

# **RESTRAINT AND SECLUSION IN SCHOOLS (SCOTLAND) BILL**

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## **FINANCIAL MEMORANDUM**

### **INTRODUCTION**

1. As required under Rule 9.3.2 of the Parliament's Standing Orders, this Financial Memorandum is published to accompany the Restraint and Seclusion in Schools (Scotland) Bill, introduced in the Scottish Parliament on 17 March 2025.
2. The following other accompanying documents are published separately:
  - Explanatory Notes (SP Bill 61–EN);
  - a Policy Memorandum (SP Bill 61–PM);
  - a Delegated Powers Memorandum (SP Bill 61–DPM);
  - statements on legislative competence made by the Presiding Officer and the Member in Charge of the Bill (SP Bill 61–LC).
3. This Financial Memorandum has been prepared by the Non-Government Bills Unit on behalf of Daniel Johnson MSP, the Member in Charge of the Bill, to set out the costs associated with the measures introduced by the Bill. It does not form part of the Bill and has not been endorsed by the Parliament.

### **OVERVIEW**

4. The Bill makes provision about the use of restraint and seclusion in schools by individuals acting under the authority of education providers. The policy intention of the Member is to ensure that appropriate techniques of restraint and seclusion are used in schools only as a last resort.
5. The Bill imposes a duty on Scottish Ministers to issue guidance on the use of restraint and seclusion and requires education providers to have regard to this guidance. The Bill sets out a detailed list of what such guidance should include. As context, third sector organisations and the Children and Young People's Commissioner Scotland have found that for many children, especially for those with additional support needs (ASN), the use of restraint and seclusion is a regular part of their experience at school.
6. The Bill requires schools to inform parents as soon as possible and no later than 24 hours after there has been an incident in which restraint or seclusion techniques have been used on their

child. Again, as context, the Member has received substantial evidence highlighting cases where parents were not informed about their child's restraint or seclusion at school.

7. The Bill places a duty on education providers to record all incidents of restraint and seclusion in their schools as the Member considers that as present there is insufficient data to allow schools, education authorities and the inspectorate to identify areas of concern where seclusion and restraint are used excessively. Education authorities must record all incidents of restraint or seclusion in schools within their area and report to the Scottish Ministers who must, in turn, report to the Scottish Parliament every year detailing the number of incidents. The Bill requires Scottish Ministers to maintain a list of training providers who provide training in the use of restraint and seclusion that meet standards set by the Scottish Government, and to publish the list.

8. The provisions apply to education authority run primary schools, secondary schools, and special schools. The provisions also apply to independent schools and grant-aided schools, including special schools. The provisions that apply to parents also apply to guardians (or 'any person who is liable to maintain or has parental responsibilities').<sup>1</sup> While the implementation of the provisions of the Bill will particularly benefit children and young people with ASN, the duties under the Bill – such as the requirement to report an incident of seclusion or restraint to a parent – apply equally to all pupils.

## **BACKGROUND**

9. The thorough implementation of the Bill's provisions will have a series of costs associated with it, including:

- Production of the guidance, and future revised versions of the guidance;
- Consultation on the guidance, and future revised versions of the guidance;
- Reviewing practices at school level against the requirements of the guidance, including reviewing any individual plans in place for individual children and young people or creating new ones;
- Establishing approved training standards and producing a published list of training providers based upon it;
- Additional actions taken following an incident under the guidance;
- Increased regularity of informing parents of an incident;
- Recording all incidents of seclusion and restraint as standard;
- Establishing new processes for the collation, storage and sharing of data on incidents of seclusion and restraint; and
- Collation of data at a national level by Scottish Ministers and the publication of the associated annual report.

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<sup>1</sup> <https://www.legislation.gov.uk/ukpga/1980/44/part/II/crossheading/duty-of-parents-to-provide-education-for-their-children>

## **CONTEXT FOR THE RESOURCE IMPLICATIONS OF THE BILL**

10. Before working through these requirements and estimating the costs of them as accurately as possible using existing published data, it should be acknowledged that the majority of the additional roles and responsibilities required by the Bill are already included as functions within the Scottish Government’s non-statutory guidance, *Included, Engaged and Involved Part 3: A Relationships and Rights-based Approach to Physical Intervention in Schools*, which was published in November 2024.<sup>2</sup> In addition, a number of the responsibilities for schools and education authorities were set out in the versions of the guidance that preceded it.

11. As has been well documented, including in responses to the consultation on this Bill, underfunding of schools (including specifically the longstanding underfunding of the presumption to provide education in a mainstream setting policy) is a key barrier to preventing progress towards the implementation of non-statutory guidance in publicly funded primary and secondary schools.

12. In response to the consultation on the policy proposal behind this Bill, NASUWT highlighted the “presumption of mainstreaming” education policy had impacted financing in the sector, and that specialist services and support for pupils with additional support needs (ASN) had been “disproportionately affected” by budget reductions resulting from austerity policies. Its response described its members’ view of this perceived “failure of inclusion policy”.

