

# **Equality Impact Assessment for Included, Engaged and Involved Part 3: A Relationships and Rights- based Approach to Physical Intervention in Schools**

November 2024

**Title of policy:**

Included, Engaged and Involved Part 3: A Relationships and Rights-based Approach to Physical Intervention in Schools

**Summary of aims and desired outcomes of Policy:**

The new guidance aims to strengthen the national policy framework around the use of physical intervention in schools, minimise the use of restraint and seclusion on children and young people and promote preventative, relationships based approaches as an alternative. The guidance outlines children and young people's rights in relation to practice.

**Directorate:** Learning

**Division:** Improvement, Attainment and Wellbeing

**Team:** Additional Support for Learning Policy

## **Executive summary**

### **Background**

The new guidance aims to strengthen the national policy framework around the use of physical intervention in schools, minimise the use of restraint and seclusion on children and young people and promote preventative, relationships based approaches as an alternative.

The guidance directly impacts children and young people in local authority, independent and grant-aided schools.

### **Scope of impact assessment**

The assessment considered available evidence of the potential impact of the guidance on the protected characteristics of Age, Disability, Sex, Pregnancy and Maternity, Gender Reassignment, Sexual Orientation, Race Religion or Belief and Marriage and Civil Partnership considered alongside the 3 public sector equality duties (Eliminate discrimination, Advance equality of opportunity and Foster good relations).

## **Findings and Conclusion**

This impact assessment highlighted a risk of discriminatory practice in the use of restraint and seclusion on disabled children and young people, particularly where restraint or seclusion was used in response to distressed behaviour arising from a child or young person's disability. Guidance is offered on this risk as a result.

The EQIA has helped to highlight areas of concern in relation to the prevalence of behaviour that carries a risk of injury and advice on how to reduce these risks has been included within the guidance.

The Scottish Government has agreed to review the impact of the guidance 1 year after publication. This review will be led by the Scottish Government with relevant partners.

## Background

The new guidance aims to strengthen the national policy framework around the use of physical intervention in schools, minimise the use of restraint and seclusion on children and young people and the promotion of preventative, relationships based approaches as an alternative. The guidance outlines children and young people's rights in relation to practice.

The guidance was developed in partnership with the [physical intervention working group](#).

The guidance directly impacts children and young people in local authority, independent and grant-aided schools. The guidance also impacts the local policy and practice of staff in this area and, indirectly, the parents of children and young people in school.

## The Scope of the EQIA

The impact of the guidance on the protected characteristics of Age, Disability, Sex, Pregnancy and Maternity, Gender Reassignment, Sexual Orientation, Race Religion or Belief and Marriage and Civil Partnership was considered alongside the 3 public sector equality duties (Eliminate discrimination, Advance equality of opportunity and Foster good relations).

Published evidence of the impacts of the practices of restraint and seclusion on children and young people were considered. Published data on behaviour in Scottish schools from Scottish Government research and trade union member surveys were also considered. While they do not provide direct evidence of the use of restraint and seclusion in schools, they do provide evidence of the context in which positive relationships-based approaches are being used in schools. Evidence of the latest information on the reasons why additional support was provided was also considered as contextual evidence of the current needs of children and young people in school.

Evidence was gathered through online searches of published reports and via members of the physical intervention working group.

## Key Findings

Overview of key evidence gathered and analysed against the protected characteristics of Age, Disability and Sex. No evidence of impacts relating to the remaining protected characteristics<sup>1</sup> was highlighted.

### Age

1. [No Safe Place: Restraint and Seclusion in Scotland's Schools](#), December 2018

The report identified 2,674 incidents of restraint and seclusion relating to 386 children in the school year 2017-18

Represents returns from 18 of 32 local authorities.

2. [Reducing Restrictive Intervention of Children and Young People Update of Case study results](#), February 2020

Case study data collected between 2017 and 2019 from parents of 720 children and young people across the UK, who were reported to have experienced restrictive intervention, including restraint and/or Seclusion. Of the 720 case studies, 87.6% of the families reported that, to their knowledge, their child had been restrained at school at least once.

The data is not disaggregated for Scotland and it is acknowledged that more robust data collection is required.

