



## **Re: Section 11, Proposed Learning Disabilities, Autism and Neurodivergence Bill Consultation**

The letter is being sent on behalf of the Scottish Physical Restraint Action Group (SPRAG).

SPRAG is a member-led group with representation from over 70 organisations. The group was formed in 2019 to consolidate and build on practice developments around reducing, and where possible eliminating, the physical restraining of children and young people in residential childcare. SPRAG is hosted by CELCIS, the Centre for Excellence for Children's Care and Protection, who are based at the University of Strathclyde.

SPRAG's vision statement is:

*We are committed to bringing about more effective, empathic, loving ways of holding children, young people and the adults who care for them in residential childcare in relationally rich environments, populated by adults who are properly equipped with requisite skills, knowledge and ways of being with children in the way that children need.*

*We will work towards making coercive forms of holding less or even unnecessary and, when children are restrained, it is carried out relationally and with care.*

There is representation on the group from a range of sectors and perspectives including parent campaigners and care experienced young adults, residential, education and secure care providers, the Care Inspectorate, Strathclyde University, CELCIS, CYCJ, academics, Scottish Government, Scottish Prison Service, Police Scotland, Education Scotland, Scotland Excel, and the National Secure Adolescent Inpatient Service, as outlined in appendix 1. The majority of members represent residential childcare services in Scotland.

The group is involved in a variety of activities designed to positively impact efforts to reduce and/or eliminate the use of physical restraint in residential childcare while avoiding unintended and more deleterious consequences, and always upholding children's rights. Activities cover the broad categories of 'impact', 'influence', and 'outcomes', for example:

- **Impact** – Publication of a series of blog posts expressing a range of perspectives and with a range of target audiences; featuring at the Scottish Institute for Residential Child Care (SIRCC) conference over consecutive years; successful award in 2022 of The Promise funding for the development and participation in a Reflection and Action Learning Forum (RALF).
- **Influence** – A collective voice across sectors and organisations; supporting and offering consultancy advice to partners, including the Care Inspectorate and Scottish Government; responding to relevant consultation opportunities; participating in the development and pilot of new resources/tools (e.g. the Care Inspectorate restrictive practice self-evaluation tool); contributing inputs to webinars, focus groups, leadership groups and other national representative groups.
- **Outcomes** – SPRAG’s recommended definitions relating to physical restraint feature in Care Inspectorate reporting guidance; a research agenda that has led to a pilot project taking an Appreciative Inquiry to effective practice related to restraint reduction (with funding being sought for the large-scale study).

Further information on the activities of the group can be found [here](#).

### **SPRAG response to LDAN Bill consultation**

SPRAG members considered and discussed section 11 (Restraint and seclusion) of the proposed Learning Disabilities, Autism and Neurodivergence (LDAN) Bill during a scheduled meeting in preparation for this letter response.

The group were of the view that much of the content of the three previous consultation responses submitted since June 2022 would be directly relevant to section 11 of the proposed LDAN Bill and respectfully request that this letter, as well as these three documents below, are included in the analysis of responses:

- [Restraint and Seclusion \(Prevention in Schools\) \(Scotland\) Bill - SPRAG response](#)
- [Included, Engaged and Involved, Part 3 Physical Intervention in schools - SPRAG response](#)
- [Care and Justice Bill Consultation Question 26 - SPRAG response](#)

In consideration of their response to this consultation, the group highlighted the range of consultation requests related to legislation and policy connected to restraint, restrictive practice and seclusion in recent years.

The group welcome efforts in this proposed LDAN Bill to reduce and make unnecessary coercive forms of control, and that these efforts are based on a foundation of Human Rights.

They also recognised the impact that an ongoing period of change and uncertainty at a wider systems level can have within local services and settings.

As mentioned in previous responses and outlined below, some members of SPRAG work in settings where legislation and guidance documents might overlap or misalign. This is currently, and will be, the source of ongoing uncertainty for the workforce. One example of such potential misalignment is where SPRAG has worked closely in partnership with the Care Inspectorate to recommend a set of operational definitions that are used across residential child care services. These definitions have been included in Care Inspectorate documentation and are currently in use across the residential child care sector, although they are different to the definitions proposed in the Included, Engaged and Involved, part 3 Physical Intervention in Schools guidance.

SPRAG members recognise the importance of consistent terminology and recommend, in addition to this, the inclusion of a recognition and exploration of the range of different interventions that could be considered physical restraint. This recommendation is explored in further detail in the SPRAG response to question 26 of the Care and Justice Bill consultation.

In relation to the use of language, the group would also suggest that that 'least restrictive' would be a clearer, more accurate phrase to operationalise than 'last resort'.

How any future guidance or legislation is implemented will be a key factor in achieving intended outcomes. The proposed LDAN Bill highlights the requirement for training to support implementation. Many services are currently experiencing constraints to budgets and resources, and challenges to recruitment.

The group is clear that additional funding to support this training and implementation would be required.

The group also recommends that resource is put towards considerations of how data might be used to support efforts to reduce the misuse of restraint and seclusion.

