23rd May 2025

Disabled Children's Partnership/Special Educational Consortium Amendments to the Children's Wellbeing and Schools Bill

Seclusion Amendment

After Clause 44, insert the following new Clause—

"Use of Seclusion (Including Isolation Rooms) in Education Settings

1. For the purposes of this section, "seclusion" means the involuntary confinement and isolation of a child or young person, in a room or space from which they are not free to leave, whether or not a member of staff is physically present.

2. The Secretary of State may by regulations, following consultation with relevant stakeholders, make provision for the regulation and oversight of the use of seclusion in education settings.

3. If regulations are made under this section, they must include provision that—
(a) seclusion must not be used as a form of discipline or behaviour management;
(b) any use of seclusion must be recorded, and reported to the child's parent or carer on the same day;
(c) any incident involving seclusion must be reviewed by a person with lead responsibility for safeguarding within the setting;
(d) data on the use of seclusion must be collected, monitored, and made available for external scrutiny.

4. For the purposes of subsection (3)(c), "a person with lead responsibility for safeguarding within the setting" means the individual who holds primary designated responsibility for child protection or safeguarding matters in that educational setting.

5. Regulations under this section must apply to all education settings to which section 33 of the Children and Families Act 2014 applies, including early years, alternative provision, schools, and post-16 education and training settings.

6. Before making regulations under this section, the Secretary of State must consult such persons as they consider appropriate, including representative organisations of education staff, providers, children and

young people, and families, and organisations representing those with special educational needs or disabilities.

7. Regulations under this section must have regard to relevant duties under the Equality Act 2010 and the Human Rights Act 1998.
8. Regulations under this section must include provision to ensure appropriate oversight of compliance by relevant bodies, and must recognise the disproportionate impact of seclusion on disabled pupils and those with special educational needs."

Member's explanatory statement:

This clause is proposed as a probing amendment to support parliamentary debate on the lack of legal safeguards for the use of seclusion in education. It does not impose direct duties on schools or education providers. Instead, it invites the Secretary of State to consider enabling regulation, following sector-wide consultation.

Placement in the Bill: This clause is designed to be inserted **after Clause 44** of the Children's Wellbeing Bill, which deals with inspections and pupil welfare. This placement is appropriate because:

- It continues the theme of safeguarding and regulation of school-level practices.
- It logically follows existing pupil welfare provisions.
- It avoids the admin and structural sections later in the Bill around academisation and system-level reform.

Context: Use of Seclusion (Including Isolation Rooms) in Education Settings

This clause addresses the practice of placing children in isolation rooms or other spaces they are not free to leave — whether or not such rooms are labelled as seclusion, remove rooms, or calm spaces. The legal term 'seclusion' is used to ensure clarity and consistency across guidance and rights-based frameworks.

This clause is proposed as a probing amendment to support parliamentary debate on the lack of legal safeguards for the use of seclusion in education. It does not impose direct duties on schools or education providers. Instead, it invites the Secretary of State to consider enabling regulation, following sector-wide consultation. It reflects SEC's consultation response and encourages dialogue across the sector to improve clarity, oversight, and consistency in safeguarding practice.

Disabled Children's Partnership

SPECIAL EDUCATIONAL CONSORTIUM

23rd May 2025

For SEC: Proposed Amendment on Seclusion in Education Settings

Why this matters:
There is currently no legal definition or statutory regulation of seclusion in education settings. Unlike in health and care, schools and colleges can confine children in spaces they are not free to leave — often in ways that go unrecorded, unregulated, and without parental knowledge. This disproportionately affects disabled pupils and those with special educational needs, particularly in early years and post-16 settings. SEC's 2025 consultation response highlighted this as a serious legal and safeguarding gap.

What the amendment does:
This is a probing amendment, designed to stimulate parliamentary debate, not to impose direct duties on schools. It:

- **Introduces a statutory definition of seclusion** — aligned with deprivation of liberty case law (Cheshire West);
- **Invites the Secretary of State to regulate**, following consultation, without requiring immediate action.
- **Requires minimum safeguards** if regulations are made — including recording, review, parental notification, and data transparency.
- **Prohibits seclusion as a disciplinary measure**.
- **Applies across all education settings** under CFA 2014 — consistent with SEC's call for cross-phase protection in its consultation response.

Why now:

- The DfE's 2025 draft guidance mentions seclusion but is non-statutory and will not close the current legal loophole.
- Schools remain a legal outlier: similar practices in care and health are subject to authorisation and safeguards.
- There is growing evidence — cited in SEC's Lords briefings — of trauma, exclusion, and discrimination resulting from unregulated seclusion.
- Parliament and peers have expressed interest in addressing this issue — this clause provides a focused vehicle to do so.

Legal and policy alignment:

- Statutory definition addresses the current legal vacuum in education law.
- Article 5 ECHR / Human Rights Act 1998 (right to liberty);
- Equality Act 2010 (duty to avoid discrimination and make reasonable adjustments);
- Children and Families Act 2014 (SEND framework);
- Mental Capacity Act 2005 and Liberty Protection Safeguards (where deprivation of liberty is regulated in care/health).

Rationale for the clause content:

- **Clause 1** introduces the definition of seclusion to prevent ambiguity or relabelling (e.g. "calm rooms").
- **Clause 2** enables but does not compel regulation — reflecting the absence of SEC consensus on primary legislation.
- **Clause 3** ensures that if regulation is pursued, minimum protections are non-negotiable.
- **Clause 5** ensures application across all settings SEC members have identified as needing protection.
- **Clauses 6–8** embed consultation, rights compliance, and oversight — reflecting the fairness, rights-focus and equity that underpin SEC's approach.

Backed by:
This clause reflects and builds on SEC's 2025 Use of Force consultation response and two House of Lords briefings. It also draws on recommendations from EHRC, Liberty, and wider children's rights organisations calling for a statutory framework to prevent unlawful or harmful seclusion.
