# Reducing Restrictive Practices and Upholding Human Rights in NDIS-PBS: Practical Strategies for Practitioners

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Welcome!

# Acknowledgements

Dr Russell Fox

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Dr Geoff Potter

Matthew Spicer

Dr Alinka Fisher

Dr Jeffrey Chan

## Guiding Principles of the Convention

There are eight guiding principles that underlie the Convention and each one of its specific articles:

1. Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons
2. Non-discrimination
3. Full and effective participation and inclusion in society
4. Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity
5. Equality of opportunity
6. Accessibility
7. Equality between men and women
8. Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities



Australian Human Rights Commission

# United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)

The Convention on the Rights of Persons with Disabilities (CRPD) is an international human rights convention which sets out the fundamental human rights of people with disability.

The purpose of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.

It is made up of two documents, the Convention on the Rights of Persons with Disabilities, which contains the main human rights provisions expressed as a series of Articles and the Optional Protocol to the Convention on the Rights of Persons with Disabilities.

The CRPD and its Optional Protocol opened for signature on 30 March 2007 and Australia became one of the original signatories. The CRPD entered into force for Australia on 16 August 2008, and the Optional Protocol in 2009.
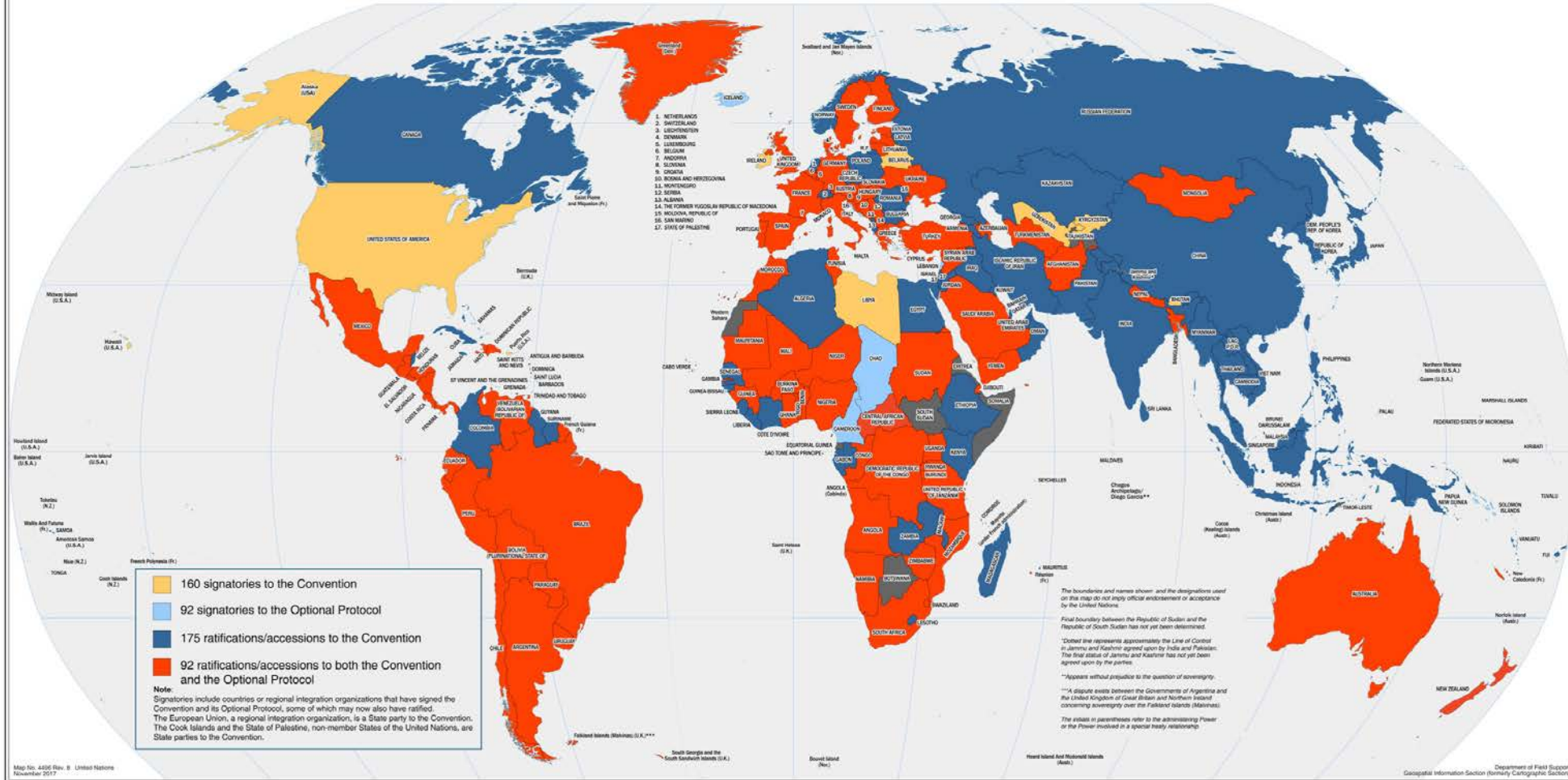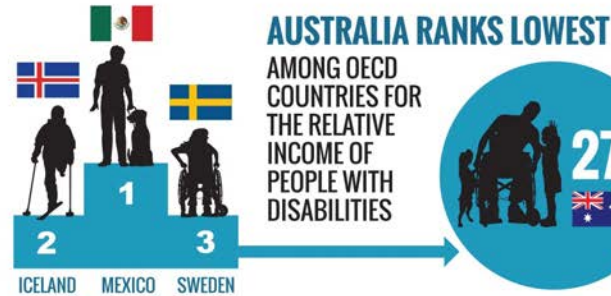
# Disability Rights

