Independent Autism Reviewer for Northern Ireland

ADVISORY STATEMENT

Repeal of Article 4(1)(c) - Use of Force for "Good Order and Discipline" in Schools

Purpose

In response to renewed calls on the Minister of Education to repeal Article 4(1)(c) of the Education (Northern Ireland) Order 1998, and to enact other appropriate legislative changes to ensure a compassionate and rights-based response to the complex circumstances that may arise from pupils' distress behaviours, I have issued the following advisory statement in line with my statutory functions laid out in the Autism Act (Northern Ireland) 2011.

This advisory statement is provided in advance of the Motion on *'Restrictive Practices in Educational Settings'* scheduled for debate on Monday 30th June 2025, as proposed by the Chairperson of the Committee for Education to support the deliberations of the Northern Ireland Assembly.

Article 4(1)(c) of the *Education (Northern Ireland) Order 1998*, grants power to staff in grant-aided schools to use such force as is reasonable to prevent a pupil from doing (or continuing to do) the following:

> *"...engaging in any behaviour prejudicial to the maintenance of good order and discipline at the school or among any of its pupils, whether that behaviour occurs during a teaching session or otherwise."*

An Overly Broad Legislative Provision with Harmful Consequences

This legislative clause is overly broad, legally undefined, and no longer aligned with contemporary educational or safeguarding standards. It provides statutory authority for the use of physical restraint in situations that fall significantly short of any immediate risk of harm, injury, or offence. In practice, it:

- Permits the use of force in response to perceived non-compliance or disruption, including behaviours arising from distress, disability, neurodivergence, or trauma;

- Extends beyond the classroom, applying during informal periods and off-site school activities;
- Lacks a statutory definition of what constitutes behaviour "prejudicial to good order and discipline," leaving it open to subjective interpretation – vague laws invite inconsistent practice;
- Is unsupported by caselaw or judicial interpretation, offering no established legal boundaries or precedent – this reflects a lack of scrutiny;
- Carries a high risk of disproportionate and inconsistent application, particularly for disabled pupils, those with additional needs, and pupils from minority communities.

Its continued existence, particularly with a rapidly evolving rights-based landscape, presents a systemic barrier to the development of inclusive, trauma-informed, and rights-respecting educational practice across Northern Ireland.

Repeal Is Now a Moral and Legal Imperative

When this clause was enacted in 1998, our legislative and pedagogical understanding of pupil behaviour was markedly limited. It predates:

- Recognition of Adverse Childhood Experiences (ACEs) and the enduring impact of trauma on learning and behaviour;
- The introduction of inclusive education duties under the *Special Educational Needs and Disability Order (NI) 2005 and subsequent associated legislation and frameworks, as well as the Autism Act (NI) 2011*;
- Widespread understanding that behaviour is a form of communication, particularly for children experiencing unmet needs or distress;
- The increasing alignment of public services strategies and legal frameworks with the principles of the UN Convention on the Rights of the Child (UNCRC) and the UN Convention on the Rights of Persons with Disabilities (UNCRPD);
- The Department of Education's own policy progression toward nurture-based, emotionally supportive, and trauma-informed practice.

We now 'know better' so we must, without exception, proactively 'do better'. The continued presence of this clause not only preserves an outdated legal power, but more critically, keeps it entrenched within the culture and pedagogy of our education system.

It communicates to school staff – including those in support roles or training - that the use of physical force to manage behaviour is legitimate and necessary, even where there

is no risk to safety. This undermines every effort to create a school system rooted in respect, inclusion, emotional wellbeing, and human rights.

Repeal is not only overdue — it is essential.

The Case for Continuity

While the Minister is not bound by the decisions or views of his predecessor, there is reasonable public expectation of continuity in areas of established policy consensus, particularly where commitments have been made in response to safeguarding and human rights principles.

Failure to repeal this provision amidst wider recognition of its misalignment with inclusive practice, signals a retreat from progressive, rights-based reform.

Advisory Position

Pursuant to my statutory functions my advice is that Article 4(1)(c) should be repealed in its entirety without delay, at the next available legislative opportunity.

Conclusion

The continued existence of Article 4(1)(c) is incompatible with Northern Ireland's evolving legal, educational, and human rights commitments.

There is a clear political, ethical, and legal basis for repeal. Repealing the clause would send a powerful and unambiguous message that our education system values dignity, safeguards all children equally, and is prepared to evolve in line with what we now know about emotional wellbeing, disability rights, and respectful relational practice.

The correction of this legislative anomaly will actively support the culture shift that is required to prioritise care over control, and inclusion over coercion.

Date: 28/06/25