchair strap, its use could be considered a mechanical restraint. It is therefore important that the safeguards highlighted below are in place to ensure the safety and wellbeing of children and young people at all times.
68. The use of seatbelts during transport is a precondition of safe travel. They would not be considered a mechanical restraint within the terms of this guidance.

Safeguards for using mechanical restraints

69. In addition to the general safeguards for using any restraint, the use of any equipment with a restrictive element should:
- form part of an agreed needs-based assessment, planning and implementation process and be regularly reviewed;
 - only be used in accordance with its proscribed use and in the safest least restrictive manner;
 - only be used by staff who have been appropriately trained in their safe use;
 - be used with the consent of the child or young person, wherever possible;
 - always be supervised.
 - never be used as a form of punishment, securing compliance or as a response to distressed behaviour;
 - always be proportionate and non-discriminatory;
 - be reported, recorded and monitored if its use was unplanned or was used for a longer period of time or more frequently than prescribed.

Staff-led withdrawal

70. Definition of staff-led withdrawal:

“Leading a child or young person away from a situation which they are finding challenging to a place where they have a better chance of regulating their emotions and behaviour.

The child or young person is not prevented from leaving the space they are moved to.”

71. Considerations for using staff-led withdrawal:

- Staff-led withdrawal is a restraint if:
 - it takes place against a child or young person’s will;
 - the child or young person is prevented from re-joining their peers.
- Although initiated by staff, staff-led withdrawal can involve the consent of the child or young person, who may become responsive when they are engaged and able to participate in the decision of moving to another location or space. In these circumstances, staff-led withdrawal is not considered restraint.
- Staff-led withdrawal without the consent of the child or young person involved should only be used to avert immediate danger of physical injury to any person where no less restrictive option is viable.
- Withdrawal may be used as an alternative to seclusion. In some circumstances, it may be more appropriate for other children and young people to leave the learning environment so that it is less stressful for the distressed child or young person.
- The child or young person should be moved to a space that will help them regulate. This may involve undertaking a specific activity in this space. Both the space and the activity may be an agreed part of any child’s plan.
- A staff-led withdrawal can be used in response to an unexpected situation, or part of an agreed approach in any child’s plan.

72. In addition to the general safeguards for restraint, the following additional safeguards apply to the use of staff-led withdrawal.

- Staff planning and facilitating a staff-led withdrawal should be supported to do so in a trauma informed and trauma responsive way.
- Any room or area that might be used should be risk assessed to ensure it is safe, dignified and comfortable and would help co-regulation of the child or young person’s emotions of behaviour and not add to stress levels.
- The child or young person should be communicated with before and throughout the period of withdrawal to ensure that their views can be taken account of and to help them to regulate their emotions or behaviour. Non-verbal communication is recommended as an initial means of communication.
- While staff may prevent the child or young person from re-joining their peers if the risk of injury to themselves or others remains high, the child or young person should not be prevented from leaving the space they are moved to or from moving to another space if it can be safely accommodated. If a child or young person is not allowed to leave, the staff-led withdrawal would escalate to **seclusion**.

- Any planned use of staff-led withdrawal must be fully documented as an integrated part of any child’s plan describing the reasons and likely situations arising for use.
- Where a venue or area requires to be used regularly for withdrawal, that setting should be risk assessed. Spaces should be areas which are designed to keep children and young people safe in a supportive and reassuring way.
- Staff-led withdrawal should be used for the shortest possible time and end when the immediate risk of injury has passed.
- Staff-led withdrawal must be recorded to enable the monitoring of use, post incident reviews and future restraint reduction planning. This should involve the school leadership team and, where applicable, the education authority.

Seclusion

73. Definition of 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 which they are prevented from leaving.”

Recognising seclusion

74. The following are key features of any seclusion.

- The child or young person cannot leave the space in which they have been secluded.
- Staff blocking an open door, or in any other way preventing the child or young person from leaving a room or space in which they have been moved to, would be considered seclusion.
- A child or young person’s consent is not a feature of seclusion.
- If a child or young person is free to leave the space they have been moved to by staff, then this would be considered a **staff-led withdrawal**, rather than seclusion.

Restrictions of movement

75. When considering practice, it should be acknowledged that in the school context, as in other areas of children’s lives, some restrictions of movement are normal and desirable; for example, in the interests of children’s safety. Within a school context, these may include restrictions around leaving the school campus, break times and agreed parameters around the unsupervised activity of children. These types of restrictions, which are sometimes known as **blanket restrictions**, in that they apply equally to all children and young people, should always be proportionate and not discriminate against individual or groups of children and young people with particular protected characteristics³⁸. Such restrictions of movement would not amount to seclusion.

³⁸ [Protected characteristics | Equality and Human Rights Commission \(equalityhumanrights.com\)](https://www.equalityhumanrights.com/en/protected-characteristics)

Implications of using seclusion

76. Seclusion, similar to other forms of restraint, places an additional level of temporary restriction on a child or young person's freedom of movement. **However, the use of seclusion also carries the risk of 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 any act which deprives a child or young person of their liberty would not be in accordance with the law, and the education provider may be legally challenged. The safeguards listed in this section will help support children and young people and reduce the risk of a deprivation of liberty occurring; however, this risk cannot be mitigated entirely if seclusion is used.** In addition to human rights implications (outlined in Annex C), the use of seclusion can also cause harm to children and young people's health, wellbeing and dignity, particularly when prolonged and, or, frequently used.
77. **In light of these risks, education providers should take legal advice, when reviewing and revising their physical intervention policies, on the implications of the use of any practices falling within the definition of restraint.** As part of this process, it is important that schools and education providers reflect on the definition and key features of seclusion and review the use of any practice that could amount to seclusion.

The use of seclusion in schools

78. Seclusion is not recommended for general use in schools, either as part of routine practice or as a "default" response to distressed behaviour.
79. **Seclusion should only ever be used in an emergency to avert an immediate risk of significant harm to the child or young person, or others,** where no less restrictive option is viable. It should end as soon as the immediate risk is reduced. If seclusion is used in an emergency, the safeguards outlined below must be in place.

Safeguards for using seclusion

80. Before seclusion is used, the following safeguards should be in place.
- Seclusion should not form part of any child's plan. Staff may wish to review current plans and update where necessary to reflect this position.
 - In emergency situations, a dynamic risk assessment should always take place. This should consider:
 - the best interests of the child or young person;
 - the risk of injury posed to others;
 - the age of the child or young person, physical health, additional support needs, disability and any known experience of trauma – some children and young people would find it excessively stressful to be secluded, which in some cases could cause panic attacks;
 - the least restrictive response available; and
 - all viable alternatives, which may include co-regulation strategies, staff-led withdrawal, and the risk of not intervening.