**4 in 10** Australians aged 18 yrs and over report having a disability or long-term health condition

Mental health problems and mental illness are among the greatest causes of disability, diminished quality of life and reduced productivity

**AUSTRALIA RANKS LOWEST** AMONG OECD COUNTRIES FOR THE RELATIVE INCOME OF PEOPLE WITH DISABILITIES

**27th**

1 ICELAND
2 MEXICO
3 SWEDEN

WORKFORCE PARTICIPATION OF PEOPLE WITH DISABILITIES AND WITHOUT DISABILITIES

**54%** with disabilities
**83%** without disabilities

**1.2 million** people with disabilities report difficulties using public transport
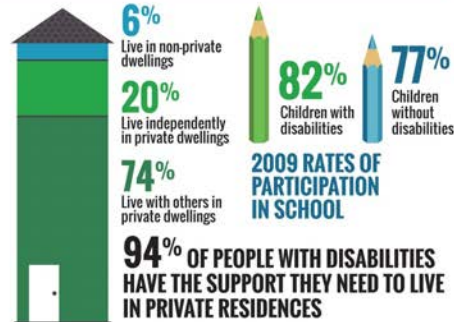
**1 in 4** people who report sexual assault are people with disabilities

**9 in 10** WOMEN WITH INTELLECTUAL DISABILITIES HAVE BEEN SEXUALLY ABUSED

**6%** Live in non-private dwellings
**20%** Live independently in private dwellings
**74%** Live with others in private dwellings

**82%** Children with disabilities
**77%** Children without disabilities

**2009 RATES OF PARTICIPATION IN SCHOOL**

**94%** OF PEOPLE WITH DISABILITIES HAVE THE SUPPORT THEY NEED TO LIVE IN PRIVATE RESIDENCES

# What is a Restrictive Practice?

- Restrictive practice means any practice or intervention that has the effect of restricting the rights or freedom of movement of a person with disability
    - Physical restraint (physical force to prevent or restrict movement)
    - Chemical restraint (medication for controlling behaviours of concern)
    - Mechanical restraint (using a device to restrict or limit movement)
    - Environmental restraint (restricted access)
    - Seclusion (cannot leave a room)