13. A theme of inquiries by successive Scottish Parliament committees has been the impact of resources on the effective implementation of the presumption of mainstreaming policy. This includes the impact of staffing levels – including teacher numbers and the number of support staff, including those with specialist training in a range of additional support needs – on the ability of schools to provide tailored support and one-to-one time to children and young people with complex needs, including disabled children.

14. AHDS’ submission to the Education, Children and Young People Committee’s Additional Support for Learning Inquiry stated “...virtually all would also agree that the policy has not been properly funded to meet its goals and as a result puts enormous strain on schools and can result in negative impacts for pupils with ASN and for their peers.”<sup>3</sup>

15. While the Bill does not focus on a specific cohort of school pupils and applies equally to all pupils regardless of the level of support they require, there is a clear correlation between children having ASN of some form and being involved in incidents of seclusion and/or restraint by school staff.

16. The number of pupils with ASN is increasing. The Committee’s report stated that—

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<sup>2</sup> Scottish Government guidance, retrieved from [Physical intervention in schools - a relationships and rights based approach: guidance - gov.scot](#)

<sup>3</sup> Education, Children and Young People Committee report on Additional Support for Learning, retrieved from [Additional Support for Learning inquiry | Scottish Parliament](#)

“According to the latest Scottish Government figures, in 2023, 37% of all pupils (259,036 individuals) had an additional support need (ASN). This is 2.8 percentage points higher than 2022 when 34.2% of pupils had an additional support need.”<sup>4</sup>

17. A scoping paper from Audit Scotland for planned work in this area highlighted education authority spending on additional support for learning (ASL), stating that—

“Scottish councils spent an identifiable £926 million on ASL in 2022/23, but we know that this does not capture all relevant spend. Councils’ approaches to ASL vary, and there is wide variation across councils in both the percentage of pupils recorded as needing ASL and in councils’ spend on ASL [...] The indications are that ASL costs are increasing.”<sup>5</sup>

18. As far as the Member is aware, the implementation of the existing Scottish Government guidance has not been specifically costed, and no targeted additional funding has been provided to implement it. This has also been the case for the roll-out of statutory guidance for education authorities on other issues.

19. It is assumed that the education agreement with COSLA is intended to finance the work required to implement the existing Scottish Government guidance, among other priorities for supporting children with ASN. A Scottish Government announcement stated—

“On 11 December [2024], the Scottish Government and COSLA reached an agreement on education funding and provision. As outlined in the accompanying [joint statement](#), in addition to £186.5m for the education workforce, local government will also receive additional funding of £28 million from 2025-2026 to develop the Additional Support for Learning (ASL) education workforce along with an enhanced offer in support, spanning all stages of the curriculum from the early years to the end of secondary. Further funding of £1 million is also being made available to support national initiatives which will help to recruit and train more ASL teachers.”<sup>6</sup>

20. There are several other funded strands of work currently being undertaken by Scottish Government working groups: for example, as set out in more detail below, the reconvened Additional Support Needs Working Group and the multi-agency ASL Project Board established to take forward the action plan based on the recommendations of the Morgan Review.<sup>7</sup>

## **METHODOLOGY**

21. The information set out above illustrates the challenges associated with estimating the cost of implementing the provisions of this Bill. Many of the requirements of the Bill are already requirements of education authorities and schools – albeit on a non-statutory footing – and it is not

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<sup>4</sup> Ibid

<sup>5</sup> Audit Scotland scoping paper on ASL, retrieved from [https://audit.scot/uploads/docs/report/2024/br\\_additional\\_support\\_for\\_learning.pdf](https://audit.scot/uploads/docs/report/2024/br_additional_support_for_learning.pdf)

<sup>6</sup> Scottish Government FOI release on Additional Support Needs Plan, retrieved from [Additional Support Needs \(ASN\) plan: FOI release - gov.scot](#)

<sup>7</sup> Independent Review of ASL implementation commissioned by the Scottish Government, retrieved from [Review of additional support for learning implementation: report - gov.scot](#)

possible to establish, on an individual basis, the extent to which education authorities and schools already implement these measures in full, and where the challenging gaps remain.

22. It is also not possible to establish the extent to which additional funding streams (e.g. through the Scottish Budget and funding already provided to the work of existing working groups) will serve to implement some of the provisions of the Bill (i.e. the elements that mirror the provisions in the non-statutory guidance).<sup>8</sup> Nor is it possible to put a figure on the extent to which schools lack the numbers of staff or the specialist staff to be able to have the time and expertise required to deliver the processes envisaged in the Bill to ensure that seclusion and restraint is only ever used as a last resort.

23. The Member is seeking to establish reasonable costs for the Bill, while not being responsible for addressing existing systemic underfunding. It is very challenging to estimate the extent of underfunding, or the extent to which elements of the Bill have already been actively implemented in some schools or education authority areas in Scotland. These are obvious limitations in the ability to estimate some of the largest costs of implementing the provisions of the Bill.

