



# The Challenging Behaviour Foundation

making a difference to the lives of people with severe learning disabilities

## Department for Education Consultation

This is a revised version of our briefing paper following discussion with the Protecting Rights; Eliminating Restraint Group and the National Working Group for Safeguarding Disabled Children

### The “Use of reasonable force and other restrictive interventions in schools”

The Department for Education have committed to:

✓ Introduce a legal requirement for schools to record every significant incident of use of force and report these incidents to the parents of the pupils involved, effective from September 2025

✓ Revise the Department for Education Guidance on the “*Use of reasonable force in schools*” which was published in 2013

A draft of the revised guidance is now available, and a consultation is being held.

The [consultation](#) closes on 29th April 2025.

The Department for Education has stated that a future work programme will use the collected evidence and consultation responses to consider whether the Department develops and delivers additional targeted policy interventions and consider any outstanding Equality and Human Rights Commission recommendations.

### New legal requirement

The new legal requirement for schools in England to record every significant incident of use of force and report these incidents to the parents of the pupils involved, effective from September 2025, will be introduced under [Section 93A of the Education and Inspections Act 2006](#). The wording of the legislation can be found below in Appendix A.

## Guidance

At present, two different sets of guidance are in place that cover the use of restrictive practices in schools:

- 1) The Use of Force (2013). Published by the Department for Education. The revised 2025 guidance is for **all** schools in England. Pages 14 – 15 of the revision contain statutory guidance. The rest of the guidance is non-statutory. The Department for Education advises that the non-statutory advice should be followed unless there is good reason not to.
- 2) Reducing the need for restraint and restrictive intervention. How to support children and young people with learning disabilities, autism spectrum conditions and mental health difficulties who are at risk of restrictive intervention (2019). Published by the Department of Health and Social Care and Department for Education. The guidance is non-statutory

The Use of Force guidance has been revised, and the live consultation is now open. The 2019 guidance has not been updated. We advocate that the 2019 guidance also requires updating to avoid confusion and make it clear that all schools (including special schools) are required to follow the guidance on recording and reporting the use of force.

## What improvements have been made in the revised guidance?

We welcome the following changes:

- New focus on co-producing behaviour support plans in partnership with the pupil and parents to prevent the use of physical intervention and restrictive practices.
- A focus on reviewing behaviour support plans with the pupil and parents periodically and following any significant incident to learn from what has and

what has not worked in practice.

- Guidance for governing bodies to use data on reasonable force and other restrictive interventions to identify patterns and implement improvements.
- A new legal duty to record every significant incident of use of force and report these incidents to parents of the pupils involved.
- Expectation that schools will develop and implement a policy on the use of reasonable force which should include the Equality Act 2010 and Human Rights Act 1998 and the welfare of the child and include specific whole school measures and tailored approaches for individual pupils.
- Recognition that the inappropriate use of restraint or restrictive practices requires schools to follow national guidance on Keeping Children Safe in Education including suspending staff where appropriate.

## **What changes are needed to the guidance?**

### **1) Greater focus on prevention and the rights of the child**

**What change is needed?** Whilst the updated guidance does contain more information about prevention and the rights of the child than the 2013 version, the guidance should be further strengthened to focus on the rights of the child, particularly the Human Rights Act including deprivation of liberty and how this applies to the use of physical interventions and restrictive practices.

There was a strong consensus amongst the parents and professionals that the CBF consulted about the draft guidance that overall there remains a focus on staff justifying restraint rather than preventing its use by meeting the needs of the pupil. We recommend that the title of the report is changed to focus on prevention rather than the “use of reasonable force”. We also recommend that the narrative is edited to have a greater focus on prevention alongside the inclusion of case studies to demonstrate prevention and the rights of the child.