# Factors associated with long-term use of restrictive interventions

Ben Richardson[a], Lynne S. Webber[a,b] and Frank Lambrick[b,c]

[a]School of Psychology, Deakin University, Burwood, Australia; [b]Department of Health and Human Services, Office of Professional Practice, Melbourne, Australia; [c]School of Social and Political Sciences, The University of Melbourne, Melbourne, Australia

**ABSTRACT**

**Background:** Despite agreement that restrictive intervention (RI) should only be used as a last resort and for as long as required, little is known about long-term RI among individuals with a disability. This study examines long-term RI use.

**Method:** From the Restrictive Intervention Data System dataset from Victoria, Australia, a cohort of 1,414 people reported to be restrained or secluded between July 2008 and June 2010 were identified. The primary outcome was restraint during the follow-up period (July 2013–June 2015). Measures of the secondary outcome, reasons for restraint cessation, were assessed via a self-report survey completed by 54 service providers.

**Results:** At follow up, 74% of the cohort was still subject to RI. Antipsychotic medication use, a diagnosis of autism, and communication difficulties were associated with the use of restrictive interventions at follow up.

**Conclusions:** Long-term RI is prevalent, but can be minimised by positive behaviour support.

# Restrictive Practices Can Be Overused or Misused

They are sometimes used as the first and only way to manage behaviours of concern

Restrictive practices might be overused or misused when:

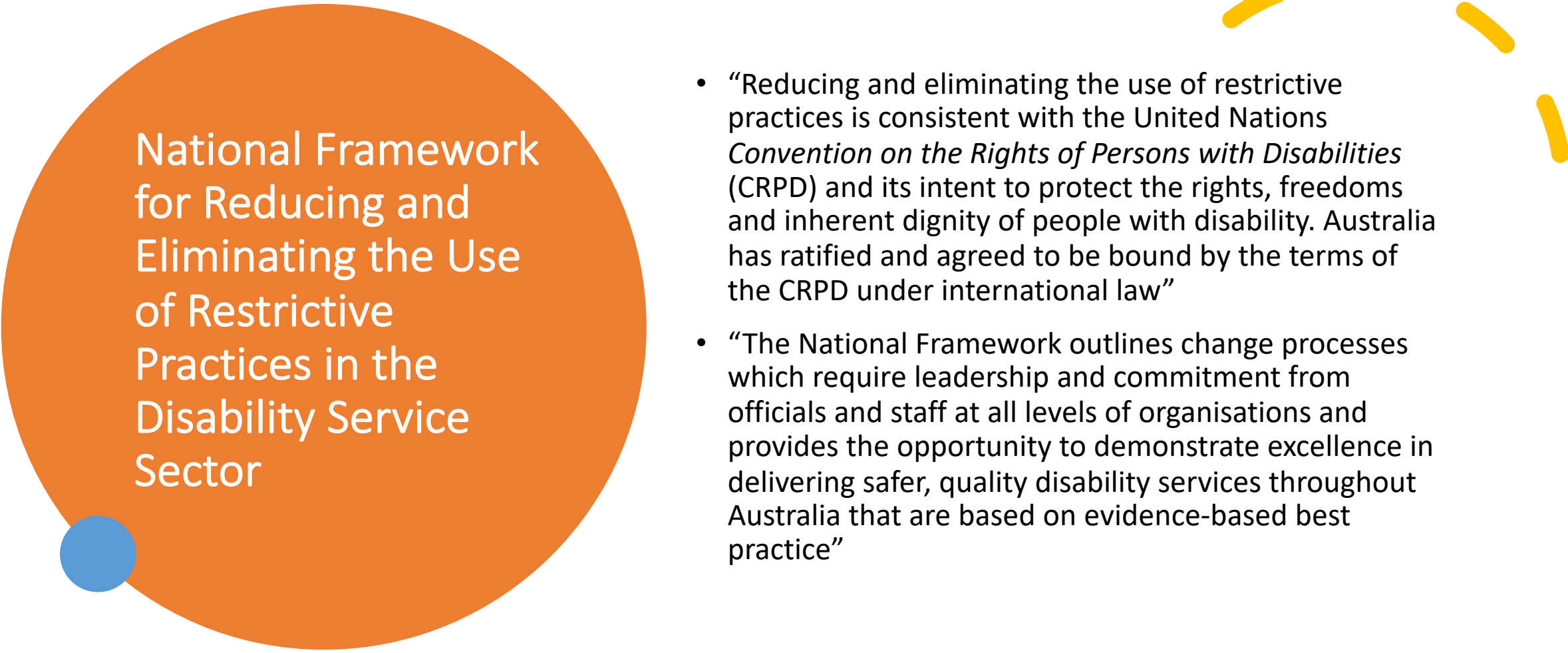| People don't know what a restrictive practice is | There are no systems to ensure that their use is documented and evaluated | The main goal is to make life easier for other people | People are not aware of alternatives to restrictive practices, or strategies to prevent or minimise their use |
|---|---|---|---|