## **COSTS ON THE SCOTTISH ADMINISTRATION**

24. Central to establishing what constitutes additional costs resulting from the Bill is establishing the extent to which the processes in the bullet point list on page 2 above are already taking place. To do this, it is necessary to analyse the existing processes at Scottish Government, education authority and school level, and to establish the current costs of these processes as far as is practicable. These are considered in turn below.

### **Producing, consulting on and publishing guidance**

25. Section 2 of the Bill requires the production of the initial statutory guidance, and future revised versions of the guidance. It requires at least targeted consultation on the initial guidance and future revised versions of the guidance and stipulates who this consultation must involve. Each version of the guidance then needs to be rolled-out to education authorities (and on to individual schools run by education authorities), independent schools, and grant-aided schools.

26. As noted above, the Scottish Government has already developed and published extensive non-statutory guidance on the use of what it describes as ‘physical intervention’. As detailed in the Policy Memorandum for this Bill, the Member envisages that much of the content of the current non-statutory guidance will be replicated in the statutory guidance. The contents of the non-statutory guidance have already been extensively consulted upon, and while distinct positions remain on the balance of information within the guidance, the Member considers that much of the content envisaged in the statutory guidance is present and well-developed within the existing guidance. On that basis, it is not envisaged that additional costs of the development of the guidance will be substantial.

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<sup>8</sup> For example the Bill requires datasets from each education provider to be provided to the Scottish ministers and the working group is currently working on delivering this and the non-statutory guidance already stipulates this needs to happen.

27. The Bill does not require the guidance to be produced within a particular timescale. This is, in part, because the Member hopes that the initial guidance can be published relatively quickly, following targeted consultation with key stakeholders as required under section 2 of the Bill. It is also envisaged that this process and future revisions to the guidance, also involving consultation, would not be hugely costly to complete. However, the Member does not wish to assume that the production of the initial guidance should be a scaled down exercise, given his view on its importance. On that basis, to ensure that estimates are set at a realistic level to enable detailed work, this Financial Memorandum assumes that there will be full guidance development and costs it accordingly.

28. In terms of comparable costs, a Scottish Government FOI release detailed the cost of the production of the draft statutory guidance entitled *Delivery of relationships, sexual health and parenthood (RSHP) education in Scottish schools*.<sup>9</sup> This guidance published in 2023 cost £39,913.14 to produce. Adjusted for inflation this figure would be £44,396.<sup>10</sup> The RSHP education guidance was itself revising previous guidance from 2014, so it seems reasonable to assume that the cost of producing initial seclusion and restraint guidance and revised versions of the guidance could be as high as £44,396. To ensure reasonable estimates for the guidance are included in the overall calculations on the cost of the Bill, it is assumed that the guidance will cost £44,396 to produce and £44,396 for future revisions of the guidance.

29. In relation to the cost of consulting on the guidance, the FOI release details the costs of producing and analysing consultations on numerous education policies. This includes the Physical Intervention in Schools guidance consultation, which is recorded as costing £2,472.28.<sup>11</sup> The consultation on the guidance involved an open call for views and analysis of all responses received.

30. Under the Bill, the consultation in practice only requires targeted consultation with key stakeholders, such as education authorities, unions, independent schools, grant-aided schools, the Children and Young People’s Commissioner Scotland, and representatives of parents (including guardians and carers), children and young people. However, the Member has no desire to prevent a consultation from being undertaken more widely if this is considered necessary, including for future revisions of the guidance. On that basis, the cost of consulting on new guidance and any revised guidance is assumed to be £2,475 for each consultation process. Adjusted for inflation, the estimated cost is £2,686.<sup>12</sup>

31. The Bill does not assume that a review of the guidance will happen at set times. Rather, it allows for it to be reviewed “from time to time”. For the purposes of estimating costs, it is assumed this will take place every 5 years.

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<sup>9</sup> FOI release by the Scottish Government on the cost to produce and analyse various education consultations retrieved from <https://www.gov.scot/publications/foi-202400434483/>

<sup>10</sup> Calculated using the Scottish Parliament Information Centre [Real terms calculator – SPICe Spotlight | Solas air SPICe](#), accessed 10 March 2025

<sup>11</sup> Ibid

<sup>12</sup> Calculated using the Scottish Parliament Information Centre [Real terms calculator – SPICe Spotlight | Solas air SPICe](#), accessed 10 March 2025

32. It is worth noting that a potential forum for developing further iterations of the guidance is in the process of being reconvened by the Scottish Government. In answer to a parliamentary question, the Cabinet Secretary for Education and Skills confirmed that the Scottish Government intended to reconvene the Physical Intervention and Seclusion Working Group, which last met in 2021.<sup>13</sup> The group involves a number of the key stakeholders that are listed in section 2 of the Bill. Therefore, assuming that this working group is reconvened as announced, this would be an obvious forum for discussion and consultation on the statutory guidance and any future revisions of the guidance.<sup>14</sup> There was a short life sub-group of the Working Group established specifically to consider the original non-statutory guidance, which could potentially also be reconvened for this purpose.<sup>15</sup>

33. The Scottish Government has committed the working group to providing a ‘review one year from the publication of the new guidance to assess its effectiveness’. It is assumed for the purposes of this Memorandum that any such review of the non-statutory guidance would form part of the development of the initial statutory guidance, rather than a separate, standalone review being required. In other words, it is envisaged that part of the process of reviewing the existing guidance will be to establish how it requires to be amended in becoming statutory guidance. It could be argued that the Member does not require to include estimated costs for development and review of the guidance, including consultation, if this work was already planned and therefore to be funded by the Scottish Government. However, the full costs set out above on producing and revising guidance are included to ensure reasonable estimates feature wherever possible in this Memorandum.