- Seclusion must never be used as a form of punishment or as a means of securing compliance.
- There must be a rational connection between the method, severity and duration of seclusion and the risk of injury posed.
- Any room or area that might be used should be subject to a dynamic risk assessment to ensure it is safe, dignified, comfortable and would minimise the distress that a short period of seclusion would bring.
- All staff should be made aware of the alternative, less restrictive approaches that should be considered ahead of emergency seclusion.

81. During seclusion, the following safeguards should be in place.

- **Seclusion must only ever be used for the shortest possible time and in the least restrictive manner possible.**
- Every effort should be taken to protect the dignity of the child or young person during seclusion.
- If staff consider there to be a strong justification of why it is essential for a child or young person to be confined to a space and prevented from leaving, staff should be asked to supervise the child or young person. A senior member of staff should also attend to undertake an additional dynamic risk assessment of the incident and the response.
- If seclusion involves a physical restraint, the safeguards outlined for physical restraint should be followed at the earliest opportunity.
- The child or young person must never be left unsupervised. Wherever possible, staff should remain in the same space as the child or young person to help them regulate their emotions and behaviour in order to bring the period of seclusion to an end.
- Efforts should be made to maintain positive communication with the child or young person for the duration of the seclusion.
- As soon as the immediate risk of significant harm has passed, the child or young person should be free to leave the space they are in and should be offered support to return to an appropriate space.

82. After seclusion, the following safeguards should be in place.

- Support should be provided and learning reviews must always take place following the use of seclusion.
- This should always involve an immediate health, safety and wellbeing assessment of the child or young person who was secluded by those involved. This may be led by the witness monitoring the incident.
- Where a child or young person or a member of staff has been physically injured or needs medical assistance, this should be sought immediately from the first-aider or relevant health service, if appropriate.
- Any specific post-incident support identified in any child's plan should be followed.
- While children and young people and staff may benefit from a learning review and support to process the events and make sense of them, this should only happen when they feel composed and safe enough to participate. Some children and young

people may be unable to participate in this process due to their stage of cognitive development. See post-restraint support and learning review section.

- If a child or young person has been physically injured or is judged to have suffered significant harm as a result of the seclusion, child protection procedures³⁹ should be followed. Local disciplinary procedures may also run parallel to the child protection investigation.
- All uses of seclusion must be recorded, monitored and reported. This includes reporting to parents at the earliest available opportunity.
- **Preventative approaches must be considered following the use of seclusion to ensure it does not become a frequent occurrence in a child or young person's school life.** Any use of seclusion could amount to a deprivation of liberty.
- **If seclusion is being used frequently, an urgent assessment of the child or young person's support and a review of their plan should be undertaken** to enable immediate steps to be taken to prevent its re-use. Consultation with Educational Psychology teams should be considered.

Seclusion versus time out

83. Seclusion does not prevent distressed behaviour from occurring, and should never be used as a form of punishment or as a means of securing compliance. Its aim is to reduce an immediate risk of injury. Time out, on the other hand, is a punitive behaviour change technique.
84. Definition of time out:
- “The act of removing a child or young person from a space, or ending their participation in an activity, to disincentivise, and ultimately stop, an ‘undesirable’ behaviour from occurring.”**
85. The core expectations of the inclusive approach within Scottish education is that children and young people be present, participate, support and achieve. Time out is not considered to be an inclusive practice and its use should be minimised.
86. Should a child recognise that they benefit from time away from a group or on their own to help them regulate, then this would be **pupil-led withdrawal**. Should an adult recognise this and be supporting a child or young person to understand that this approach helps them, this would be **staff-led withdrawal**.
87. It is recognised that the term “time out” may be used to describe a range of practices within schools. **It is recommended that any schools currently using a practice termed “time out” should review its use in light of this guidance.** Irrespective of the name applied, if the practice involves any form of restraint, the safeguards outlined in this guidance should be applied.

³⁹ [national-guidance-child-protection-scotland-2021.pdf](#), p88.

Post incident support and learning review

88. Following the use of any form of restraint, post-incident support should be offered immediately to the child or young person. Support should then be followed by a learning review, conducted on another day, but within a prompt timescale. This process, which can also be followed after any instance of distressed behaviour, is outlined below.

Post incident support

- This is the support that is immediately offered to the child or young person and staff members involved and forms the beginning of a restorative approach⁴⁰. Its purpose is to ensure physical and emotional safety of the child or young person and all involved, provide emotional and physical wellbeing support and to assess and respond appropriately to any harm caused. The immediate steps outlined in the recording, monitoring and reporting section should also be followed.

Post incident learning review

- This is a factual review, which takes place at a later date (sometimes referred to as a debrief). It is recommended that this take place as close to the time of the incident as possible taking full cognisance of the emotional wellbeing of the child or young person and all those involved in the incident. Its purpose is to examine the factors that led to the restraint being used, decisions taken, establish a time line and agree actions to support the prevention of future incidents of distressed behaviour. It will also examine ways to minimise the impact of the form of restraint used and facilitate less restrictive interventions in future (see Annex G). The views of the child or young person and staff members involved should be sought, with appropriate support to participate provided. It should be noted, however that this may not be possible or desirable in every instance, for example, where a child or young person's stage of cognitive development would prevent them participating in a reflective exercise. Any agreed actions or changes in approach should be recorded in the appropriate support plan for the child or young person. It is important that children and young people and staff have the time and opportunity to engage in this kind of reflective practice.
89. Where distressed behaviour is frequently occurring, staff leading the post-incident learning review may benefit from the local authority Educational Psychology team or other agencies to support a functional behavioural analysis as part of this process. Education providers should have an overview of all such occurrences and ensure appropriate support and challenge with regards to helping reduce the frequency and intensity of the distress occurring. The purpose is to gain a broader understanding of why the distressed behaviour is presenting itself and what its function is. Each behaviour requires a different intervention. As such, simply analysing the immediate events may not be enough to lead to a full understanding of the distressed behaviour and reduce its frequency and intensity over time. A functional analysis generally follows a three stage process:

⁴⁰ [Restorative approaches to support positive relationships and behaviour | Learning resources | National Improvement Hub \(education.gov.scot\)](#)

- What happened before?
 - What happened, what did we see?
 - What happened afterwards?
90. This process is not about apportioning blame or finding fault with practice, but about what can be adapted or changed to reduce the likelihood of the distressed behaviour occurring in future. Any functional analysis should take place within the context of a broader assessment of wellbeing.
91. Due to the sensitivities involved in conducting post-incident learning reviews with a child or young person following a restraint, it is recommended that a member of school staff trained in this area undertake them. Education providers should provide guidance and support in this area, ideally with involvement from Educational Psychology. However, lack of trained staff or available support from specialist staff should not prevent the post-incident learning review from taking place.
92. Parents or carers should be given the opportunity to discuss the incident, response and preventative actions before the post-incident learning review is completed. Agreed outcomes from the post-incident learning review should be shared with the child or young person involved, school staff and parents or carers. However, it should be noted that it can be difficult to ascertain the function of a behaviour from one review and that recognising patterns over time is most likely to lead to a better understanding and therefore more appropriate interventions.
93. Where there is disagreement between children and young people, their parents or carers and the school on the agreed outcomes and support identified in the post-incident learning review, every effort should be made to resolve these at as local a level as possible. However, where concerns around support remain, parents or carers may, where relevant, have access to the dispute resolution mechanisms under the 2004 Act (including advocacy and representation through the Let's Talk: ASN⁴¹ service) and the education provider's complaints procedure. If a parent or carer believes that their child has been mistreated, regardless of whether there has been a post-incident learning review, this must be referred to child protection processes.
94. Where relevant, the use of restraint should prompt an assessment of the child or young person's additional support needs under the 2004 Act.