The report found that around 25% of cases investigated involved children of the age of 6 years old when the restrictive intervention started, with 93% of cases involving primary school age children (age 5-11) when the restrictive intervention started.

3. [in safe hands yet? A progress report on the campaign to regulate the use of seclusion and restraint in Scotland's schools](#), October 2022

The report highlights Positive and Active Behaviour Support Scotland data from the families of 613 children affected by seclusion restraint between 2019 and 2021. The children came from 28 local authorities in Scotland.

Issues relating to 331 children were recorded in 2019-2020, and 282 in 2020-2021. Of the total, 472 children had been secluded, many of whom were also restrained. Of the 472 children who had been secluded:

- 56% were secluded more than 3 times a week
- 24% were secluded “daily”
- 15% were secluded for several periods in a day, often daily.

---

<sup>1</sup> Pregnancy and maternity, gender reassignment, sexual orientation, race, religion or belief, marriage and civil partnership.

- 5% were secluded “too many times to count”
- 93% of the children had sustained injuries

#### 4. [Behaviour in Scottish schools: research report](#), 2023

59% of BISSR respondents had encountered physical aggression and 43% physical violence between pupils in the classroom in the last week.

Physical aggression and violence, both directed at other pupils and towards staff were more often experienced in primary schools compared with secondary schools. Primary 1-3 teachers were also more likely to encounter these behaviours towards themselves or other staff in the classroom compared with P4-7 teachers and in P4-7 compared with in secondary school.

16% of staff had experienced physical aggression and 11% physical violence towards themselves or other staff in the classroom in the last week. It was relatively unusual for staff to report that they routinely experienced abuse directed towards themselves or other staff related to race, sex and sexuality, religion, or disability. A small proportion (6% or less<sup>4</sup>) of all staff had personally experienced abuse due to each of the protected characteristics in the last 12 months. However, as staff demographics relating to protected characteristics other than gender were not captured by the survey, it is not possible to ascertain whether the study accurately reflects the experiences of these demographic groups.

A stratified random sample of 508 primary schools and all 330 eligible secondary schools were invited to participate. At each school, the headteacher and a randomly selected sample of teachers and support staff were invited to participate.

Staff expressed mixed experiences with regard to training on physical restraint. Some local authorities appeared to only allow staff from specialised settings to access restraint training due to the view that restraint should not be used in the mainstream. However, there were examples of staff having no option but to physically intervene and a desire among staff for training to be provided so that this could be done safely. In some cases, pupils were supported by staff from external agencies who were trained in restraint.

As was the case in 2016, the survey was conducted online, though support staff members were also given the option of completing paper questionnaires. Survey fieldwork was carried out between 27 February 2023 and 12 April 2023. The overall school staff response rate was 43%. The achieved sample was 3754.

#### 5. [NASUWT Teacher Wellbeing Survey Report](#), 2022

The survey found that 24% of teachers highlighted worries about pupil behaviour has been the main factor for increased work-related stress. 24% also highlighted pupil wellbeing to be the main factor.

#### 6. [NASUWT Behaviour in Scotland’s Schools - Briefing](#)

In the last 12 months: • 39% of respondents have experienced physical abuse or violence from pupils in the last 12 months.

With regard to physical violence, 17% of teachers have been hit or punched, 10% have been kicked, and 36% have been shoved or barged. Eight per cent have been spat at, while 2% have been headbutted.

How old are the pupils involved? • The most likely age bracket to demonstrate physical or verbal abuse is 12 to 14, which was identified by 75% of participants. • The 15-16 age bracket was the second most likely, selected by over half (51%) of participants.

How often is this happening? Physical abuse: In the last 12 months: • 29% report incidents once a year, with 28% stating they occur once a term; and • 12% say once a month, 5% once a fortnight, 6% once a week, 14% several times per week, and 5% daily

Do teachers report the incidents? • Less than half of respondents (43%) reported all of the incidents to their manager in their school or college. • A third (34%) reported most incidents, while 21% only reported some. • A minority, 3%, did not report any of the incidents.

Online survey across the UK in the final term of the 2022/23 academic year, which was completed by 358 members of the NASUWT in Scotland. The survey was distributed via electronic communication methods.