### **Reviewing and revising practices based on the requirements of the new guidance**

34. While not specifically required by the Bill, it is assumed that, in order to thoroughly implement the requirements of the statutory guidance established by the Bill, there will need to be a review of processes at both education authority level and individual school level (whether education authority-run schools, grant-aided schools or independent schools).

35. Each school level review would presumably include a review of any plans in place for individual children and young people where physical intervention is deemed likely, or the creation of new plans for any additional pupils identified as needing one. In addition, part of reviewing processes against the requirements of the statutory guidance could involve an assessment of the extent of specialist training in seclusion and restraint for particular job roles, and also whether there is a need for additional training to ensure that there is a sufficient number of staff trained to a suitable level within a particular unit or school. Furthermore, de-escalation techniques often require sufficient staffing to enable one-to-one support to be provided to individual pupils at specific times or on a sustained basis. Therefore, an assessment of the extent to which those processes are currently in place could also usefully be completed. These review processes are not specifically required under the Bill and so do not necessarily need to be costed in this Memorandum. However, to maximise the effectiveness of the guidance, the Member considers that these would be prudent steps for any school where processes are not currently in place or

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<sup>13</sup> <https://www.parliament.scot/chamber-and-committees/questions-and-answers/question?ref=S6W-26333>

<sup>14</sup> The role and membership of the group is available here: <https://www.gov.scot/groups/physical-intervention-and-seclusion-working-group/>

<sup>15</sup> [Physical Intervention Working Group: Guidance sub group - gov.scot](#)

sufficient focus has not been given to ensuring wholesale implementation of the current Scottish Government guidance.

36. It is worth reiterating that part of the challenge of estimating how much work needs to be done is understanding how much of this work has already been done at education authority and school level, including as a result of the existence of non-statutory guidance. Education authorities have already been asked to have policies in place in relation to the use of restraint and seclusion, and to monitor their use by the Scottish Government within existing guidance (and in guidance issued in 2011 and 2017).<sup>1016</sup>

37. The Member envisages that practices will be in place in numerous education authorities and their schools. However, moving to a statutory requirement for education providers, including education authorities, to have regard to the guidance will instigate a firming up of processes and additional focus given to them in many areas.

38. The additional funding estimated below does not include an allocation for independent schools. Potential costs for independent schools are detailed in the section on total costs on individuals and businesses below.

39. Figure 1 in the Scottish Government summary statistics for schools in Scotland 2024 includes details of all publicly funded schools in 2024: 1,978 primary schools, 360 secondary schools and 107 special schools. 2445 schools in total.<sup>17</sup> It is worth noting that many primary and secondary schools have specialist units to support those with an ASN. These can take different forms. A briefing from Audit Scotland on Additional Support for Learning included the results of surveys to education authority run primary and secondary schools which stated that—

“Councils also provide enhanced provision across 468 mainstream schools (20 per cent of all 2,349 mainstream schools in 2023). This provision can be a distinct space with an enhanced level of staffing and resource exclusively to provide ASL. Around 11,400 pupils spent some time away from mainstream classes in 2023.”<sup>18</sup>

40. The figures provided below relate solely to additional funding for publicly funded special schools, primary schools and secondary schools. It is impossible to assess the distinct funding needed by type of school, size of school, or by the size or nature of education authority area. The more progress made by a school – be it primary school, secondary school or special school, in implementing the existing Scottish Government guidance to date, the less additional resource will be required to implement the provisions of the Bill. Staffing levels will also have a notable impact. On that basis, there will be a wide variation of need for additional resources.

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<sup>16</sup> The Cabinet Secretary for Education and Skills confirmed this in a written answer to a parliamentary question, stating that—“Restraint and seclusion should only ever be used as a last resort to prevent the risk of injury. Under existing guidance, all local authorities are asked to have policies in place governing the use of these practices and are asked to monitor their use.” <https://www.parliament.scot/chamber-and-committees/questions-and-answers/question?ref=S6W-26331>

<sup>17</sup> [Headline statistics - Summary statistics for schools in Scotland 2024 - gov.scot](https://www.gov.scot/publications/headline-statistics-2024/pages/summary-statistics-for-schools-in-scotland-2024.aspx)

<sup>18</sup> Audit Scotland briefing, Additional Support for Learning, February 2025. Retrieved from [https://audit.scot/uploads/2025-02/briefing\\_250227\\_additional\\_support\\_for\\_learning.pdf](https://audit.scot/uploads/2025-02/briefing_250227_additional_support_for_learning.pdf)



41. It can be broadly assumed that, while resource limitations may be greatest in primary and secondary schools, the requirement for training would involve a greater proportion of the school's staff in special schools. In addition, the processes set out in the Bill, such as reviews of individual child plans, post-incident reviews and any implementation of any actions resulting from those reviews, could be required more frequently in special schools. In other words, there are strong arguments for additional resources across all of these different types of school.