⁴¹ [Let's Talk ASN - National Advocacy Service for Additional Support Needs - Enquire](#)

Recording, reporting and monitoring

95. The use of all forms restraint must be recorded. Specific recording expectations are listed in Annex B. The recording and monitoring of the use of restraint has a number of functions:
- education provider – to ensure accountability and that a child or young person’s needs are being met within their school/s, their rights respected and duties of care are being implemented appropriately, towards children and young people and the adults who support them.
 - school – to inform areas of need, understand the reasons why distressed behaviour is occurring, promote reflection and consideration of preventative approaches, focus improvement towards restraint reduction, and meet duties of care towards children and young people and staff.
 - individual - to meet individual needs, inform a functional assessment, improve wellbeing and reduce emotional and physical distress. It is important to understand the distressed behaviour – why now, why in this context and what measures can help to change it.
96. Schools offering residential services are required to report the use of any form of restraint to the Care Inspectorate⁴². While the expectations for reporting outlined in Annex B apply to the use of restraint in the provision of education services, reporting timescales have been aligned to provide consistency for staff working in establishments that provide both education and residential services.
97. Annex G lists the information that should be recorded following the use of restraint. While education providers will use a variety of different systems for recording the use of restraint, it is important that the information listed in Annex G is included in all recording systems currently in use to ensure consistency in approach.
98. This guidance provides advice on the parameters for the use and recording of restraint. To further support preventative action, it may be helpful for education providers to have an appropriate recording and monitoring process in place to aid the analysis of distressed behaviour. In this way, such an analysis may identify approaches that could prevent a child or young person’s distress from escalating to a point that physical intervention is required. As such, schools may wish to record the successful use of de-escalation and pupil-led withdrawal to help understand why a child or young person became distressed. Any newly agreed preventative approaches should be recorded in any child’s plan. This may also lead to quicker improvements in future, or for learning to be shared across contexts.
99. In line with a rights-based approach, factual, non-judgemental language should be used in all incident recording.

⁴² [Records that all registered children and young peoples care services must keep and guidance on notification reporting.pdf \(careinspectorate.com\)](https://www.careinspectorate.com/records-that-all-registered-children-and-young-peoples-care-services-must-keep-and-guidance-on-notification-reporting.pdf)

100. The use of any form of restraint is always a significant and serious event. Recording must be completed within two working days of its use and this is must be shared with the education authority, the managers of the grant-aided school or the proprietors of the independent school as appropriate, in line with local procedures, within the same timeframe. This should include sharing with the child or young person's social worker where appropriate.
101. In line with the Additional Support for Learning Statutory Code of Practice (2017), staff should update any child's plan with the agreed preventative action. Pastoral notes should also be updated on the school information management system (SEEMiS) or the relevant school system.

Communication within the school community

102. The use of agreed preventative approaches and physical intervention should happen within a culture of openness and transparency. All members of the school community should be aware of the local physical intervention policy, reporting expectations following any incident and how to raise any concerns. Local policies should be readily available in a variety of formats that are easily accessible and understood by all children and young people, their parents or carers and staff within the school community. **This should involve translation into the languages of the school community, where necessary, and include translation into visual formats.**
103. The inclusion of information on the school's values, support for children and young people and the physical intervention policy within the school handbook is recommended. All parental engagement on preventative approaches and physical intervention should align with the requirements of the Scottish Schools (Parental Involvement) Act 2006.⁴³

Reporting

104. Parents and carers of the child or young person who was subject to any form of restraint 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 being used, where it has been possible to make contact or unless alternative contact arrangements have been agreed. Parents/carers should be offered the opportunity to discuss the incident and contribute to any agreed actions. Parent, carers and the child or young person subject to the restraint should be provided with a copy of the incident record. Information should be provided in accordance with data protection law and the Pupils' Educational Records (Scotland) Regulations 2003.
105. Post-incident engagement with the child or young person involved and/or their parents or carers may highlight concerns about the restraint itself or the support that is in place. If these concerns are not resolved at a local level, a formal complaint may be raised under the education provider's complaints procedure. If the concern relates to the support in place to meet a child or young person's individual needs, or alleged discrimination, they may also use the dispute resolution mechanisms under the 2004

⁴³ [Guidance on the Scottish Schools \(Parental Involvement\) Act 2006 - gov.scot \(www.gov.scot\)](http://www.gov.scot/Topics/education/schools/parental-involvement)

Act⁴⁴. The My Rights My Say Service⁴⁵ supports children and young people to access their rights under the 2004 Act. Let's Talk: ASN⁴⁶ provides advocacy and representation to parents to access their rights under the 2004 Act. The Equality and Human Rights Commission provides advice to anyone seeking information about the 2010 Act.

Child protection referrals

106. Staff should inform police and social work without delay in the following circumstances:
- if a child or young person has been physically injured or is considered to have suffered significant harm as a result of restraint;
 - if there is a concern that an offence may have been committed by a member of staff towards a child or young person arising from the use of restraint;
 - when a child or young person, their parents or carers raise safety and wellbeing concerns following the use, or repeated use, of restraint.
107. Children and young people and their parents or carers can also initiate a child protection referral by the following routes.
- Informing school staff or the education provider that they believe they/their child has been mistreated. This can be done at any point following the use of restraint. Staff must then make a child protection referral.
 - Exercising their right to make a complaint to the police about the use of restraint.
108. A child protection referral can run in parallel with local complaints handling and disciplinary procedures.
109. The National Guidance for Child Protection in Scotland 2021⁴⁷ details the process that should be followed along with the information that should be recorded and provided to Social Work or Police Scotland. Information on initiating child protection procedures can be found in Part 3 of the Child Protection Guidance. The guidance also discusses child protection issues arising from the use of restraint in paragraphs 4.153 to 4.160.
110. Child protection procedures will be initiated when police, social work or health determine that a child may have been significantly harmed or may be at risk of significant harm. The child protection investigation will include any suspected offences by a member of staff towards a child or young person arising from the use of restraint.
111. Any injuries to a child or young person following the use of restraint should also be investigated under agreed local disciplinary procedures which may run parallel to any child protection Investigation.