#### 7. [EIS Violence & Aggression Branch Survey Report and Campaigning Recommendations: Full Report](#), November 2023

There is a significant amount of violence and aggression within Scotland's schools with 82.7% of branches responding that there are incidents of 'violence and aggression' every week. Over 72% of branches stated that the amount of 'violence and aggression' had grown in the last four years – from levels before the Covid pandemic. In Primary and Special Education, "physical violence towards a teacher" was the most common type of 'violence and aggression'.

Three-quarters of branches (75.4%) said some of their teachers have sustained physical injuries and 61% said some of the teachers in their school had been on sick leave following a 'violent and aggressive' incident.

Almost 80% of branches reported (79%) that "members of the branch" considered leaving teaching as a result of the violence and aggression.

Qualitative responses from branches outlined a need for more ASN, de-escalation and CLPL training.

The branch survey was open for six weeks from mid-August 2023 and this is the output report. Responses were received from 875 EIS branches – i.e. schools.

## Disability

1. [Reducing Restrictive Intervention of Children and Young People Update of Case study results](#), February 2020

The most commonly reported needs of the children and young people included in the case studies were:

- autism (61%),
- speech, language and communication needs (including children who were non-verbal or mute) (51%),
- sensory needs (30%),
- mental health needs (including anxiety, attention deficit hyperactivity disorder, obsessive compulsive disorder, oppositional defiant disorder, trauma and attachment needs) (30%), and
- learning disabilities or developmental delays (including Down syndrome) (22.6%).

2. [No Safe Place: Restraint and Seclusion in Scotland's Schools](#), December 2018

The information gathered in the report by families suggests that restraint and seclusion are used disproportionately with children with disabilities or Additional Support Needs. When asked how many incidents related to these children, only twelve local authorities were able to provide statistics.

3. [Scottish Government Summary statistics for schools in Scotland](#), 2023, and [Pupil census supplementary statistics](#)

There were 705,528 pupils recorded in September 2023. In 2023, 37% of all pupils (259,036 individuals) had an additional support need (ASN), which are broader in scope than needs arising from a disability. This includes:

Reason for support	Female	Male	Total
Pupils for whom reason for support is reported	112,502	146,403	258,905
Learning disability	3,895	7,757	11,652
Dyslexia	14,135	16,717	30,852



Other specific learning difficulty (e.g. numeric)	11,766	15,436	27,202
Other moderate learning difficulty	13,529	17,895	31,424
Visual impairment	2,301	2,712	5,013
Hearing impairment	1,789	2,058	3,847
Deafblind	33	40	73
Physical or motor impairment	2,956	5,338	8,294
Language or speech disorder	6,035	13,562	19,597
Autistic spectrum disorder	8,067	22,112	30,179
Social, emotional and behavioural difficulty	21,167	41,911	63,078
Physical health problem	7,974	9,564	17,538
Mental health problem	6,259	4,625	10,884
Interrupted learning	5,256	5,753	11,009
English as an additional language	24,824	27,170	51,994
Looked after	4,322	4,836	9,158
More able pupil	1,203	1,682	2,885
Communication Support Needs	4,032	9,821	13,853
Young Carer	3,699	2,869	6,568
Bereavement	2,587	2,881	5,468
Substance Misuse	280	367	647
Family Issues	12,493	13,750	26,243
Risk of Exclusion	467	1,484	1,951
Other	11,096	14,557	25,653

Table 1.9a: Pupils who are assessed or declared as having a disability, by sex, count 2023			
Assessed and/or declared as having a disability	Female	Male	Total
Total assessed and/or declared as having a disability	7,447	14,509	21,956
Assessed as having a disability	6,123	12,119	18,242
Declared as having a disability	1,324	2,390	3,714

## Sex

1. [Reducing Restrictive Intervention of Children and Young People Update of Case study results](#), February 2020

The report found that 85% of children and young people who have experienced restrictive intervention are male.

2. NASUWT members survey 2023

While the statistics showed similar percentages of male and female teachers had experienced physical abuse or violence from pupils in the last 12 months (39% of women, 38% of men), the frequency of this abuse against female teachers was substantially higher (19% female and 3% of male teachers had experienced physical abuse or violence 'several times a week').