42. It is assumed that a proportion of the £28 million of additional funding for additional support for learning being allocated for 2025-26 as a result of the education agreement between COSLA and the Scottish Government will be used towards the implementation of the existing Scottish Government guidance, which it is expected the statutory guidance will closely mirror.

43. To supplement this single year funding, this Financial Memorandum assumes that sustained funding is required to assist schools in implementing the guidance and the duties in the Bill on an ongoing basis.

44. It is envisaged, since the vast majority of schools are overseen by education authorities, that this additional funding would be allocated to education authorities by the Scottish Government in annual budget allocations to enable education authorities to take informed decisions on where to target the funding.<sup>19</sup> The Scottish Government also has established processes for allocating funding directly to schools, such as Pupil Equity Funding (PEF). Ultimately, decisions on how to allocate additional funding between schools or education authorities, and the means used to do so, are not a matter for the Member.

45. In the absence of detail as to which schools have implemented the existing guidance to any particular degree, the Member is estimating the ongoing costs on the basis that every school will receive the same level of funding based on increased teacher time to implement the guidance on an ongoing basis. It is assumed every school will require 2 to 4 days of teacher time a year.

46. In practice it is assumed that education authorities are provided with this funding for allocation, where schools are run by education authorities. Education authorities could then decide to provide targeted funding to certain schools. For example where education authorities are aware that there are high numbers of incidents of restraint or seclusion, high numbers of issues raised by parents, low levels of staff training, or very limited data to establish the nature of the situation in relation to incidents of restraint and seclusion. Other schools which are already compliant with the existing Government guidance could require much lower levels of funding.

47. A submission to the Scottish Parliament Education, Children and Young People Committee from the Scottish Government included average daily costs for secondary school teachers. £333 per day based on salary and on-costs divided by 190 days a year.<sup>20</sup> Assuming 2 to 4 days of a teacher's time per school covering 2445 schools would provide a range of £1,628,370 to £3,256,740 per annum.

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<sup>19</sup> This is with the exception of a small proportion of this funding with the Member assumes will be allocated directly to grant-aided schools, including the 7 special schools (there are 8 grant-aided schools in total)

<sup>20</sup> Scottish Government supplementary submission on the Residential Outdoor Education (Scotland) Bill, retrieved from [Schools \(Residential Outdoor Education\) \(Scotland\) Bill](#)

48. It should be noted that establishing an average cost of pupil support assistants is far more challenging as there are a range of salaries and working arrangements (e.g term time working only) and the salary scales are specific to each local authority. However it would be reasonable to assume that funding provided to a school could be used for a combination of for example ASN teacher and ASN specialist pupil support assistant time, with a range of staff working to embed best practice amongst other staff.

49. The Member is clear that there will be a range of requirements for resources and education authorities are best placed to make assessments as to how to spend additional funds, be it their share of the additional £28 million in the 2025-6 budget agreement or the additional funding for this Bill (or the combination of the two). On the basis that this funding could be used for additional training, time for additional data collation and management following each incident of seclusion or restraint, or any of the other processes required by the guidance, the Member considers that funding for this Bill would not constitute one-off costs, and is providing for the range of costs above to be required on an on-going basis.

### **Establishing approved training standards and producing a published list of training providers**

50. The Bill does not in and of itself require mandatory training. However, section 5 of the Bill requires approved standards to be created by Scottish Ministers and then for a list of training providers that meet these standards to be provided and published.

51. There is currently Scottish Government work underway in this area, which is likely to naturally progress towards the setting of standards that could form the basis of this published list. The *Additional Support for Learning review - action plan: third progress report* states that—

“ASL Project Board members are in the process of planning a mapping exercise to determine what professional learning is currently available across Scotland at a national, local, and school level. The Inclusion, Wellbeing and Equalities Professional Learning Framework, developed by Education Scotland in partnership with others, will be a key driver for supporting this work, and for exploring further options going forward. This Framework will continue to evolve by responding to feedback from teachers and practitioners, in addition to the changing education landscape.”<sup>21</sup>

52. The process of determining what professional learning is currently available and exploring further options going forward will presumably include the ASL project board making judgments as to what forms of training do and do not constitute appropriate training on seclusion and restraint for different school staff. These judgments would be made based on criteria, which could be taken to be equivalent to training standards.<sup>22</sup> Once the standards are established by a process that is already underway, the preparation, publication and upkeep of a list would be a relatively low initial cost, with low ongoing costs. Based on earlier estimates on producing and publishing information, it is assumed that £5,000 is a reasonable amount to allow for this purpose. It is assumed this list will be updated from time to time. For the purposes of this Memorandum, it is estimated that a further £5,000 will be incurred every five years to update this list.

