# EXPLANATORY MEMORANDUM TO

# THE SCHOOLS (RECORDING AND REPORTING OF SECLUSION AND RESTRAINT) (NO. 2) (ENGLAND) REGULATIONS 2025

## 2025 No. 1348

## 1. Introduction

1.1 This Explanatory Memorandum has been prepared by Department for Education and is laid before Parliament by Command of His Majesty.

## 2. Declaration

2.1 Olivia Bailey, Parliamentary Under-Secretary of State at the Department for Education confirms that this Explanatory Memorandum meets the required standard.

2.2 Dominic Gilchrist, Deputy Director for Behaviour, Exclusions, School Food and Preventing Violence, at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.

## 3. Contact

3.1 Katy Savage-Brookes at the Department for Education can be contacted by email at the following address with any queries regarding the instrument: behaviourunit.businessofstate@education.gov.uk. Alternatively, the department can be contacted by telephone: 0370 000 2288.

## Part One: Explanation, and context, of the Instrument

## 4. Overview of the Instrument

***What does the legislation do?***

4.1 These regulations introduce new requirements for schools to record the use of seclusion and restraint upon pupils and report these incidents to the parents of the pupils involved. Seclusion is a non-disciplinary intervention involving keeping a pupil confined to a place away from others, and preventing them from leaving, for example by physical obstruction, blocking, or making them believe they will be punished if they try to leave. Restraint is a non-disciplinary intervention which immobilises a pupil or limits their movement, which may or may not include direct physical contact. This duty is intended to improve transparency for parents of pupils regarding the use of seclusion and restraint in school, and support schools to use the data collected to improve practices.

4.2 These regulations also revoke the Schools (Recording and Reporting of Seclusion and Restraint) (England) Regulations 2025 (S.I. 2025/1340) for the reasons set out in paragraph 11.1.

**Where does the legislation extend to, and apply?**

4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

## 5. Policy Context

***What is being done and why?***

5.1 In 2022, the DfE publicly committed to commence primary legislation that requires schools to record and report significant use of force incidents to parents under section 93A of the 2006 Act. No legislation requires schools to record and report the use of seclusion and non-force related restraint incidents to parents, such as the removal of a pupil's walking aids. Therefore, these regulations mandate that the use of seclusion and restrictive interventions that do not constitute significant use of force in schools is recorded and reported to parents. This helps to ensure consistency and standardisation among schools, as well as reassurance for parents and the wider public about how restrictive interventions are being used in schools.

***What was the previous policy, how is this different?***

5.2 Evidence gathered by the DfE showed that the impact of seclusion, particularly prolonged use, on pupils could be profound and long-lasting. Pupils with special educational needs and disabilities (SEND) were more likely to be subject to its use. This evidence was collected through the 'Use of reasonable force and restrictive practices in schools' call for evidence (2023), qualitative research report, 'Reasonable force, restraint & restrictive practices in alternative provision and special schools' (2024), and extensive stakeholder engagement, including with schools, parents, young people, charities and other representative groups.

5.3 These regulations are intended to increase transparency as a safeguard against potential misuse of seclusion and restraint and a measure to increase parents' and the wider public's confidence about how schools are using seclusion on pupils. The regulations are published alongside updated guidance which explains the parameters around how schools should use seclusion, with a focus on prevention and minimisation. For the avoidance of doubt, the requirement to record and report incidents applies regardless of whether the use of seclusion or restraint was appropriate, lawful, or otherwise, and does not imply that such actions are permitted or condoned by these regulations.

## 6. Legislative and Legal Context

***How has the law changed?***

6.1 The law does not currently require the recording or reporting of the use of seclusion in schools.

***Why was this approach taken to change the law?***

6.2 The regulations make similar provision in relation to all categories of schools in England, but using different enabling powers and slightly different approaches for different types of schools.

6.3 Section 563 of the Education Act 1996 enables the Secretary of State to make regulations as to the keeping, disclosure and transfer of educational records about pupils at schools maintained by local authorities, and the supply of copies of such records to prescribed persons. Regulations 3 to 6 are made under this power. They

require the governing bodies of such schools to have in place a procedure for keeping records of incidents in which pupils are secluded, restrained or immobilised, and supplying copies of those records to parents of the affected pupils (regulation 4). Regulation 3 sets out what is meant by references to pupils being secluded, restrained or immobilised. Regulation 5 ensures that a procedure adopted under these regulations does not put pupils in danger by requiring parents to be given copies of such records if doing so would likely result in significant harm to the pupil; if it appears there is no parent who can safely be given a copy of a record without that being likely to result in significant harm to the pupil, then a copy must be given to the local authority in whose area the pupil lives.

6.4 Section 93A of the Education and Inspections Act 2006 ("the 2006 Act"), which is being brought into force at the same time as these regulations, imposes similar requirements to record and report significant incidents of the use of force on pupils to parents. Some incidents of seclusion or restraint may also constitute significant incidents of the use of force. To avoid schools being required to record and report such incidents under two separate procedures, regulation 6 provides that the procedure adopted under regulation 4 need not require any action in relation to an incident that is also covered by a procedure under section 93A.

