

Restraint and seclusion of children in schools



This report is about children who have been hurt, injured and scared, and you may find it upsetting to read.

(CCYP/2019/3) Laid before the Scottish Parliament by the Commissioner for Children and Young People in Scotland in pursuance of section 12 of the Commissioner for Children and Young People (Scotland) Act 2003 on 16/12/2019

The Children and Young People's Commissioner



Human rights

There are lots of laws protecting human rights that apply to children, but one provides special protection just for children. It's called the **United Nations Convention on the Rights of the Child (UNCRC)**, and it's a list of the promises a country makes to look after the rights of everyone up to the age of 18.

The Children and Young People's Commissioner's job is to be a fierce champion for children's rights, especially those in the UNCRC. It's his job to make sure the Scottish Government keeps the promises about human rights which it makes to children and young people. People who have power over children and young people's lives must respect those rights when they are making decisions that affect children. If they don't, the Commissioner Bruce, and his team tell them they must do better.

Sometimes we do this with an **investigation**. The Commissioner can ask questions and look at evidence. He then says what needs to happen to improve things for children. He can ask children and young people to help with an investigation by giving their views and telling their stories.

This is the story of the Commissioner's investigation into children who are restrained and secluded at school, and whether children's rights are respected when this happens.



What do we mean by restraint and seclusion?



Restraint

happens when someone holds a child so they can't move.



Seclusion

happens when a child is left in a room alone and cannot get out or tell someone they need to leave.

Restraint may sometimes need to be used if there is no other way to stop a child from hurting themselves or someone else. But adults should do everything they can to understand the child before using restraint, especially if they are upset or frightened. Restraint should never hurt a child, and it should only ever happen for the shortest time possible. Restraint should never be used as punishment or as a way to make someone 'behave'.

It's important for schools to have quiet safe places for children to go to if they feel upset or frightened but children should be able to leave that place when they want to. They should never be locked in.

All of the rights in the UNCRC are important, but these ones are especially relevant to restraint and seclusion.

My rights...

Article 2 All children have rights without discrimination.

Article 3 Adults must think about what's best for me when making decisions that affect me.

Article 24 The Government should make sure my rights are respected.

Article 6 I should be supported to live and grow.

Article 12 I have the right to be listened to and taken seriously.

Article 16 I have the right to keep some things private.

Article 19 I have the right to be protected from being hurt or badly treated.

Article 23 If I have a disability, I have the right to special care and education.

Article 24 I have the right to good health.

Article 28 I have the right to an education.

Article 29 I have the right to an education which allows me to develop my full potential. (Including learning about my rights.)

Article 37 I have the right not to be punished in a cruel or hurtful way.

Why did we investigate restraint and seclusion?



Concern

Parents and people who work with children told us they were worried about children being restrained and secluded at school.

What these adults reported:

- ▶ They told us about children who had been injured, frightened or very upset.
- ▶ They told us about children who had been locked in rooms alone, unable to tell an adult that they needed to get out.
- ▶ They told us parents weren't always told that their children were being restrained or secluded at school, or how often it was happening.
- ▶ They told us they did not know how the decisions to restrain or seclude children were made or what notes were kept by the people who made those decisions.
- ▶ They told us that often children who had been restrained or secluded missed out on education because they got less time in class than other children. Sometimes, they ended up not going to school at all.
- ▶ They told us that it happened more often to children with disabilities or children who need additional support.

How children told us restraint and seclusion would feel

Fearful Reflective Silly Shocked
 Unique Nervous Numb Lonely Alone
 Worthless Unwanted Sad Helpless
 Depressed Restless Unhappy Emotional Safe
 Anxious Unimpressed Scared Emotional
 Different Misunderstood Hurt Unloved Worse
 Confused Hurt Unloved Worse
 Disappointed Shook Concerned Worried Curious
 Embarrassed Frightened Weird Empty
 Stressed Upset Uncared For Bored

Children and young people said that restraint and seclusion worried them too.