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<sup>21</sup> <https://www.gov.scot/publications/additional-support-learning-action-plan-3rd-progress-report/pages/9/>

<sup>22</sup> ASL project board membership <https://www.gov.scot/groups/additional-support-for-learning-project-board/>

### **Actions to be taken following an incident of seclusion or restraint**

53. Section 4 of the Bill places a duty on schools to inform the parent of the child or young person that the child or young person has been subject to restraint or seclusion, and to provide them with details of the incident. This must happen as soon as possible, and no later than 24 hours after the incident. In addition, the guidance under section 2 of the Bill will include details of actions to be taken following an incident of restraint or seclusion. This is likely to include a review of the incident, which would mirror standard practice as currently advised. In addition, the Bill would require every incident to be recorded. This information would then be shared with the Scottish Ministers by education authorities, independent schools and grant-aided schools to inform an annual report to the Scottish Parliament. It would also be available for the inspectorate, education authorities and individual schools to analyse and assist them in identifying targeted recommendations to further improve processes.

54. Informing parents of incidents that they are not typically informed of already will involve additional school staff time, as will the completion of the review of the incident and recording details of the incident. Again, it is worth noting that Scottish Government guidance already sets out in detail what is considered best practice for each of these actions. The guidance is very prescriptive in places, and it is likely that many schools already have the processes set out in the guidance established within their schools. For example, the guidance states that an incident should be “reported by school to parents/carers as soon as possible during the school day and exceptionally within 24 hours of restraint being used.” In addition, the guidance sets out 8 core considerations as part of standard post-incident reviews. It also includes 23 specific details about an incident that should be recorded after each incident.<sup>23</sup>

55. In relation to the recording of incidents and the storage of this data, schools will already have systems and extensive experience in capturing and securely saving special category data (only for as long as is necessary). What is unclear is the extent to which such data on seclusion and restraint incidents is currently being recorded by schools and then shared with education authorities to establish complete datasets at education authority level.

56. As highlighted in the Policy Memorandum, the publication of the then Children and Young People’s Commissioner Scotland’s 2018 report, *No Safe Place: Restraint and Seclusion in Scotland’s Schools*, found very varied practices in the collation of data across the 32 local authorities including that 10 local authorities failed to record all incidents of restraint and seclusion and four did not record any. The Commissioner’s investigation report noted that 18 authorities were able to provide data on restraint and seclusion. This report was published over six years ago, so it may be the case that recording incidents in detail as standard practice has become more widespread, including as a result of this work and the issuing of detailed Scottish Government guidance.

57. To enable data to be collated centrally, the Bill will require a standardised dataset to be established across all education authorities, as well as independent schools and grant-aided schools, so that the data can be easily combined and interpreted centrally and processed for publication in the annual report to the Parliament. The Physical Intervention and Seclusion

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<sup>23</sup> [Physical intervention, restraint and seclusion - Physical intervention in schools - a relationships and rights based approach: guidance - gov.scot](#)

Working Group, which at the time of publication is in the process of being reconvened, had a sub-group specifically on recording and monitoring of data. The remit of the group was to—

“consider the current approach taken by local authorities on recording and monitoring incidents, and make recommendations to take forward, which will include the introduction of a standard dataset that will ensure robust information is collected at a local authority level to support improved policy and practice”.<sup>24</sup>

58. It is assumed that, once the standard dataset is established, the data can be collected electronically through education authorities from all publicly funded primary, secondary and special schools, as part of the [ScotXed](#) programme.<sup>25</sup> The ScotXed Unit is part of Education Analytical Services Division within the Learning and Justice Directorate of the Scottish Government. Under this programme, according to the Scottish Government website:

“The information collected is largely sourced from school management information systems, thus reducing the burden on data provider.”<sup>26</sup>

59. It is not anticipated that there will be additional costs associated with the data collation element of this Bill. This is on the basis that:

- there will already be widespread collection of information about incidents at school level;
- the Scottish Government already has funded work underway to establish a standard dataset and there is an established; and
- the Scottish Government ScotXed Unit has already established a process to collate such data for all publicly funded schools electronically through education authorities.

60. Section 4 also requires the Scottish Ministers to prepare an annual report. There will be costs associated with the creation and publication of an annual report. The Bill provides that the Scottish Ministers must prepare a report setting out the number of incidents of seclusion and restraint in schools in Scotland every year and lay the report before the Parliament. It is hoped that the annual report may do more than reflect the level of incidents; it may also allow for reflection on any trends suggested in the data and outline any ongoing work to further reduce the number of incidents of seclusion and restraint in schools.