6.5 Section 94 of the Education and Skills Act 2008 requires the Secretary of State to make regulations prescribing standards that registered independent schools must meet. The standards are set out in the Education (Independent School Standards) Regulations 2014 ("the 2014 Regulations"). Regulation 7 of these regulations amends the 2014 Regulations to add two new standards. One is met by having a procedure for recording incidents of the use of force (under section 93A of the 2006 Act) and seclusion and restraint. The other is met by having a procedure for reporting such incidents to parents.

6.6 Similarly, section 342 of the Education Act 1996 enables the Secretary of State to make regulations setting requirements for a non-maintained special school to comply with, and those requirements are set by the Non-Maintained Special Schools (England) Regulations 2015 ("the 2015 Regulations"). Regulation 8 of these regulations amends the 2015 Regulations to insert a new requirement to have procedures for recording and reporting the use of force and seclusion and restraint.

6.7 The amendments to both the 2014 and the 2015 Regulations include substantially the same provision for safeguarding pupils from harm as in regulation 5.

6.8 Section 93A of the 2006 Act (mentioned above) applies directly to independent schools and non-maintained special schools, but the 2006 Act provides no specific mechanism for enforcing the requirements in relation to those types of schools. By making compliance with section 93A a standard (for independent schools) or requirement (for non-maintained special schools) in the 2014 and 2015 Regulations, these regulations enable section 93A to be enforced through the existing regulatory schemes for those types of schools. (For schools maintained by local authorities, existing statutory enforcement mechanisms apply automatically.)

## 7. Consultation

***Summary of consultation outcome and methodology***

7.1 From 4 February 2025 to 29 April 2025, the DfE conducted a public consultation on the revised 'Use of reasonable force and other restrictive interventions' draft guidance (intended to replace the 'Use of reasonable force in schools' guidance (2013)).

7.2 The consultation sought views on how well the draft guidance supported schools to:

(a) meet the new statutory requirement to record every significant incident of use of force and report these incidents to the parents of the pupils involved through commence of section 93A of the 2006 Act;

(b) proactively minimise the need to use reasonable force and other restrictive interventions through prevention, de-escalation and analysing data to support improvement planning;

(c) support staff to understand when and how to use force or other restrictive interventions safely and lawfully;

(d) support staff who work with pupils with special educational needs or disabilities (SEND);

(e) meet their safeguarding duties towards staff and pupils.

7.3 During this consultation period, stakeholders including parents' groups, Ofsted, the Equality and Human Rights Commission, and NHS England raised concerns about the lack of consistent monitoring and accountability for seclusion compared to physical force. Stakeholders expressed that this discrepancy could give schools the impression that seclusion is a safe and easy option, potentially leading to poor practice and unnecessary use.

7.4 The consultation did not directly ask about recording and reporting the use of seclusion. However, it did include broader questions related to the advice on seclusion in the draft guidance. Findings indicated very strong support for more detailed guidance, greater accountability, and stronger safeguards around its use.

7.5 The government's response to the consultation, which will include a full analysis of the consultation results, is due to be published at the same time as the laying of these regulations in December 2025.

## 8. Applicable Guidance

8.1 The 'Restrictive interventions, including use of reasonable force, in schools' guidance will reflect the new duties for schools that arise from these regulations. It is due to be published at the same time as the laying of these regulations in December 2025. The guidance will replace the 'Use of reasonable force' guidance (2013).

# Part Two: Impact and the Better Regulation Framework

## 9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because there is a low level of impact per business and not many businesses are affected. A low regulatory impact assessment of the effect that this instrument will have on the costs

of business, the voluntary sector and the public sector is available and published alongside the Explanatory Memorandum on the legislation.gov.uk website.

***Impact on businesses, charities and voluntary bodies***

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because applies to activities that are undertaken by small businesses, namely independent schools, who will be required to record and report incidents of seclusion.

9.3 The legislation does not impact small or micro businesses.

9.4 The impact on the public sector is on state-funded schools who will be required to record and report incidents of seclusion.

## 10. Monitoring and review

***What is the approach to monitoring and reviewing this legislation?***

10.1 Monitoring and reviewing this legislation will be conducted through routine engagement with key stakeholders and through the wider programme of work. We will routinely discuss the impact of these changes with schools, representative groups and other relevant stakeholders to understand and monitor their effectiveness, ensuring the policy objectives have been achieved.

10.2 The instrument does not include a statutory review clause.

## Part Three: Statements and Matters of Particular Interest to Parliament

## 11. Matters of special interest to Parliament

11.1 These regulations revoke the Schools (Recording and Reporting of Seclusion and Restraint) (England) Regulations 2025 (S.I. 2025/1340). Those regulations covered the same subject-matter but were unfinished and were made in error. Regulation 9 of these regulations therefore revokes them before they come into force, and these regulations are therefore being issued free of charge to all known recipients of the revoked regulations. In order to correct the error as quickly as possible, the revocation comes into force on 9th January.

## 12. European Convention on Human Rights

12.1 As the instrument is subject to negative procedure and does not amend primary legislation, no statement is required.

## 13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").