# But…

- The goal of the NDIS Quality and Safeguarding Commission is not to outlaw the use of restrictive practices or fully prevent their use!

- Rather, the goal is to ensure that restrictive practices are used in safe ways when needed, and to reduce the overuse and misuse of restrictive practices

- Talking about restrictive practices may feel uncomfortable, but we owe it to the people we support to have these difficult conversations

# National Framework for Reducing and Eliminating the Use of Restrictive Practices in the Disability Service Sector

- "Reducing and eliminating the use of restrictive practices is consistent with the United Nations *Convention on the Rights of Persons with Disabilities* (CRPD) and its intent to protect the rights, freedoms and inherent dignity of people with disability. Australia has ratified and agreed to be bound by the terms of the CRPD under international law"

- "The National Framework outlines change processes which require leadership and commitment from officials and staff at all levels of organisations and provides the opportunity to demonstrate excellence in delivering safer, quality disability services throughout Australia that are based on evidence-based best practice"

# Other Considerations

## What is 'Duty of care'?

'Duty of care' is a moral or legal obligation to ensure the safety or wellbeing of others.

## What is 'Dignity of Risk'?

'Dignity of risk' refers to the concept of affording a person the right (or dignity) to take reasonable risks, and that the impeding of this right can suffocate personal growth, self-esteem and overall quality of life.

In the human services context however, and particularly in relation to vulnerable people with complex support needs, traditional risk management can easily lead to risk avoidance or risk aversion practices, as the examination of the risk is at the centre of the process. This can encourage restriction and exclusion, and can place barriers to social inclusion and a good quality of life. The experience of many people who use support services is that "risk" is the reason given to them why they are not able to do the things that other people are doing every day (Neill et al., 2008).

# Some Interesting Research

**Evaluation of a Program Model for Minimizing Restraint and Seclusion**

Jason H. Craig[1] · Kimberly L. Sanders[1]

**Abstract**
This study conducted a longitudinal evaluation of an organizational change effort to minimize restraint and seclusion within a behavioral healthcare facility that serves at-risk and high-risk clients with intellectual, developmental, and psychiatric disabilities, using a context, input, process, and product model. The change effort was developed and implemented at an agency in the mid-Atlantic region of the USA that provided a continuum of care to children and adults in residential, educational, and home settings. There was a 99% decrease in restraint frequency, a 97% decrease in staff injury from a restraint, a 64% decrease in client-induced staff injury, and an increase in client goal mastery 133% from 2003 to 2016. Trauma-informed, less restrictive treatment methods provided safer treatment for individuals with a variety of disabilities, while increasing mastery of individualized goals. It also saved the organization over $16 million in lost time expenses, turnover costs, and workers' compensation policy costs.