**Why do we think this change is needed?** As detailed in our accompanying briefing paper which sets out the background to this consultation the Challenging Behaviour Foundation has evidence from calls to our helpline and research which demonstrates that restraint and restrictive practices are being misused and children and young people are harmed in schools. A greater focus on meeting the needs of the child, prevention and the rights of the child is essential to ensure that school is a safe place, where all children, including children with severe learning disabilities, can thrive.

### **2.) The use of seclusion/solitary confinement**

**What does the revised guidance say?** The revised guidance allows staff to place children in seclusion/solitary confinement at school. Seclusion is defined as the supervised confinement and isolation of a pupil, away from other pupils, in an area from which the pupil is prevented from leaving of their own free will. The decision on whether it is reasonable to use seclusion/solitary confinement or other restrictive interventions depends on the individual circumstances of each situation.

**What change is needed?** We recommend that seclusion/solitary confinement is banned in schools unless there are exceptional circumstances, such as the use of a weapon which is a threat to life.

**Why do we think this change is needed?** The [guidance](#) for mental health inpatient units' states: *"Seclusion can be a traumatic experience for any individual but can have particularly adverse implications for the emotional development of a child or young person. This should be taken into consideration in any decision to seclude a child or young person. Careful assessment of the potential effects of any seclusion by a trained child and adolescent clinician is required, especially for those children and adolescents with histories of trauma and abuse, where other strategies to de-escalate behaviours may be more appropriate than the use of seclusion"* (26.57, pg. 293).

The Oversight panel led by Baroness Hollins, which focused on people with learning disabilities and/or autistic people who are detained in mental health and specialist learning disability hospitals [recommended](#) in 2023 that the use of solitary confinement with children and young people under the age of 18 should be ended with immediate effect.

There is clear evidence that seclusion can cause trauma. Children and young people have been diagnosed with Post Traumatic Stress Disorder as a direct result of being placed in seclusion at school. School should be a safe place for every child, regardless of the challenges their behaviour poses.

In a school setting, it is rare to have access to a trained child and adolescent clinician to monitor the use of seclusion and therefore staff who do not have the required experience and expertise are left to monitor seclusion in a school setting.

**This practice is outdated, inhumane and unsafe.** There are effective ways to support children who display behaviours that challenge that do not rely on seclusion. The inappropriate use of seclusion can be an unlawful deprivation of liberty.

### 3) Safeguarding

**What does the revised guidance say?** The guidance states that any complaints regarding the use of reasonable force and other restrictive interventions should be

dealt with in accordance with the school's normal complaints procedure. It goes on to say that if an allegation regarding inappropriate use of force and/or other restrictive interventions is made against a member of staff, the procedures in Keeping Children Safe in Education should be followed. This includes the provisions regarding suspension of staff.

**What change is needed?** The guidance should also reference [Working Together To Safeguard Children](#) and be clear when staff should report concerns to the Local Authority Designated Officer (LADO). The guidance should also reflect that the misuse of restrictive practices can go beyond the actions of an individual member of staff and acknowledge that organisational abuse and closed cultures. Organisational abuse includes neglect and poor professional practice as a result of the structure, policies, processes and practices in an organisation. CQC defines a closed culture as "a poor culture that can lead to harm, including human rights breaches such as abuse". The guidance should highlight whistleblowing and the protections for staff under the Public Disclosure Interest Act 1988. Finally we recommend that data from schools on the use of restraint and restrictive practices is shared with local safeguarding partnerships to provide local oversight from an external agency from a safeguarding perspective.

### **Why do we think this change is needed?**

It is essential that parents or others concerns about the abusive use of restraint and restrictive practices are not minimised and dealt with internally under the schools complaints procedure. Referrals must be made to the LADO where concerns about abuse and neglect involving the use of restraint and restrictive practices exist. The leadership, training, supervision and opportunities for staff to learn and reflect set the culture within the school and many reviews of abuse and neglect have found that harmful organisation practices and closed cultures can develop and place children and young people at risk of harm. It is important that whistleblowers are encouraged to speak up.