61. The Financial Memorandum that accompanied the Child Poverty (Scotland) Act 2017 provides a broadly comparable example.<sup>27</sup> The figures from that Financial Memorandum have been used as a 2016-17 cash baseline for calculations in this section. That Act requires the Scottish Ministers to publish an annual report on progress made towards meeting child poverty targets and implementing the relevant delivery plan. The cost of doing so was estimated as £9,376 for staff time for each annual report and £2,000 for publication costs. Based on the above estimates, and

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<sup>24</sup> [Physical Intervention and Seclusion Working Group: Recording and Monitoring sub-group - gov.scot](#)

<sup>25</sup> Examples of ScotXed work include the information for the pupil and staff censuses, and attendance data collection which was completed electronically through education authorities.

<sup>26</sup> <https://www.gov.scot/publications/summary-statistics-for-schools-in-scotland-2024/pages/background-notes/>

<sup>27</sup> [Child Poverty \(Scotland\) Bill - Financial Memorandum | Scottish Parliament](#)

adjusted for inflation, an amount of £14,719 has been estimated for each annual report required under the Bill.

## **TOTAL COSTS ON THE SCOTTISH ADMINISTRATION**

62. As detailed above costs on the Scottish Administration are as follows:

- £44,396 for the initial production of guidance, and £44,396 for any revised versions of the guidance (it is assumed such revisions will take place every 5 years);
- £2686 for the review of any consultation responses on the terms of the initial guidance, and £2686 for the review of consultation responses on revised versions of the guidance (it is assumed such revisions will take place every 5 years);
- £1,628,370 to £3,256,740 each year to support the implementation of guidance (allocated to education authorities and also to grant-aided schools);
- £5,000 to publish an initial list of training standards and £5,000 to update this list (it is assumed every 5 years); and
- £14,719 to produce and publish an initial annual report, and £14,719 every year that follows to produce and publish an annual report.

63. The table of costs provides totals for the first year of the Bill's implementation. It also shows standard annual costs for a year where the guidance and the list of trainers / training standards is not subject to revision. In addition, it shows costs for a year where the guidance and the training list / standards are being revised.

<b>Cost</b>	<b>Year 1</b>	<b>Ongoing costs – year 2</b>	<b>Ongoing costs where guidance and training list / providers both reviewed – year 5</b>
Production / review of guidance	£44,396		£44,396
Review of consultation responses on guidance	£2686		£2686
Implementation of guidance and duties under Bill by schools	£1,628,370 to £3,256,740	£1,628,370 to £3,256,740	£1,628,370 to £3,256,740
Publish list (and revised lists) of training providers / training	£5,000		£5,000
Produce and publish annual report	£14,719	£14,719	£14,719
<b>Total</b>	<b>£1,695,171 to £3,323,541</b>	<b>£1,643,089 to £3,271,459</b>	<b>£1,695,171 to £3,323,541</b>

## **TOTAL COSTS ON LOCAL AUTHORITIES**

64. As noted above, the main cost on education authorities will be the cost associated with implementing the duties set out in the Bill, including having regard to all of the requirements of the guidance. The estimated cost is accounted for above as £1,628,370 to £3,256,740, the vast majority of which is to be allocated annually on an ongoing basis by the Scottish Government.

## **TOTAL COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES**

65. The 2023 census by the Scottish Council of Independent Schools details that there are 71 independent schools in Scotland. 51 are mainstream schools, 20 are additional support needs schools. It is reasonable to assume that the additional support needs schools will already have a large number of the processes set out in the current non-statutory guidance in place. Applying the same methodology for mainstream independent schools as was applied above for publicly funded schools, and assuming the same salaries for teachers,<sup>28</sup> the implementation of the Bill across 71 schools would cost £47,286 to £94,572 per annum for 2 to 4 days a year of teacher time.<sup>29</sup>

## **SAVINGS**

66. This section looks at medium-term savings, including at school level. This is followed by consideration of longer-term savings based on improved life circumstances for children and young people during their youth and as adults, as well as for their parents and carers.

67. In relation to schools, evidence received in response to the consultation suggested that the thorough implementation of the provisions in the Bill would lead to a positive cycle of events, which would result in many benefits, including financial savings. The Challenging Behaviour foundation stated that—

“If the proposals are put in a legal framework, then there is likely to be a financial saving: early intervention with the right training, support for staff and the continuity of training across Scotland would cut down on injuries and trauma to both staff and pupils. If children with learning disabilities receive appropriate early intervention in which they learn pivotal communication, language and motor skills, this can then decrease the risk for later challenging behaviour and mental health difficulties for children with learning disabilities, which can lead to a reduction in the need to use challenging behaviour.”<sup>30</sup>

68. This cycle where the number of incidents notably reduces over time would also reduce the number of situations in which dispute resolution processes and complaints processes need to be engaged.