**Keywords** Restraint minimization · Cost · Safety · Staff training

- Trauma informed approach
- Values
- Staff training in alternatives to restrictive practices
- Safety planning
- Frequent communication and debriefing
- Data based problem solving

# Under What Conditions Might a Restrictive Practice Be Used?

- In collaboration with:
  - A functional behaviour assessment, to identify why behaviours of concern are occurring
  - A positive behaviour support plan that describes positive, proactive, and preventative strategies for building skills and making environmental changes
  - Participation of the person and their family in developing supports
  - The informed consent of the person and/or their family/guardians
  - Systems to build the capacity of support workers and family members to implement the behaviour support plan
  - Systems to build the capacity of support workers and family to safely and consistently implement the restrictive practice
  - Systems for recording and analysing data to ensure the positive behaviour support plan is working well (or, alternatively, needs to be changed)
  - Systems for recording and analysing data on the use of the restrictive practice

# What is Positive Behaviour Support?

- A framework for helping people who display behaviours of concern that includes:
    - A constructional approach
    - Functional assessment
    - Person-centred planning
    - Multi-component behaviour support plans
    - Support for families and teams
    - Data-based decision-making

    - Reductions in behaviours of concern is a side effect, rather than main goal!
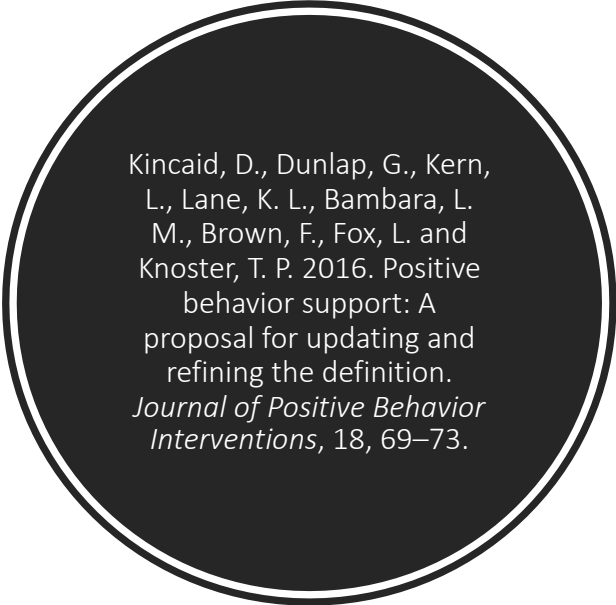
Taylor & Francis
Taylor & Francis Group

# Editorial for the special issue: 'positive behaviour support: moving toward a human rights based model of support'

Erin S. Leif, Russell A. Fox, Pearl Subban & Umesh Sharma

Scan me!

Kincaid, D., Dunlap, G., Kern, L., Lane, K. L., Bambara, L. M., Brown, F., Fox, L. and Knoster, T. P. 2016. Positive behavior support: A proposal for updating and refining the definition. *Journal of Positive Behavior Interventions*, 18, 69–73.

PBS is an approach to behavior support that includes an ongoing process of research-based assessment, intervention, and data-based decision making focused on building social and other functional competencies, creating supportive contexts, and preventing the occurrence of problem behaviors. PBS relies on strategies that are respectful of a person's dignity and overall well-being and that are drawn primarily from behavioral, educational, and social sciences, although other evidence-based procedures may be incorporated. PBS may be applied within a multi-tiered framework at the level of the individual and at the level of larger systems (e.g., families, classrooms, schools, social service programs, and facilities) (p. 71).