⁴⁴ [Additional support for learning: statutory guidance 2017 - gov.scot \(www.gov.scot\)](#), p122

⁴⁵ [My Rights, My Say \(myrightsmysay.scot\)](#)

⁴⁶ [Let's Talk ASN - National Advocacy Service for Additional Support Needs - Enquire](#)

⁴⁷ [National guidance for child protection in Scotland 2021 - gov.scot \(www.gov.scot\)](#),

Health and Safety recording

112. Injuries and "near misses" to children, young people or staff involved in any form of restraint should be recorded under Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR)⁴⁸. This forms part of the education provider's reporting arrangements. New assessments to reduce the risk of injuries recurring should be undertaken and appropriate mitigations put in place to ensure compliance with the Health and Safety at Work Act etc 1974.

Monitoring

113. Regular monitoring and analysis of the use of any form of restraint is essential to the success of restraint reduction approaches. Education authorities, the proprietors (such as the Board of Governors) of independent schools and the managers of grant-aided schools should regularly review restraint data to identify and act upon any emerging trends. This will help inform restraint reduction policies and ensure accountability and challenge, that children and young people's needs are being met, their rights are respected and the duty of care is being enacted appropriately towards children and young people and the adults who support them.
114. Regular monitoring of restraint data by the school leadership team and the education provider will also enable any concerns about the misuse of restraint to be acted upon through a child protection referral, in line with the advice at paragraph 106, and agreed local disciplinary procedures.

Education Scotland Inspections

115. As part of their scrutiny and improvement roles in schools, Education Scotland inspectors consider the impact of practice in relation to the use of physical intervention for children and young people.
116. In line with the "How Good Is Our School?" self-evaluation framework⁴⁹, inspectors will request pre-inspection information from the school. For all school inspections, this includes information on the use of physical intervention. Pre-inspection questionnaires to stakeholders are also issued, which include questions about children and young people's wellbeing, safety and the extent to which they feel respected and supported. During the inspection, inspectors gather and triangulate other evidence relevant to the context of the school. For example, looking at records of restraint, talking to staff about the impact of professional learning and discussing with children and young people how well they are supported in school. Inspectors may comment on the use of physical intervention under Quality Indicator 2.1 (safeguarding and child protection). They may also report on any outcomes for children and young people including the application of guidance under Quality Indicator 3.1 (ensuring wellbeing, equality and inclusion).

⁴⁸ [Reporting of Injuries, Diseases & Dangerous Occurrences RIDDOR \(hse.gov.uk\)](https://www.hse.gov.uk/riddor/)

⁴⁹ [How good is our school? \(4th edition\) \(education.gov.scot\)](https://www.education.gov.scot/inspections/how-good-is-our-school/)

117. In line with child protection guidance, should the use of restraint raise concerns about the safety and wellbeing of one or more child or young person, inspectors would follow local child protection procedures and consider onward referrals to social work or the police.

Professional learning

118. Staff at all levels within any school are responsible for their professional learning. They should be supported to develop their knowledge and expertise in supporting children and young people's wellbeing and delivering a child-centred and rights-respecting learning experience. As the only way staff can impact upon a child or young person's distress is by altering what they do and how the context functions around the child or young person, appropriate ongoing professional learning that encourages a high level of reflective practice, analysis and self-evaluation is crucial. Staff should be supported to access and engage in professional learning opportunities in this area.
119. Many staff already have the skills to support children and young people's mental and physical wellbeing, informed by the health and wellbeing curriculum. Many also have a high level of knowledge in areas such as nurture principles, trauma-informed approaches, understanding neurodevelopmental differences and safe handling of children and young people with complex additional support needs. Consistent with this guidance, it is recommended that education providers, schools and individual staff consider any further professional learning opportunities or requirements in the following areas:
- promoting positive relationships and behaviour;
 - trauma-informed and nurturing approaches;
 - restorative approaches to supporting positive relationships and behaviour;
 - recognising and supporting the additional support needs of children and young people in their care;
 - support children and young people with autism and learning disabilities;
 - preventative approaches to addressing distressed behaviour; and
 - completion and use of communication passports

Nurturing approaches

120. It is important for schools to recognise that children and young people and staff may be affected by trauma and adversity. There are a number of professional learning approaches available on the National Improvement Hub to support schools to develop and implement trauma informed approaches⁵⁰.

Physical intervention

121. Staff should be supported to exercise the education providers' duty of care responsibilities towards children and young people in the school. Where staff are

⁵⁰ [Nurture and trauma-informed approaches: A summary of supports and resources | Learning resources | National Improvement Hub \(education.gov.scot\)](#)

working in environments where there is a significant ongoing risk of distress or there may be at risk of physical harm, then the following points may help inform a decision around appropriate professional learning options, in conjunction with an assessment of the child or young person's needs:

- Staff at all levels within a school are likely to benefit from professional learning in preventative approaches to help them create positive learning environments for their children and young people, assess and plan for meeting their individual needs and apply early intervention, de-escalation and co-regulation strategies when necessary.
- An understanding of the impacts of neurodevelopmental differences, such as autism and learning disabilities, will form a useful part of any professional learning on preventative approaches.
- An understanding of the impact of sensory needs and the sensory environment on children and young people's ability to cope and how to establish positive non-verbal communication with children and young people will form a useful part of any professional learning on preventative approaches.
- As part of the package of support for all staff, including coaching, mentoring, supervision, staff will benefit from professional learning on how to remain emotionally resilient. This may include how organisational self-care at a school and, where appropriate, education authority level can contribute towards this.
- It is not expected that a large number of staff within an education setting would require restraint training. However, where a health and safety risk assessment indicates restraint as a foreseeable possibility, consideration should be given to training an appropriate number of staff.
- Where restraint is a foreseeable possibility, schools should use restraint training that is certified as complying with Restraint Reduction Network (RRN) training standards⁵¹. This will ensure:
 - training is human rights-focused
 - that staff also receive training in preventative approaches
 - that trainers have the appropriate expertise to train in schools
 - that training in techniques is safe and proportional to that required within the schools and is appropriate for use on children
 - that training includes hearing from people who have been restrained
 - that training is accredited by the United Kingdom Accreditation Service⁵² as meeting the ISO standards⁵³ for certification
- No member of staff should attempt to undertake any form of restraint without having completed training in its safe use, which should be Restraint Reduction Network certified, given the risk of harm to the child or young person and themselves. The only exception to this would be in the unforeseen and unavoidable exercise of their duty of care.
- Staff who have undertaken professional learning in restraint should participate in refresher professional learning as often as is considered necessary in order to maintain an appropriate level of competence and must do so at least annually, in

⁵¹ [The Restraint Reduction Network Training Standards 2019 - Restraint Reduction Network](#)

⁵² [A world of confidence](#)

⁵³ [ISO - Standards](#)

order to continue practising these techniques. Education providers should maintain an overview of this.