The group identified a discrepancy between the full consultation document which states:

it is not acceptable for neurodivergent people and people with learning disabilities, or anyone else, to be subject to the misuse of restraint, seclusion or other restrictive practices.

And the easy read version which states on page 4

It is not right that neurodivergent people and people with learning disabilities are restrained or secluded.

With acknowledgement that the easy read does later state:

Neurodivergent children and children with learning disabilities are only restrained or secluded as a last resort to keep them or others safe

The group is concerned that the language is not consistent, and as such there does not appear to be consistency of views and aims across the documents.

The wording in the full document appears to acknowledge that there are a limited number of occasions where restraint, seclusion or restrictive practice is appropriate and that the aim is to ensure that these practices are not misused. This aligns with the view and vision of SPRAG.

## **Summary of previous SPRAG responses**

In the September 2023, SPRAG response to the **Proposed Restraint and Seclusion (Prevention in Schools) (Scotland) Bill**, emphasis was placed on the key message that any steps taken in education settings, will have an impact on residential school settings where there are current regulatory requirements and guidance in relation to, for example, definitions and recording and reporting procedures. A lack of alignment will have implications to both settings and will limit purpose, function and reliability.

The following key messages were outlined in the SPRAG response to the Scottish Government's public consultation on **Included, Engaged and Involved, Part 3 Physical Intervention in schools' guidance** in October 2022:

- The guidance is welcomed.
- The definitions proposed do not align with those already operational elsewhere, such as residential childcare. A lack of alignment will limit their purpose and function and limit the reliability of any data collated.
- The governance structures are unclear in terms of regulatory responsibilities, recording and reporting procedures and who has oversight of the data collated. We recommend an independent regulatory body has national oversight.
- Members strongly advocate for the development of co-produced, updated practice guidance in relation to restraint and restrictive practice, and propose that, rather than a standalone document, guidance should comprise of a suite of resources and tools subject to regular review.
- All members of the education workforce should have access to regular, high-quality supervision, debriefs and reflective practice;
- Clarity is required with regards training, learning and development requirements.

In June 2022, in response to question 26 the Scottish Government's **Care and Justice Bill** public consultation which asked: *'Whilst there are standards and procedures to follow to ensure restraint of children in care settings is carried out appropriately, do you think guidance and the law should be made clearer around this matter?'*, SPRAG offered the following key messages:

***SPRAG members are not convinced there would be positive gains from amendments to the law in relation to restraint at this time; and are of the view that there is real risk of unintended negative***

***consequences to legislation banning the use of restraint as outlined below in this response.***

Members strongly advocate for the development of co-produced, updated practice guidance in relation to restraint and restrictive practice, and propose that, rather than a standalone document, guidance should comprise of a suite of resources and tools subject to regular review. Done well, the process of developing such guidance, and its dissemination and consistent implementation require significant resource (both capacity and financial), which must be factored in from the earliest possible stage. Members are clear that this guidance must be developed in collaboration with the sector and individuals with lived experience of restraint, holding centrally the voices of children and young people who contributed to the Independent Care Review (2020) and building on what they have already told us must change.

This guidance would have the potential to lead practice change, provide a clarity for expectation that services should follow, as well as provide clarity for inspection bodies, advocates, parents and young people in relation to their rights, the law, and best practice. Positive practice examples and case illustrations which make clear the distinction between good and unacceptable practice, while engaging with related complexities, must form a key feature of the guidance.

These recommendations are based on group members practitioner wisdom, voice of children and young people, and operational and strategic experience and understanding of the nuance and complexity related to restraint and restrictive practice as outlined in this response. SPRAG members are in a unique position to contribute to the development of a suite of guidance that will support clarity, understanding and a reduction in the use of restraint and restrictive practice across children's care settings, and would be keen to support and input into this work going forward.

In this consultation the group also offered the following conclusion:

The Scottish Physical Restraint Action Group (SPRAG) do not support amendments to the law in relation to restraint at this time; and are of the view that there is real risk of unintended negative consequences to legislation banning the use of restraint, as outlined throughout this response. SPRAG recommends that a formal review and update of available guidance in relation to restraint and restrictive practice is undertaken; that any updated guidance is comprised of a suite of resources developed in collaboration with the sector, with children and young people, and with care-experienced adults. The group suggest that the locus should be to support staff to understand children's behaviour and their related needs through a trauma-informed lens, as opposed to behaviour management approaches, and that a clear statement be made establishing the deliberate use of pain as unacceptable. Residential child care and the secure care sector have a significant contribution to make to

discussions in relation to restraint and restrictive practice, and this should be built upon and used to influence practice and experiences of all those connected with restraint. SPRAG would welcome the opportunity to engage in such a review and contribute to the update of guidance and development of resources.

Thank you for providing us with this opportunity to respond, we would be happy to provide further information in respect to any of the areas discussed here.

Kind Regards

Scottish Physical Restraint Action Group

[CELCIS@strath.ac.uk](mailto:CELCIS@strath.ac.uk)