# Our Recent Research

# 'Stakeholders are almost always resistant': Australian behaviour support practitioners' perceptions of the barriers and enablers to reducing restrictive practices

**Erin S. Leif** iD **, Russell A. Fox** iD **, Pearl Subban** iD **and Umesh Sharma** iD

Faculty of Education, Monash University, Clayton, VIC, Australia

**Scan me!**

A restrictive practice (RP) is defined as a practice or intervention that has the effect of restricting the rights or freedom of movement of a person, and includes physical, mechanical, and chemical restraint, and seclusion. If misused or overused, RPs may present serious human rights infringements. In Australia, behaviour support practitioners who deliver behaviour support funded by the National Disability Insurance Scheme are responsible for developing positive behaviour support plans that aim to reduce and eliminate the use of RPs. At present, little is known about the barriers that behaviour support practitioners experience when attempting to reduce and eliminate the use of RPs and, conversely, what helps (or enables) them to reduce and eliminate RPs. To learn more, we conducted an online survey consisting of two open-ended questions with 109 Australian behaviour support practitioners to identify barriers and enablers. We found that fear and reluctance on the part of stakeholders were often barriers to reducing the use of RPs. However, we found that having time, funding, and resources for training, supervision, other implementation activities, care team collaboration, and data-based decision-making helped overcome barriers. We provide specific recommendations for addressing identified barriers for individual behaviour support practitioners, service provider organisations, and government and regulatory agencies.

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**4** Supporting implementation of alternatives to restrictive practices

# What Can Individual Practitioners Do to Reduce the Use of Restrictive Practices?

| 1 | 2 | 3 | 4 | 5 |
|---|---|---|---|---|
| Focus on creating safe environments | Build therapeutic alliances | Adopt a person-centred approach | Supporting implementation of alternatives to restrictive practices | Encourage accurate reporting |

# What Can Service Provider Organisations Do to Help Reduce the Use of Restrictive Practices?

## 01

Provide practitioners with time for implementation support, team meetings, training, and professional development

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## 03
Develop consistent data collection, data analysis, and reporting systems

## 04
Establish peer review or clinical problem-solving teams

**NASMHPD**

*Six Core Strategies for Reducing Seclusion & Restraint Use©*
**Planning Tool**
(*Kevin Ann Huckshorn, revised 2008*)

Purpose: The Planning Tool is designed for use as a template or checklist that guides the design of a seclusion and restraint (S/R) reduction plan that incorporates the use of a prevention approach, includes the six core strategies to reduce the use of S/R© described in the NASMHPD curriculum, and ascribes to the principles of continuous quality improvement. Also may be used as a monitoring tool to supervise implementation of a reduction plan and identify problems, issues, barriers and successes. Best used as a working guide by an assigned Performance Improvement/Seclusion and Restraint Reduction Team or Task Force.

**Scan me!**



- Leadership Toward Organizational Change

- Use of Data To Inform Practice

- Workforce Development

- Use of Restraint and Seclusion Prevention Tools

- Inclusion of People with Disability and their families

- Debriefing/Reflective Practice

# What Can Regulators Do to Help Reduce the Use of Restrictive Practices?

## Deliver

Deliver education about definitions of restrictive practices

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|---------|---------|
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| Deliver education about definitions of restrictive practices | Provide practical guidance through case scenarios, Decision-Making Models, and Examples | Fund (and advocate for) implementation support activities | Encourage (and reinforce) accurate reporting | Help promote interprofessional collaboration |

# What Strategies Can Practitioners Use to Uphold The Rights of Clients when Delivering Behaviour Support?

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**03**
Ensure frequent two-way communication

**04**
Focus on support decision-making and quality of life (rather than behaviour reduction in isolation)

**05**
Establish organisational policies and procedures that respect and uphold human rights

# Toward a RIGHTS-Based Model of Positive Behaviour Support

R - Respect the person and their decisions

I - Include the person in the planning, delivery, and evaluation of their supports

G - Get to know the person (build a strong therapeutic alliance!)

H – Use a holistic approach (look beyond the behaviour!)

T - Tell and teach others about human rights

S - Support the person to live their best life

# Future Directions…

# Thank you!

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