## **4) Data collection and inspection**

**What does the revised guidance say?** There is a section in the revised guidance which describes how the governing bodies and proprietors should use data on reasonable force and other restrictive interventions to identify patterns and implement improvements. In the consultation document, the Department for Education states that it intended to support schools to minimise the use of reasonable force, without the need for additional data collection. Inspection is not mentioned in the guidance.

**What change is needed?** We recommend that the following recommendations from the Equality and Human Rights Commission are implemented:

- Data from schools should be collated, published and analysed by protected characteristics.
- Ofsted should monitor national and school-level restraint data as part of its inspections.

**Why do we think this change is needed?** To have effective oversight of the implementation of restrictive practices in school, it is necessary for data to be collated and analysed. Analysis by protected characteristics is necessary to ensure adherence to Public Sector Equality Duties.

The inappropriate use of restraint and restrictive practices is a child protection and human rights issue. Ofsted must have a role in quality assuring the implementation of this guidance to ensure children are safe at school.

## **Future work programme**

We would like to see the Department for Education commit to the following actions as part of a future work programme:

### **1) The development of training standards**

**What does the revised guidance say?** The revised guidance advises that staff who are likely to need to use reasonable force and other restrictive interventions should be adequately trained in its safe and lawful use and in preventative strategies, and that school leaders should choose the training, ensuring that it reflects the principles set out in the guidance. There is an emphasis on school leaders' autonomy in deciding on training provision best suited to the school's circumstances and staff needs.

**What change is needed?** The current non statutory guidance on training is inadequate. As recommended by the Equality and Human Rights Commission, national training standards for restraint should be developed which: take a human rights approach, minimise the use of restraint, and are tailored by school phase and type, and involve schools, parents and children in their development.

**Why do we think this change is needed?** There is a strong support for training standards. The Department for Education have stated that 74% of respondents who have responded to the [Call for Evidence](#) were in favour of implementing national training standards. This would help ensure that the training focuses on prevention and minimising the use of restraint and the rights of the child e.g. making reasonable adjustments under the Equality Act. This would also quality assure any physical intervention training to ensure that the techniques taught are safe and appropriate. For example school staff should not be taught how to restrain children on the ground.

### **2) Investment in early intervention and prevention**

## What change is needed?

Behaviours that challenge place children at risk of exclusion, social isolation and harm from the use of restraint and restrictive practices. Children with learning disabilities face a range of social and health inequalities. The inequality in outcomes between children with learning disabilities and other children starts early (by age 3 at latest) and widens over time. Targeted investment is needed in early intervention and prevention to enable children with learning disabilities to thrive.

**Why do we think this change is needed?** Our "[\*Investing in early intervention\*](#)" report which summarises research findings and showcases good practice examples of early intervention in action was produced in collaboration with University of Warwick, Mencap, Cerebra and the Council for Disabled Children. A UK study of over 600 families found that less than 30% of families in the UK who have a child with a learning disability had access to targeted early intervention support in the preceding 12 months which led to unmet needs. This included unmet needs in relation to communication, sleep and behaviour which together increase the risk of behaviours that challenge and the use of restraint and restrictive practices. There are examples of good practice in early intervention and prevention which demonstrates what works which could be rolled out nationally.

## 3) Changes to the law

### A. Good order and discipline

**What does the revised guidance say?** The updated guidance is clear that force should not be used as a punishment.

**What change is needed?** At present, under Section 93 of the Education and Inspections Act 2006, staff have the power to use force to "*maintain good order and discipline*". Whilst the updated guidance is clear that force should not be used as a punishment, there are still circumstances under which force could be used to "maintain good order". We would like to see this clause in the Education and Inspections Act repealed.

**Why do we think this change is needed?** It is unacceptable to use force or restrictive practices to maintain order in school. As it is known that there is a risk of physical and psychological harm through the use of force and other restrictive practices, these should only be used when there is a risk of harm to the child or another person or damage to property which would also entail a risk of harm to the child, e.g. smashing a glass window.