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<sup>28</sup> In practice salaries are likely to be higher and set on an individual school basis

<sup>29</sup> Scottish Council of Independent Schools 2023 Census, retrieved from <https://www.scis.org.uk/assets/Uploads/Facts-Figures/SCIS-A4-AnnualCensus-2023-2.jpg#>

<sup>30</sup> <https://www.parliament.scot/-/media/files/legislation/proposed-members-bills/final-consultation-summary--proposed-restraint-and-seclusion-prevention-in-schools-scotland-bill.pdf>

69. As background, the Scottish Government guidance summarises the different processes that can be followed to solve any problems arising, including where parents consider that their child has been inappropriately secluded or restrained. The emphasis of the guidance is about parents and schools working together to solve problems. There is also provision for dispute resolution, advocacy and legal representation, including potential for a reference to the Additional Support Needs Tribunal. There is also the ability to make a complaint through the education provider, such as the education authority, using their complaints handling procedure. If the findings resulting from a complaint against the education authority are not satisfactory for the parent, they can complain directly to the Scottish Public Services Ombudsman, who may investigate further. In very serious circumstances, a parent can initiate child protection processes either through the school or of their own accord.

70. If the cycle described by the Challenging Behaviour Foundation takes place in earnest and consistently across schools then the need for resolution and complaints processes, including tribunal hearings, could be very infrequent. The processes for more serious incidents are by necessity more extensive and expensive. Arguably, in the short term, parents being informed of incidents as standard practice and more meaningful information being provided to parents about resolution and complaints processes would lead to an initial increase in the use of such processes. It is then assumed that in the medium term there would be fewer incidents (and within those, fewer of a serious nature). This would lead to the cost of resolution and complaints processes decreasing in the medium to long term.

71. The longer-term benefits for individuals, their families and wider communities were highlighted in responses to the consultation on the proposal for the Bill. There was also evidence that reflected on potential savings for public services that engage with or provide support to children and young people, and also public services that may engage with them into adulthood. The economic benefits of having more children and young people moving into meaningful employment and allowing their parents to remain in employment, were also highlighted.

72. Restraint Reduction Scotland acknowledged the short-term financial challenges faced, but also highlighted the potential long-term benefits of reducing incidents of seclusion and restraint—

“RRS appreciates the challenges that are faced by all public and voluntary organisations currently in terms of finance but believes that these proposals are of importance and will make a significant difference to the quality of lives of some of the most vulnerable children and young people in the country.”<sup>31</sup>

73. Kathleen Anne Sanger<sup>32</sup> included detail in her response of the benefits of avoiding behaviours developing that can impact on the life chances of a child—

“When children learn to escape from something they find painful or overwhelming, the behaviour becomes entrenched and hard to break, so it carries on to adulthood thus costing huge amount of resources through their childhood, then we carry that cost onto

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<sup>31</sup> <https://www.parliament.scot/-/media/files/legislation/proposed-members-bills/final-consultation-summary--proposed-restraint-and-seclusion-prevention-in-schools-scotland-bill.pdf>

<sup>32</sup> Kathleen Anne Sanger responded in an individual capacity and explained in her response that her experience in this area includes that “I have supported individuals with learning disabilities and have created resources to enable those with a learning disability to have a greater voice in their lives”

adult services costing yet more. Early intervention with the right approach and training would save a vast amount of money.”<sup>33</sup>

74. The positive impact on individual finances and the wider economy were highlighted amongst longer-term benefits detailed in other consultation responses. In relation to the experiences of parents, guardians and carers, Positive & Active Behaviour Support Scotland (PABSS) considered they would be enabled to be more economically active due to the measures contained within the proposed bill—

“Family carers tell PABSS that their inability to keep working/loss of their jobs as a result of dealing with trauma experienced by their child, themselves, and their family (including their child’s siblings) has a further financial impact on their own income. If children and their families were spared the trauma in the first instance, parents can continue working/paying their taxes.”<sup>34</sup>

75. Scottish Autism highlighted a related point—

“We have heard testimony from our own engagement with families that there are a number of parents who have become ‘economically inactive’ due to the trauma of their child’s experience leading them to become unable to attend school, or being placed on a part-time timetable. Better informed practice, which eliminates the instances of children being subject to these harmful approaches will, over time, potentially increase the number of children included within school, and thus reduce the need for parents to give up work.”<sup>35</sup>

76. While Daniel Johnson MSP is primarily pursuing this Bill to prevent unnecessary suffering for children and young people, he considers there are clear associated medium- and long-term benefits and associated financial savings to be realised as a result of the Bill.

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<sup>33</sup> <https://www.parliament.scot/-/media/files/legislation/proposed-members-bills/final-consultation-summary--proposed-restraint-and-seclusion-prevention-in-schools-scotland-bill.pdf>

<sup>34</sup> <https://www.parliament.scot/-/media/files/legislation/proposed-members-bills/final-consultation-summary--proposed-restraint-and-seclusion-prevention-in-schools-scotland-bill.pdf>

<sup>35</sup> <https://www.parliament.scot/-/media/files/legislation/proposed-members-bills/final-consultation-summary--proposed-restraint-and-seclusion-prevention-in-schools-scotland-bill.pdf>





*This document relates to the Restraint and Seclusion in Schools (Scotland) Bill (SP Bill 61) as introduced in the Scottish Parliament on 17 March 2025*

# **RESTRAINT AND SECLUSION IN SCHOOLS (SCOTLAND) BILL**

## **FINANCIAL MEMORANDUM**

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