



Feedback on the Draft Proposed National Framework for Reducing the Use of Restrictive Practices in the Disability Service Sector

The deadline for feedback is Friday 28 June 2013. Feedback is sought in the attached template, or if another format is used, please use headings to identify the sections being referred to. Feedback and enquiries should be directed to disabilitypolicy@fahcsia.gov.au or via mail to:

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Section: Introduction

Comments/ Suggestions:

Autism Aspergers Advocacy Australia (A4) is disappointed with the draft. We believe the proposed framework is contrary to national disability policy. It appears to be about ticking off some task or being seen to do something. We believe that it will not make a difference. The focus on people with a disability (PwD) and “disability services” is far too narrow. There needs to be legislation to minimise (more than aiming to “reduce”) “the Use of Restrictive Practices” in relation to people with a disability (maybe all people) in **all settings**. Inclusion of PwD is a key principle of Government policy: since Government policy aims to meet the needs of PwD in mainstream settings (that is, settings that are not “disability services”). The National Disability Strategy 2010-2020 says “The shared vision is for an inclusive Australian society ...”. Yet this Proposed National Framework is a separate (non-inclusive) policy framework aimed specifically at PwD. If the Government were serious about “including” PwD then this policy would apply uniformly to restrictive practices for all citizens, not just PwD, in all settings, not just services in the diminishing “disability services” sector. Notice that Education, Health and Corrections services are not considered generally to be “disability services”, yet these are major settings where “restrictive practices” are practiced on PwD.

We do not know how often chemical restraint is used. We do know that Stephen Moon was subjected to chemical restraint in the ACT Health system (a mainstream service, not a “disability service”) and died as a pretty direct consequence of his restraint ... though the Coroner avoids describing this death in these terms (see <http://a4.org.au/a4/node/557> and <http://a4.org.au/a4/node/445>). It took nearly a decade of political pressure to even get a Coroner’s report written. There was no evidence in this case that behavioural methods were ever even considered in addressing Mr Moon’s behaviour/needs.

Here are few of the most recent reports of schools (mainstream Education, not a “disability service”) putting students with autism/ASD in cages or other inappropriate restrictive practices:

- <http://a4.org.au/a4/node/660>
- <http://a4.org.au/a4/node/212>
- <http://a4.org.au/a4/node/279>
- <http://a4.org.au/a4/node/150>
- ...

The opening sentence of the draft says:

People with disability who display behaviours that are challenging while in the care of disability service providers may be subjected to restrictive practices that involve restraint (including physical, mechanical or chemical) or seclusion.

When it says “may be”, does this mean disability services are “allowed to” or that this is something that “can happen”? The intent of this sentence might have been:

Current practice subjects people engaging in challenging behaviours to restrictive



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practices that involve restraint (including physical, mechanical or chemical) or seclusion ... or denies people access to essential services.

Another “restrictive practice” is to exclude people from a service.

The concept of “challenging behaviour” is central to this discussion ... yet it is hardly mentioned, and no definition is given.

FaHCSIA’s paper admits principles and frameworks, that are meant to improve behavior management practices, already exist (it would be appropriate to include an annex of references to existing documents and any reviews of their outcomes). This document should offer reasons to expect that yet another “framework” or set of principles would improve practices and make a difference. The Government needs to justify why legislation to minimise “restrictive practices” is not now required/essential.

It needs to be said: what is currently referred to as “restrictive practices” often just means “abuse”.

Section: Definitions

Comments/ Suggestions:

The definitions section must include definitions of “challenging behaviour” and “restrictive practices”.

The definition of “restrictive practices” needs to acknowledge that in some cases, restrictive practices prove fatal. This severe consequence of “restrictive practices” is omitted from the definition in the draft document.

Is it legal, without a court order, for anyone other than the police to restrict someone’s freedom of movement? The premise of this whole document is that PwD can/will be treated differently ... which is completely contrary to the National Disability Strategy 2010-2020.

