

**Guidance on the use of restraint and restrictive intervention in mainstream settings and alternative provision: Department for Education consultation**  
**A response from the Special Educational Consortium**

**About The Special Educational Consortium**

The Special Educational Consortium (SEC) is a membership organisation that comes together to protect and promote the rights of disabled children and young people and those with special educational needs (SEN). Our membership includes the voluntary and community sector, education providers and professional associations. SEC believes that every child and young person is entitled to an education that allows them to fulfil their potential and achieve their aspirations.

SEC identifies areas of consensus across our membership and works with the Department for Education, Parliament, and other decision-makers when there are proposals for changes in policy, legislation, regulations and guidance that may affect disabled children and young people and those with SEN. Our membership includes nationally recognised experts on issues including assessment and curriculum, schools and high needs funding, the SEN legal framework, exclusions and alternative provision.

**SEC's position on the need for further guidance on the use of restraint and restrictive interventions in mainstream settings**

The Consortium overwhelmingly agrees that there is a need for the DfE to provide guidance on restraint and restrictive intervention for all mainstream schools, mainstream post-16 settings and educational settings offering alternative provision. SEC wants any new guidance to support schools in minimising the use of such interventions. Pupils with SEND are more likely to be subject to such interventions so it is important to identify and address needs early and make reasonable adjustments in a way that builds positive interactions and behaviour. Below are four principles that underpin our position and recommendations that sit alongside these:

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1. **With reference to the question relating to additional burdens on mainstream schools:** Any new guidance should be better coordinated with other restraint guidance, in particular DfE's Use of Reasonable Force Guidance (2013)<sup>1</sup>. The policy and language in both needs to be consistently framed, particularly around inclusion and promoting the use of reasonable adjustments to reduce the use of force or restrictive interventions. All guidance, including the DHSC and ADCS guidance on reduction and protocol should be aligned with the restraint guidance through referencing the Equality Act 2010 and providing advice on the training of staff.
2. **SEC welcomes the high value that the current guidance places on training,** especially the advice about commissioner led training and where to find accredited training. Importantly, SEC welcomes the advice that training should be used to minimise the need for restraint 'through positive behavioural support' and that the guidance stresses the importance of co-produced behaviour support plans. However, the guidance needs to make clear provision for such training, including for untrained staff and staff who are covering in cases where others are unwilling to use such interventions.
3. **The guidance should be set in the wider context of good relationships policy,** namely that relationships education must be made accessible for all pupils, including those with SEND and that schools should be aware that some pupils are more vulnerable to exploitation and bullying than others<sup>2</sup>. Good PSHE and relationships education will help pupils to develop more appropriate behaviour. This in turn can help to reduce behaviour that challenges and therefore the need to use restraint and restrictive interventions.
4. **The guidance will need to ensure that it meets requirements set out in the Mental Capacity Act 2005** and the subsequent Mental Capacity (Amendment) Act 2019. Restraint and restrictive interventions which amount to a deprivation of liberty for young people aged 16+ who lack the capacity to consent to these must be approved by the court<sup>3</sup>. The Liberty Protection Safeguards (LPS) will be in place from October 2020 for young people aged 16+.

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<sup>1</sup> Use of reasonable force Advice for headteachers, staff and governing bodies: Department for Education, July 2013

<sup>2</sup> Paragraph 33 and 34 of DfE guidance on Relationships Education, Relationships and Sex Education (RSE), June 2019

<sup>3</sup> The Supreme Court Judgement known as R v D clarified that parental consent is not sufficient to authorise what would otherwise amount to a deprivation of liberty for a 16 or 17 year old. A court authorisation is required.