- Refresher professional learning should include refreshing staff knowledge and awareness of preventative approaches including de-escalation and not only restraint.
- Additionally there may be a requirement for school leadership teams to be supported in how to carry out risk assessments, as advised by the Health and Safety Executive, in relation to child or young person behaviour which could result in harm. This should also be supported by Educational Psychology, with regards to approaches which reduce risk. Such risk assessments should be child-centred.

Annex A: National policy and legislation

The guidance is set within the relevant legislative and policy framework outlined below.

Legislation

- [Education \(Scotland\) Act 1980](#)
- [Human Rights Act 1998](#)
- [Standards in Scotland's Schools etc Act 2000](#)
- [Education \(Disability Strategies and Pupils' Educational Records\) \(Scotland\) Act 2002](#)
- [Pupils' Educational Records \(Scotland\) Regulations 2003](#)
- [Education \(Additional Support for Learning\) \(Scotland\) Act 2004](#)
- [Scottish Schools \(Parental Involvement\) Act 2006](#)
- [Equality Act 2010](#)
- [Children and Young People \(Scotland\) Act 2014](#)

Policy

- [Curriculum for Excellence](#)
- [Getting It Right For Every Child \(GIRFEC\)](#)
- [Additional support for learning: Code of Practice, 3rd Edition \(2017\)](#)
- [Additional support for learning: action plan](#)
- [Plan 21-24 - The Promise](#)
- [Executive Summary - Keeping the Promise implementation plan](#)
- [Presumption to provide education in a mainstream setting: guidance](#)
- [The National Improvement Framework](#)
- [Developing a positive whole school ethos and culture: relationships, learning and behaviour](#)
- <https://www.gov.scot/publications/included-engaged-involved-part-1-positive-approach-promotion-management-attendance-scottish-schools/>
- <https://www.gov.scot/publications/included-engaged-involved-part-2-positive-approach-preventing-managing-school/>
- [Learning/intellectual disability and autism: transformation plan](#)

International human rights conventions

The United Nations Convention of the Rights of the Child (UNCRC) ([UN Convention on the Rights of the Child - UNICEF UK](#))

- Article 2 (non-discrimination)
- Article 3 (the best interests of a child)
- Article 12 (respect for the views of the child)
- Article 19 (protection from violence, abuse and neglect)
- Article 23 (children with a disability)
- Article 24 (health and health services)
- Article 28 (right to education)
- Article 29 (aims of education)
- Article 37 (inhumane treatment and detention)

- Article 39 (recovery from trauma and reintegration)

[Convention against torture and other cruel, Inhuman or Degrading Treatment or Punishment \(OHCHR | Convention against Torture\)](#)

[European Convention on Human Rights \(ECHR\) and Human Rights Act 1998 \(The Human Rights Act | Equality and Human Rights Commission \(equalityhumanrights.com\)\)](#)

Article 3 - prohibits torture, inhuman or degrading treatment or punishment Article 5 - the right to liberty and security

Article 8 - the right to respect for private life, which includes respect for physical integrity

Article 14- Protection from discrimination

[United Nations Convention of the Rights of Persons with Disabilities \(UNCRPD\) \(Convention on the Rights of Persons with Disabilities \(CRPD\) | United Nations Enable\)](#)

Article 5 - the right to equality and non-discrimination

Article 7 - the right of disabled children to enjoy all of their rights and freedoms

Article 14 - prohibits unlawful or arbitrary deprivation of liberty

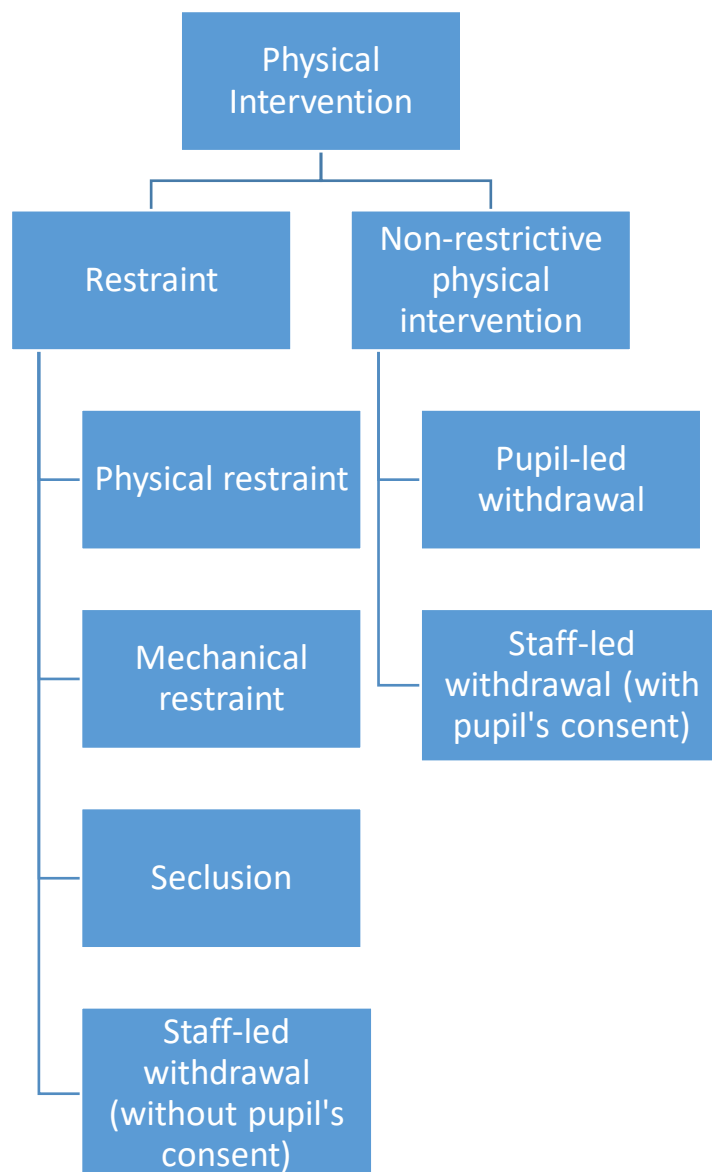
Article 15 - prohibits torture or cruel, inhuman or degrading treatment or punishment

Article 17 - the protection of physical and mental integrity

Article 24 - the right to education

Annex B: List of definitions and recording expectations

Diagram of physical intervention terminology



Practice	Definition	Recording and Reporting Expectations
Physical intervention	<p>A physical act carried out with the purpose of influencing, modifying or preventing the actions of a child or young person.</p> <p>Physical intervention includes direct physical contact and actions affecting the movement of a child or young person.</p>	<p>Physical intervention that does not involve restraint or withdrawal does not need to be recorded or reported.</p> <p>Physical intervention that involves restraint must always be recorded and its use reported, as outlined below.</p>
Restraint	<p>An act carried out with the purpose of restricting a child or young person's movement, liberty and/or freedom to act independently.</p> <p>The different forms of restraint appear below.</p>	<p>Recorded by school within 2 working days.</p> <p>Reported by school to parents/carers as soon as possible during the school day and exceptionally within 24 hours of restraint being used.</p> <p>Reported by school to Education Authority, managers of grant-aided school or the proprietor of the independent school within 2 working days.</p> <p>Post incident support and learning review: yes</p>
Physical restraint	The use of direct physical force to restrict freedom of movement.	As per restraint recording and reporting.