In terms of type of behaviour respondents had experienced from pupils in the last 12 months, the survey recorded:

	Being kicked	Being shoved/barged	Being hit or punched	Being headbutted
Female	11%	39%	19%	2%
Male	8%	29%	12%	1%

Online survey across the UK in the final term of the 2022/23 academic year, which was completed by 358 members of NASUWT in Scotland – 237 of whom were women.

3. EIS [Violence & Aggression Branch Survey Report and Campaigning Recommendations: Full Report](#), November 2023

A majority of school branches responded that boys were more likely to exhibit 'violent and aggressive' behaviours towards teachers, as 51% of branches responded that boys were more likely to exhibit 'violent and aggressive' behaviour towards women teachers than men teachers.

The branch survey was open for six weeks from mid-August 2023 and this is the output report. Responses were received from 875 EIS branches – i.e. schools.

## Do you think that the policy impacts on people because of their age?

Age	Impact (Positive, Negative or None)	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation	Positive	The guidance aims to help staff uphold children's rights in relation to the use of restraint and seclusion and safeguard them from unlawful and arbitrary use. The guidance on preventing distressed behaviour and alternatives to restraint and seclusion aims to reduce the risk of injury to children and young people and staff.
Advancing equality of opportunity	Positive	The guidance upholds children's right to participate, have their views heard and taken account of in decisions about them.
Promoting good relations among and between different age groups	Positive	By promoting the use of preventative approaches as a means of reducing the use of restraint and seclusion, the guidance aims to improve positive relationships-based practice between children and young people and staff.

## Do you think that the policy impacts disabled people?

Disability	Impact (Positive, Negative or None)	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation	Positive	The guidance aims to help staff uphold children's rights, including those with disabilities, in relation to restraint and seclusion, and safeguard them from unlawful and discriminatory practice.
Advancing equality of opportunity	Positive	The guidance focuses on understanding and responding to the reasons behind distressed behaviour, including where it may arise from reasons relating to a disability. Advice is provided on preventative approaches, alternatives to restraint and seclusion and recording and

		monitoring incidents to help minimise the use of restraint and seclusion.
Promoting good relations among and between disabled and non-disabled people	Positive	By promoting the use of preventative approaches as a means of reducing the use of restraint and seclusion, the guidance aims to promote positive relationships-based practice between children and young people who are disabled and staff.

### **Do you think that the policy impacts on men and women in different ways?**

Sex	Impact (Positive, Negative or None)	Reasons for your decision
Eliminating unlawful discrimination	None	While the evidence outlined above suggests the use of restraint is more prevalent on male pupils, the guidance aims to reduce the frequency of restraint and seclusion for all children and young people.
Advancing equality of opportunity	None	
Promoting good relations between men and women	None	

### **Do you think that the policy impacts on women because of pregnancy and maternity?**

Pregnancy and Maternity	Impact (Positive, Negative or None)	Reasons for your decision
Eliminating unlawful discrimination	None	N/A
Advancing equality of opportunity	None	N/A

Promoting good relations	None	N/A
--------------------------	------	-----

**Do you think your policy impacts on transsexual people?**

Gender reassignment	Impact (Positive, Negative or None)	Reasons for your decision
Eliminating unlawful discrimination	None	N/A
Advancing equality of opportunity	None	N/A
Promoting good relations	None	N/A

**Do you think that the policy impacts on people because of their sexual orientation?**

Sexual orientation	Impact (Positive, Negative or None)	Reasons for your decision
Eliminating unlawful discrimination	None	N/A
Advancing equality of opportunity	None	N/A
Promoting good relations	None	N/A

**Do you think the policy impacts on people on the grounds of their race?**

Race	Impact (Positive, Negative or None)	Reasons for your decision
Eliminating unlawful discrimination	None	N/A

Advancing equality of opportunity	None	N/A
Promoting good race relations	None	N/A

**Do you think the policy impacts on people because of their religion or belief?**

Religion or belief	Impact (Positive, Negative or None)	Reasons for your decision
Eliminating unlawful discrimination	None	N/A
Advancing equality of opportunity	None	N/A
Promoting good relations	None	N/A