Section: Key Guiding Principles

Comments/Suggestions:

The time for “principles” is well past. PwD need legislation. PwD need legislation that ensures their basic safety, their fundamental *right to life*. Legislation must ensure the safety of PwD when they in a “disability services” and wherever they get services in a mainstream setting. There needs to be full acknowledgement that challenging behaviour is stimulated/provoked ... and that the stimulus rarely comes from the person whose behaviour is considered challenging. It is essential that the people who caused the challenging behaviour that lead to any use of “restrictive practices” are fully aware of the consequences of their action(s) ... and the “challenging behaviour” is fully recognised as a form of communication. Challenging behaviour must not be punished unless it is first comprehensively established that it involved malicious intent ... and any punishment must function as an effective *aversive* (technical term for a consequence/outcome that actually reduces the frequency or intensity of the behaviour)... punishment is not an option, and there must be not instances of revenge.

Section: Core Strategies for a National Framework for Reducing of the Use of Restrictive Practices in the Disability Service Sector

Comments/Suggestions:

There must be much more recognition of the behavioural context for “restrictive practices” ... and the need for much more behavioural support for PwD. Australia has an appalling lack of trained professionals and services.

The existing draft strategy lacks a proper foundation.

Behaviour at the individual level is key.

The approach needs to be based soundly on behavioural practice, not just on the “positive behaviour support”. Note the PBS website says:

In fact, positive behavior support exists today because of the hard work and talent of professionals in the field of applied behavior analysis (ABA). For instance, research in the area of functional behavioral assessment, one of the cornerstones of the PBS process, was developed based upon ABA research. (see

http://www.apbs.org/new_apbs/researchintro.aspx).



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Section: Measuring Performance/ Effectiveness

Comments/Suggestions:

The community needs comprehensive reporting of each incident/occurrence of seclusion and restraint. Services must document every use of restriction or seclusion. Both service management and clients (or their guardian) must formally acknowledge the record of each incident/event relating to an individual. Then there needs to be thorough analysis of the reports with routine reporting to the public.

The draft talks about “reporting on progress of the implementation” ... for bureaucrats this usually means ticking a box that someone read the report, it has little/nothing to do with minimising the use of seclusion and restraint.

Existing “service delivery management systems” are inadequate: there is no need to add to those. The reporting of seclusion and restraint must be the subject of systematic regular auditing and external review processes that are properly funded (not targets for efficiency dividends). It is too easy to omit/under report on incidents, and for services to habituate inappropriate restive practices and seclusion.

Our impression is that this draft is poorly informed. The focus of the draft is on the restraint process and does not recognised the importance of the context, that is the antecedents (or *establishing operations*) for challenging behaviour. For example, the OFSTED report on Managing Challenging Behaviour (see <http://www.ofsted.gov.uk/resources/managing-challenging-behaviour>) says:

... In a small proportion of the schools some staff show a lack of respect by shouting at pupils, making fun of them, making personal remarks or using sarcasm. Some pupils react badly to such comments and to those who come too close, grab, hold or touch them even in mild restraint. Those with the most difficult behaviour often respond with verbal abuse. Poor behaviour escalates quickly, lessons are disrupted and the learning of all pupils is adversely affected.

The **References** section in the draft is seriously incomplete.

Here are a few more documents/sources that might inform this effort.

- There are links to many useful resources at <http://www.wrightslaw.com/info/discipl.index.htm>
- McGill, P (1999) *Establishing Operations: Implications for the Assessment, Treatment, and Prevention of Problem Behavior*, JABA, **32**, 393–418.
- Horner, R.H., Harvey, M.T. (2000) *Review of Antecedent Control: Innovative Approaches to Behavioral Support*, Edited by J. Luiselli and M. Cameron, JABA, **33**, 643-651.
- <http://apt.rcpsych.org/content/7/2/109.full>
- http://en.wikipedia.org/wiki/Challenging_behaviour