Mechanical restraint	The use of equipment to restrict freedom of movement.	<p>The use of equipment with a restrictive element does not need to be recorded or reported if its use was in line with agreed plan.</p> <p>Any use outwith the agreed plan should be recorded and reported in line with other restraints.</p> <p>Post incident support and learning review: where outwith agreed plan, on the same basis as other restraints.</p>
Seclusion	An act carried out with the purpose of isolating a child or young person, away from other children and young people, in an area from which they are prevented from leaving.	As per restraint recording and reporting.
Staff-led withdrawal	Leading a child or young person away from a situation which they are finding challenging to a place where they have a better chance of regulating their emotions and behaviour.	<p>If used without the child or young person's consent, staff-led withdrawal should be recorded and reported in line with other restraints.</p> <p>If consent is given, its use should be recorded in the child's plan. Onward reporting not a requirement</p> <p>Post incident support and learning review: yes</p>
Pupil-led withdrawal	Where a child or young person temporarily moves away, at their request, from a situation which they are finding challenging to a place where they have a better chance of regulating their emotions and behaviour	<p>The use of pupil-led withdrawal should be recorded and the child's plan updated as appropriate. Onward reporting not a requirement.</p> <p>Post incident support and learning review: on a needs basis.</p>

Annex C: Legal framework for restraint in schools

1. The key legislation and human rights safeguards in relation to restraint are listed in Annex A. It is important to note that there are absolute legal prohibitions that apply to the use of restraint. These are summarised in the Equality and Human Rights Commission's Framework for Restraint, which notes that it is never lawful to use:
 - restraint with intent to torture, humiliate, distress or degrade someone;
 - a method of restraining someone that is inherently inhuman or degrading, or which amounts to torture;
 - physical force (such as physical restraint) as a means of punishment; or
 - restraint that humiliates or otherwise subjects a person to serious ill-treatment or conditions that are inhuman or degrading⁵⁴.
2. Education authorities, the managers of grant-aided schools and the proprietors of independent schools should ensure that restraint is only used as a last resort, to prevent harm, with the minimum necessary force, and for the minimum necessary time. In practice, the principle of last resort means that restraint should only be considered where no less restrictive options are viable.

Equality Act 2010

3. Under the 2010 Act, education providers have a duty to make reasonable adjustments for disabled children and young people and must not discriminate against a child or young person in the provision of education, or by subjecting a child or young person to "any other detriment"⁵⁵. Discrimination can also arise when a child is treated unfavourably because of something that arises from their disability. The consequences of a disability include anything that is the result, effect or outcome of a child or young person's disability.⁵⁶ This can include a child or young person's distressed behaviour if it arises from their disability.
4. Unfavourable treatment, such as physical restraint, will not amount to discrimination arising from disability if the school can show that the treatment is lawful and proportionate⁵⁷.
5. However, the Equality and Human Rights Commission technical guidance (5.38⁵⁸) states that, in a case involving disability, if a school has not complied with its duty to make relevant reasonable adjustments, it will be difficult for it to show that the treatment was proportionate. Reasonable adjustments for a child or young person's distressed behaviour arising from their disability would include the consideration and use of less restrictive or preventative approaches and de-escalation or co-regulation strategies, before a physical restraint is used.

⁵⁴ [EHRC - Human rights framework for restraint \(p.5\)](#)

⁵⁵ [Technical Guidance for Schools in Scotland \(equalityhumanrights.com\)](#), 3.31 and 6.1

⁵⁶ [Technical Guidance for Schools in Scotland \(equalityhumanrights.com\)](#), 5.44-46

⁵⁷ [Technical Guidance for Schools in Scotland \(equalityhumanrights.com\)](#), 5.48

⁵⁸ [Technical Guidance for Schools in Scotland \(equalityhumanrights.com\)](#), 5.38

6. Education providers must therefore ensure that they comply with the provisions of the 2010 Act in relation to any use of physical restraint in schools.

Duty of care

7. Education providers owe a duty of care to their pupils⁵⁹ and staff in relation to their physical wellbeing. They have a duty to take reasonable care to prevent any harm that can be foreseen. Similar duties are placed on education providers under Health and Safety legislation. This guidance highlights the preventative approaches that can be taken to meet the needs of children and young people and lower the risk of harm to themselves or others arising from distressed behaviour. It also highlights the de-escalation and co-regulation strategies that should be considered ahead of restraint if an unexpected risk of harm arises. Nevertheless, it is accepted that there are situations when the use of restraint may be the only viable option available to staff to prevent a greater injury or harm.
8. A person entrusted with the care of a young child may be required to restrict the child's actions to ensure their welfare and safety. If the restraint is consistent with ordinary acceptable parental restrictions upon the movements of a child of that age and understanding this will generally be lawful.

Protection from assault

9. The criminal law of assault is relevant to the use of physical restraint in schools. The common law crime of assault, in short, is a deliberate attack upon another person, whether or not actual injury is inflicted. No particular degree of force is required. What matters in the context of restraint is the question of intent. Restraint, if used inappropriately, excessively or harmfully, could result in a charge of assault being brought.

Human Rights Act 1998

10. Under the Human Rights Act, public authorities can only interfere with a child or young person's Article 8 rights (the right to respect for private life, which includes respect for physical integrity), where it can demonstrate that its action is lawful, necessary and proportionate in order to:
 - protect national security
 - protect public safety
 - protect the economy
 - protect health or morals
 - prevent disorder or crime, or
 - protect the rights and freedoms of other people⁶⁰.
11. Any physical restraint would have to meet this test.

⁵⁹ At common law and under statute including [The Schools \(Safety and Supervision of pupils\) \(Scotland\) Regulations 1990 \(legislation.gov.uk\)](#)

⁶⁰ [Article 8: Respect for your private and family life | Equality and Human Rights Commission \(equalityhumanrights.com\)](#)

Standards in Scotland's Schools etc. Act 2000

12. Section 16 of the Standards in Scotland's Schools etc. Act 2000 prohibits corporal punishment in schools and subsection (4) is relevant to the use of a physical restraint:

16 No justification for corporal punishment

(...)