We ran three workshops for children and young people to ask them about restraint and seclusion in schools. The workshops were in a primary school, a secondary school and with a youth group. We asked each group some questions, including how being restrained or secluded would make children feel. The words that they used are shown in the word cloud opposite.

It's not just children and young people and the Commissioner who are worried about restraint and seclusion. There is a group of experts working for the United Nations called the UN Committee on the Rights of the Child who say that the Scottish Government should make sure that restraint and seclusion are only ever be used as a last resort, and never to punish a child.

The Committee also says that the Scottish Government should collect and publish information about the number of children and young people being restrained and secluded and use that information to make things better. This is because it is the Government's job to make sure children's rights are respected and protected.



It is the Government's job to make sure children's rights are respected and protected.

So, what did we do?

For our investigation we collected evidence from the people in charge of the 32 local councils in Scotland.

We got them to give us copies of:

- all their information about what rules have to be followed when restraint and seclusion is used in schools in their area.
- all the forms they use to record restraint and seclusion of a child.

We also got them to answer questions online about:

- whether they have rules about restraint and seclusion.
- how they record and use information about restraint and seclusion.
- how many times restraint and seclusion happened in schools in the area last year.
- how they train staff in the use of restraint or seclusion and whether they take children's rights into account.

What we found out



The good...

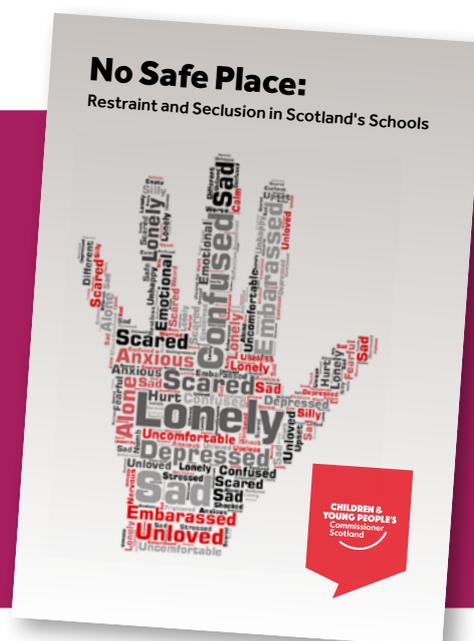
There were some good examples of rules on restraint and seclusion in schools that some councils were able to give us.

But... there were a lot of things we learned in this investigation that worried us:

- ▶ Nobody knows how many children are being restrained or secluded – or both – in Scotland.
 - ▶ Nobody knows how many children are injured or have other serious problems because they were restrained or secluded.
 - ▶ Nobody knows if restraint and seclusion are happening more in some areas, or to some groups of children.
 - ▶ Rules around restraint and seclusion for schools are not the same everywhere, and some councils do not have any rules at all.
- ▶ Often the rules don't tell staff clearly what they need to do to respect children's rights.
 - ▶ The Scottish Government has written some short rules on restraint and seclusion but councils don't have to follow them. The Government says that councils need to write their own rules.
 - ▶ Children's views often aren't asked for, or listened to.
 - ▶ Parents are often not told when their children have been restrained or secluded.
 - ▶ Children who are restrained and/or secluded may miss out on education.

Our report

We published our report – “No Safe Place” – in December 2018 about what we found out and what should happen next to change things for the better. All of the 32 councils wrote to us and said what they were going to do. Many of them have started to look at changing their rules to make them better. We will keep a close eye on what they are doing to see if it makes a difference.