We have heard examples of restraint being used to “maintain good order”, such as children not moving when requested, not sitting down when requested, fidgeting, crying, and screaming. These are not acceptable reasons to use force.

It has been agreed in principle since 2022 to repeal Article 41 (c) of the Education (Northern Ireland) Order 1998. The government should also commit to repealing this clause in the legislation in England.

## **B. Recording restrictive practices that do not involve the use of force**

**What does the revised guidance say?** The updated guidance is clear that there is a legal duty to record the use of force and report its use to parents. There is detailed guidance on what must be recorded and reported to parents. It is best practice for schools to apply the same recording and reporting policy to restrictive interventions where force is not used.

**What change is needed?** An amendment to section 93A of the Education and Inspections Act 2006 to include other restrictive practices in the statutory duty to record and report to parents.

**Why do we think this change is needed?** Restrictive practices such as seclusion and Hardrock chairs with straps have been misused by staff in school settings. Recording and reporting the use of restrictive practices to parents is an important safeguard for children who are unable to tell their parent what has happened at school, such as children with severe learning disabilities. This is a loophole that needs to be closed.

## **4) Workforce training for social workers**

**What does the revised guidance say?** The guidance does not mention training for social workers who receive referrals regarding the alleged abuse and/or neglect caused by the misuse of restrictive practices.

**What change is needed?** Workforce training on restraint and restrictive practices, the Equality Act, Human Rights and the updated guidance.

**Why do we think this change is needed?** This change is needed to ensure that LADO's and social workers supporting children with special educational needs and disabilities are able to safeguard children and young people from the unlawful and abusive use of restraint and restrictive practices. Without adequate training and supervision in this topic children are not safeguarded from harm and unsafe practices are left unchecked. There are significant concerns about failures of LADO's to recognise this type of harm and act accordingly.



## **Appendix A: Wording of Section 93 of the Education and Inspections Act 2006**

### **93A Recording and reporting the use of force by members of staff: England**

- (1) The governing body of a school in England must ensure that a procedure is in place for—
- (a) recording each significant incident in which a member of the staff uses force on a pupil for whom education is being provided at the school (a “use of force incident”); and
  - (b) reporting each use of force incident (except those where the pupil is aged 20 or over or provision made under subsection (5) applies) to each parent of the pupil as soon as practicable after the incident.
- (2) The governing body must take all reasonable steps to ensure that the procedure is complied with.
- (3) The procedure must require that a record of a use of force incident is made in writing as soon as practicable after the incident.
- (4) In discharging their duty under subsection (1), the governing body must have regard to any guidance issued by the Secretary of State for the purposes of that subsection.
- (5) A procedure under subsection (1) must include provision to the effect—
- (a) that a person (“R”) who would otherwise be required by the procedure to report an incident to a parent must not report it to that parent if it appears to R that doing so would be likely to result in significant harm to the pupil; and
  - (b) that if it appears to R that there is no parent of the pupil to whom R could report the incident without that being likely to result in significant harm to the pupil, R must report the incident to the local authority [F1](#)... within whose area the pupil is ordinarily resident.
- (6) In deciding for the purposes of provision made under subsection (5) whether reporting an incident to a parent would be likely to result in significant harm to the pupil, R must have regard to any guidance issued by the Secretary of State about the meaning of “significant harm” for those purposes.
- (7) In this section—
- “governing body”, in relation to a school which is not a maintained school, means the proprietor of the school;

- “maintained school” means—
  - (a) a community, foundation or voluntary school;
  - (b) a community or foundation special school;
  - (c) a maintained nursery school;
- “parent”, in relation to a pupil, has the meaning given by section 576 of EA 1996 in relation to a child or young person, but includes a local authority which provides accommodation for the pupil under section 20 of the Children Act 1989.”