(4) Corporal punishment shall not be taken to be given to a pupil by virtue of anything done for reasons which include averting–

- (a) an immediate danger of personal injury to; or
- (b) an immediate danger to the property of,

any person (including the pupil concerned).

Legal framework for seclusion in schools

13. In addition to key aspects of the legal framework outlined for restraint, there are a number of human rights protections relevant to the use of seclusion. Of particular relevance is the legal framework surrounding deprivation of liberty⁶¹.
14. Under Article 5 of the ECHR (incorporated by way of the Human Rights Act 1998), everyone has the right to liberty and security of person. No one shall be deprived of their liberty save in certain circumstances, set out in Article 5, and in accordance with a procedure prescribed by law⁶².
15. In contrast, restrictions of movement may be permissible. It must be acknowledged that in the school context, as in other areas of children's lives, some restrictions of movement are normal and desirable, for example in the interests of children's safety.
16. A deprivation of liberty can occur where a person is confined to a place that they cannot leave.
17. There is no legal process for authorising a deprivation of liberty in the school context. As such, the use of any act which amounts to a deprivation of liberty would not be in accordance with the law, and may be legally challenged.

⁶¹ Deprivation of liberty has been considered by the Supreme Court in the decision of *Cheshire West and Chester Council v P* [2014] UKSC 19: [P \(by his litigation friend the Official Solicitor\) \(Appellant\) v Cheshire West and Chester Council and another \(Respondents\), P and Q \(by their litigation friend, the Official Solicitor\) \(Appellants\) v Surrey County Council \(Respondent\) \(supremecourt.uk\)](#)

⁶² [Article 5: Right to liberty and security | Equality and Human Rights Commission \(equalityhumanrights.com\)](#)

UNCRC⁶³

18. Article 37(b) also sets out the principle that no child shall be deprived of their liberty unlawfully or arbitrarily. The detention of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time. Paragraphs (c) and (d) are also relevant in outlining rights following any deprivation of liberty.
19. UNCRC Article 3(1) is relevant to all decision making in this area in stressing that in all actions concerning children, the best interests of the child shall be a primary consideration.

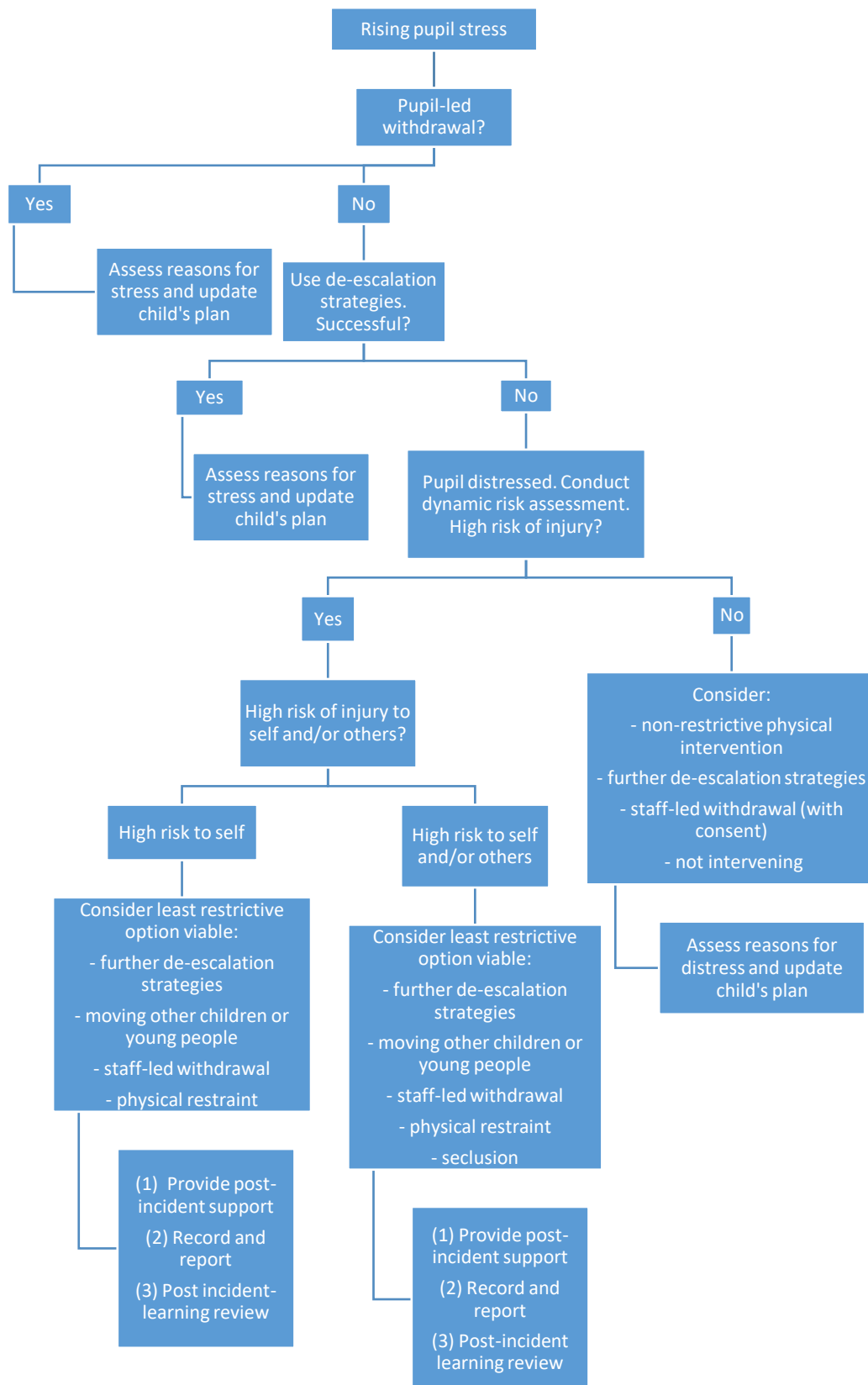
UNCRPD

20. Similarly to Article 37(b) of the UNCRC, the UNCRPD Article 14(1) (liberty and security of person)⁶⁴ sets out that state parties should ensure that persons with disabilities are not deprived of their liberty unlawfully or arbitrarily, and that any deprivation of liberty is in conformity with the law, and that the existence of a disability shall in no case justify a deprivation of liberty.