What we think should happen



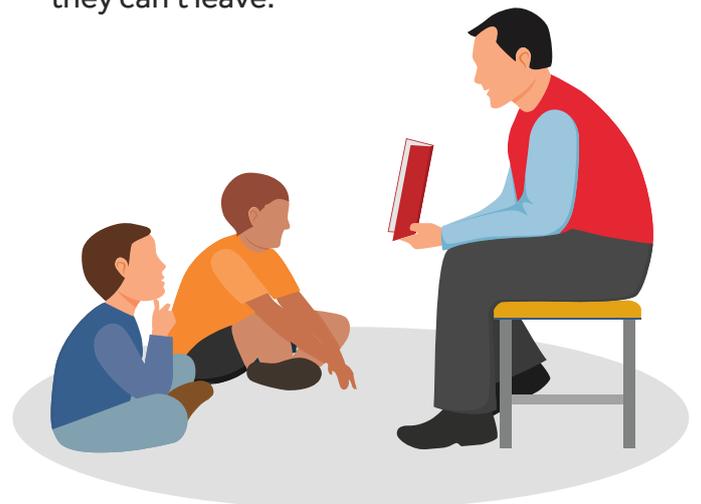
Human Rights

You should feel safe and protected at school. Your rights should be respected when you are at school. Staff should be supported to make sure that restraint and seclusion are only ever used as a last resort, when you are in danger of hurting yourself or someone else.

The Commissioner says the first steps to make sure this happens in schools across Scotland are that:

- ▶ The Scottish Government should write rules about how and when restraint and seclusion is used in schools, and make sure all schools follow these.
- ▶ The rules should be based on children's rights. They should be designed to help staff support children.
- ▶ There should be a record of every time restraint or seclusion is used in school and what the school did first to try to stop it happening.
- ▶ Your local council should look at these rules and records and decide if there is any other action that needs to be taken to make sure restraint doesn't need to be used.
- ▶ The Scottish Government should collect information from councils on the number of children who are restrained or secluded in Scotland so that they can see if the rules are working.

- ▶ Your school should make a plan for how to help children when they become very upset. Parents, carers and children should be part of this and it should be looked at regularly to see how well it is working.
- ▶ Parents and carers should be told every time if restraint or seclusion is used on their child at school and there should be a meeting with the child, the teachers and parents and carers afterward to talk about what happened.
- ▶ Only staff who have special training should be allowed to restrain children.
- ▶ Children should never be locked in a room they can't leave.



What happened next?



Progress

To begin with, the Scottish Government didn't agree to do everything that we asked. In June 2019 they said they would make some changes to their existing rules to make them better.

But they said:

- ▶ They would not write special rules for restraint and seclusion that all schools have to follow
- ▶ They would not record all the times restraint and seclusion happens in Scotland
- ▶ Local councils should continue to write their own rules and record their own information and the Government will give them some help to do that

That's not good enough. The Scottish Government has made promises to children to keep them safe under the UN Convention on the Rights of the Child. They need to keep those promises. It is the Government's job to make sure children are safe and their rights are respected in school. It is their job to make rules everyone has to follow, and they need to know what's happening to children so they can see if the rules are working.

When we speak to children and young people, they tell us that they want us to be fierce champions for their rights and use the law to make things better for them.

To make sure the Scottish Government keeps the promises it has made to children, we worked with our friends at the Equality and Human Rights Commission Scotland.

Together we wrote to the Scottish Government in August 2019. We told them the Equality and Human Rights Commission Scotland would go to court to ask a judge to decide if the Government was properly protecting children in school. We had our evidence to show the court that the Government was not keeping its promises to children.



After this, we met twice with John Swinney MSP, the Cabinet Secretary for Education in October and November. **He has now agreed to change the Government's position** and to:

- ▶ Write special rules for restraint and seclusion for all schools to follow
- ▶ Make sure children, young people and families are involved in writing these rules
- ▶ Check after a year to see if the rules are working to reduce restraint and seclusion
- ▶ Make sure that schools are inspected on their use of restraint and seclusion
- ▶ Develop a standard set of information to make sure local councils report in the same way when restraint and seclusion happen.



We think this is much better, and we are pleased the Scottish Government is taking action to protect children's rights. We now don't need to go to court. Instead we will work with the Government, children, parents, carers and experts to make the new rules as powerful as they can be.



CHILDREN & YOUNG PEOPLE'S Commissioner Scotland

If you would like to contact us about anything in this report then please do call, write, email, or message us. We'd love to hear from you.



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