**Do you think the policy impacts on people because of their marriage or civil partnership?**

Marriage and Civil Partnership <sup>2</sup>	Impact (Positive, Negative or None)	Reasons for your decision

---

<sup>2</sup> In respect of this protected characteristic, a body subject to the Public Sector Equality Duty (which includes Scottish Government) only needs to comply with the first need of the duty (to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010) and only in relation to work. This is because the parts of the Act covering services and public functions, premises, education etc. do not apply to that protected characteristic. Equality impact assessment within the Scottish Government does not require assessment against the protected characteristic of Marriage and Civil Partnership unless the policy or practice relates to work, for example HR policies and practices.

Eliminating unlawful discrimination	None	N/A
-------------------------------------	------	-----

## Description of human rights impacts

There are absolute legal prohibitions that apply to the use of restraint and seclusion. These are summarised in the Equality and Human Rights Commission's [Framework for Restraint](#), which points to the clear position in international human rights law in respect of:

restraint and seclusion 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 or seclusion that humiliates or otherwise subjects a person to serious ill-treatment or conditions that are inhuman or degrading.

Education authorities, the managers of grant-aided schools and the proprietors of independent schools should ensure that restraint and seclusion is only used as a last resort, to prevent an immediate risk of injury, 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.

## UNCRC (Incorporation) (Scotland) Act 2024

Under the 2024 Act, it is unlawful for public authorities to act incompatibly with the incorporated [UNCRC requirements](#) when acting under powers conferred by or under Acts of the Scottish Parliament, certain statutory instruments or under the common law. The 2024 Act gives children, young people and their representatives the power to go to court to enforce their rights. The use of restraint on children and young people has significant implications for their human rights, in particular with respect to the following incorporated articles:

- 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)

“Public authority” includes the Scottish Ministers, a court or tribunal, and “any person certain of whose functions are functions of a public nature”<sup>3</sup>. This expressly includes functions carried out under an arrangement with a public authority<sup>4</sup>, which would include functions carried out under a contract or grant. Education authorities are public authorities for the purposes of the 2024 Act. While this is ultimately for the courts to determine, it is anticipated that publicly-funded provision at grant-aided or independent schools would be a public function.

## Human Rights Act 1998

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 people.

Any physical restraint would have to meet this test.

## Limitations of available evidence

There is no comprehensive baseline data for the number of restraints currently used in schools across Scotland. The guidance aims to increase the consistency of recording and monitoring to enable a focus on minimising the use of restraint and seclusion. The available data will be considered as part of the 1 year review of the guidance following its publication.

## Recommendations and Conclusion

This impact assessment highlighted a risk of discriminatory practice in the use of restraint and seclusion on disabled children and young people, particularly where restraint or seclusion was used in response to distressed behaviour arising from a child or young person’s disability. Guidance is offered on this risk as a result.

Some evidence indicated a high prevalence of restrictive practices beginning with younger, primary school aged, children. Guidance is offered on minimising restraint and seclusion in all schools, including primary schools settings.

---

<sup>3</sup> Section 6(5).

<sup>4</sup> Section 6(6).



The evidence considered also suggests the use of restraint is more prevalent on male pupils. Again, guidance is offered on minimising restraint and seclusion for all children and young people.

The EQIA has helped to highlight areas of concern in relation to the prevalence of behaviour that carries a risk of injury and advice on how to reduce these risks has been included within the guidance.

The Scottish Government has agreed to review the impact of the guidance 1 year after publication. This review will be led by the Scottish Government with relevant partners.



© Crown copyright 2024

**OGL**

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit [nationalarchives.gov.uk/doc/open-government-licence/version/3](https://nationalarchives.gov.uk/doc/open-government-licence/version/3) or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk).

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at [www.gov.scot](http://www.gov.scot)

Any enquiries regarding this publication should be sent to us at

The Scottish Government  
St Andrew's House  
Edinburgh  
EH1 3DG

ISBN: 978-1-83601-990-9 (web only)

Published by The Scottish Government, November 2024

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA  
PPDAS1523270 (11/24)

**W W W . g o v . s c o t**