⁶³ [UN Convention on the Rights of the Child \(UNCRC\) - UNICEF UK](#)

⁶⁴ [Article 14 – Liberty and security of person | United Nations Enable](#)

Annex D: Physical intervention – example of basic decision making process when distressed behaviour occurs



Annex E: Further resources

Positive relationships, behaviour, wellbeing and inclusion

- [GIRFEC National Practice Model](#)
- [Getting it right for every child \(GIRFEC\): Wellbeing \(SHANARRI\)](#)
- [Promoting Positive Relationships and Behaviour in Educational Settings | Learning resources | National Improvement Hub](#)
- [Restorative approaches to support positive relationships and behaviour | Learning resources | National Improvement Hub](#)
- [Nurture and trauma-informed approaches: A summary of supports and resources | Learning resources | National Improvement Hub](#)
- [Nurture, Adverse Childhood Experiences and Trauma informed practice: Making the links between these approaches | Self-evaluation | National Improvement Hub](#)
- [OLCreate: Introduction to Inclusive Education An Introduction to Inclusive Education](#)
- [Psychological Capacity: Kitbag](#)
- [Promoting Inclusion and Participation - Children and Young People's Services MKN](#)
- [NES Trauma Informed - Transforming Psychological Trauma: A Knowledge & Skills Framework \(2017\)](#)

Additional support for learning

- [Milestones to support learners with complex additional support needs | Learning resources | National Improvement Hub](#)
- [KIDS \(Kids Independently Developing Skills\) guidance from NHS GGC](#)
- [Health workforce: Allied health professionals](#)
- [Communication Passports | Practice exemplars | National Improvement Hub](#)
- [Having Better Conversations – Using Talking Mats Resources](#)
- [Home | Autism Toolbox](#)
- National Autism Implementation Team Scotland: [Diagnosis Resources | ThirdSpace](#)
- [NAIT-Guidance-An-autism-lens-on-the-Six-Principles-of-Nurture.pdf](#)
- Autism; [The SCERTS® Model](#)
- Scottish Council for Learning Disabilities - [SCLD Resources & Publications - SCLD](#)
- [Principles of Good Transitions 3 – ARC Scotland](#)

Children's human rights

- [shrc hrba leaflet.pdf](#)
- [Human Rights Town - the app! - SCLD](#)
- [Can Scotland be Brave – Incorporating UNCRC Article 12 in practice](#)

Minimising restraint

- Six core strategies for reducing restrictive practices – infographic: [TSS_diagram_REVISED](#)
- Post incident learning reviews: [Microsoft Word - SR Debriefing policy 8 4 07.doc](#)
- [Restraint Reduction Network launches Blanket Restrictions Toolkit in partnership with National Quality Improvement Taskforce - Restraint Reduction Network](#)
- [A leadership blueprint to eliminating the use of physical intervention and seclusion from a school setting | Research | National Improvement Hub](#)

Professional networks

- [Restraint Reduction Scotland - SCLD](#)
- Hosted by CELCIS: [Scottish Physical Restraint Action Group :: Celcis](#)

Annex F: Roles and responsibilities summary

Education providers (Education authorities/managers of grant-aided schools/proprietors of independent schools, insofar as applicable)

- Overall responsibility for additional support for learning provision and legal compliance (Human Rights Act 1998 and Equality Act 2010) in relation to service provision.
- Overall responsibility in relation to duty of care to children and young people and staff, and health and safety, in their schools.
- Overall responsibility for the delivery of additional support for learning provision.
- Co-ordinated support plans/multi-agency planning and support.
- Inter-agency protocols and agreements regarding resources and response timescales.
- Agreement, with the relevant staff trade unions, of the education provider's physical intervention policy, including details of its restraint reduction policy, and any subsequent requirements in relation to job descriptions and workload demands.
- Active monitoring, scrutiny and challenge of restraint data and practice to minimise the use of restraint and eliminate its misuse.
- Workforce training and development.
- Investigation of complaints and conduct of local disciplinary processes in relation to the use of restraint.

Headteachers

- Day-to-day responsibility in relation to duty of care to children and young people and staff, and health and safety, in their schools.
- Day-to-day responsibility for the delivery of additional support for learning provision.
- Local delivery of the education provider's physical intervention policy.
- Responsibility for providing strategic leadership for meeting children and young people's needs.
- Recognise and respect the rights of children and young people.

School staff

- Responsibility to support the health, safety and wellbeing of children and young people.
- Local delivery of the education provider's physical intervention policy.
- Recognise and respect the rights of children and young people.

Annex G: Dataset for recording restraint

The key information that should be recorded following the use of any form of restraint is outlined below. This is not a recording form, however, it can be used to update existing recording forms to improve local data collection. Education authorities may wish to consider updating their Privacy Notices to ensure they reflect the processing of any additional special category personal data.

Decisions on which member of staff completes the record would be agreed locally with the recognised trade unions.

Reporter's name, position, school etc.
Date restraint recorded
Type of restraint. This includes physical restraint, mechanical restraint, seclusion, staff-led withdrawal
Date, time and duration (minutes) restraint was used
Time to report (days) (parents/carer and education authority/school managers/proprietor)
Exact location incident occurred
Person(s) Involved
Child or young person involved, including: name, age, protected characteristics, additional support needs, health conditions
Does the child have a plan that has been agreed with parent/carers and appropriate staff?
Other person(s) involved
Name and position of staff involved
Detailed account of restraint, including: - events leading up to restraint - how did staff/child or young person respond? - what happened afterwards?
Was the distressed behaviour related to an identified additional support need? If so, how?
Did anyone else observe the restraint? Please provide details.
Intervention Details
Does the child or young person have a child's plan?
Was the plan followed?
If the plan was not followed, why? If followed, are there any changes required to the plan?
Were preventative approaches used (e.g. de-escalation or co-regulation strategies)?
Were the members of staff involved trained in the safe use of restraint?
Why was restraint used?
Additional information for staff-led withdrawal (without consent) and seclusion recording
Was the child or young person physically moved to another place? If so, who took the decision, how were they moved and where to?
Was the child or young person prevented from leaving? If so, how and for what reason?
Was the child or young person supervised during this time? By whom? Were they in the same room as the child or young person?
How long did the child or young person spend in this situation (in minutes)?
Comment on how the child or young person responded while in this situation and when they returned to class.

Was Harm Caused?
Were there any visible or apparent physical injuries as a result of the restraint?
If so, how were these attended to? Was this recorded?
Were child protection procedures initiated? If so, which agencies were informed?
Was an investigation carried out in line with the agreed disciplinary procedures? Detail outcome.
Was post incident support provided to the child or young person/s involved?
Confirm that the record has been authorised by senior manager
What monitoring and ongoing assessment are in place?
Further action to be taken following analysis by senior manager
Date restraint record closed

Post incident review

The key information that should be recorded during any post-incident learning review discussion is listed below.

Post incident learning review (following de-escalation, co-regulation, withdrawal or restraint) - staff and child or young person
Summarise the child or young person and staff learning review discussion, including child's view, where gathered, agreed follow up support and actions
When did the discussions take place?
Who conducted the discussions?
Describe agreed actions?
Was the child's plan updated?
Parent/carer comments
Has the child's plan been reviewed to take account of changes required'?



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