

SENIOR PRACTITIONER REPORT



ACT SENIOR PRACTITIONER REPORT 2018–19

REPORT ON FUNCTIONS UNDER THE *SENIOR PRACTITIONER ACT 2018*



COMMUNITY SERVICES DIRECTORATE

ACT SENIOR PRACTITIONER REPORT 2018-19

FOREWORD



I am pleased to present the first annual report on the exercise of my functions as Senior Practitioner under the *Senior Practitioner Act 2018* (the Act), which commenced on 1 September 2018. The Act provides a positive behaviour support framework for the reduction and elimination of restrictive practices by service providers in the ACT. This report illustrates the broad range of activities I have undertaken in the 2018-19 financial year to implement the Act.

My role, as the jurisdiction's inaugural Senior Practitioner, is to work with providers to inform and assist them to develop strategies that ensure best practice in the ACT

As expected, the focus during our first year has been to inform, educate and raise awareness under the Act and we have engaged closely with service providers and peak bodies across the disability, education (including education and care) and care and protection sectors to achieve this. In addition to presenting regular information sessions, I was proud to host three events in the Senior Practitioner Seminar Series. I have also valued the opportunity to visit service providers and present at a range of whole-of-agency staff training sessions.

I have been impressed with the generosity of providers and other key stakeholders in engaging with, and enriching, the work of my Office. This is reflected both in their participation at education sessions, and in their willingness to provide meaningful input in the development of resources, including two sets of Guidelines that enable implementation of the Act. Valuable feedback has also been provided informally, as well as through formal mechanisms, including the Senior Practitioner Resource Working Group and Restrictive Practices Oversight Steering Group.

I firmly believe that the work we have done together will build capacity to foster positive alternatives to restrictive practices, which preserve a person's rights and freedoms and lay the foundations for a positive reporting culture in the ACT. I look forward to building on this effort in future years.

In accordance with section 50 of the Act, I present a copy of this report to the Director-General to be included in the Community Services Directorate Annual Report.

A handwritten signature in black ink, which appears to read 'Mandy Donley'.

Mandy Donley
ACT Senior Practitioner
July 2019

ACT Senior Practitioner Report 2018-19

OVERVIEW OF THE SENIOR PRACTITIONER ACT 2018

The intent of the Act is not to enable the use of restrictive practices, but rather to provide a formal framework for the reduction and elimination of restrictive practices in the ACT.

The Act enshrines the principle that providers should only use restrictive practices in very limited circumstances, namely, as a last resort, in the least restrictive way and for the shortest period possible in the circumstances. The Act also provides an operational structure for my role of Senior Practitioner, which reaffirms and strengthens the rights and responsibilities of vulnerable people, recognising that this requires support from across the ACT government and the broader community.

The Act regulates the use of specific restrictive practices by entities providing education (including education and care), care and protection of children, or disability services. As at 30 June 2019, there were 724 entities defined as 'providers' under the Act in the ACT. The legislation protects the rights of all individuals in these settings, not just those with a disability.

KEY ACTIVITIES AND ACHIEVEMENTS

This report details the key achievements and activities undertaken by the Senior Practitioner's Office to inform, educate and raise awareness; build capacity and capability; and grow professional expertise across the ACT. This work is informed by the functions of the Senior Practitioner, as set out in the Act.

LEGISLATIVE FUNCTIONS OF THE SENIOR PRACTITIONER

Section 26 of the Act defines the functions of the Senior Practitioner as follows:

- a) To promote the reduction and elimination of the use of restrictive practices by providers to the greatest extent possible;
- b) To oversee the use of restrictive practices in accordance with this Act;
- c) To ensure, to the greatest extent possible, that –
 - i) the rights of people who may be subject to restrictive practices are protected;
 - ii) providers comply with any applicable guidelines and standards on the use of restrictive practice;
- d) To develop guidelines and standards on the use of restrictive practices;
- e) To disseminate information, provide education, and give advice about restrictive practices and the rights of people who may be subject to restrictive practices;
- f) To give advice to providers about reducing and eliminating the use of restrictive practices;
- g) To give advice to people who may be subject to restrictive practices under positive behaviour support plans;
- h) To give directions to providers about the use of restrictive practices under positive behaviour support plans;
- i) To develop links and access to professionals, professional bodies and academic institutions for the purpose of promoting knowledge and training in restrictive practices;
- j) To carry out research into the reduction, elimination and use of restrictive practices and provide information on best practice options to providers;
- k) To undertake any other function as directed, in writing, by the Director-General, Community Services Directorate (CSD), or any other function given to the Senior Practitioner under the Act or another territory law; and
- l) Any other function given to the senior practitioner under the Act or another territory law.

ENSHRINING A POSITIVE BEHAVIOUR SUPPORT FRAMEWORK IN THE ACT

The Act outlines a positive behaviour support framework that aims to deliver better outcomes for people with behaviours of concern, and their families. An evidence-based positive behaviour support framework will provide a safer environment for vulnerable clients and the staff, families and carers who support them.

Use of a restrictive practice by a service provider is only permissible in the case of an emergency, or if used in a way that is consistent with a registered Positive Behaviour Support (PBS) Plan for the person.

A PBS Plan describes the proactive and reactive strategies to be used in supporting the person's behaviour, including strategies to:

- meet that person's unmet needs (often one reason for a behaviour of concern);
- build on the person's strengths and increase their life skills, thus improving their quality of life; and
- reduce the intensity, frequency and duration of behaviour that causes harm to the person or others.

The PBS Plan must also specify the conditions under which restrictive practices (if required) may be used.

Where a person's behaviour poses a risk to themselves or others, service providers (and others involved in the person's life) need to understand the function of the behaviour and implement positive behaviour support strategies to substitute the harmful behaviour with a positive one.

INFORMING, EDUCATING AND RAISING AWARENESS

- *To promote the reduction and elimination of the use of restrictive practices by providers to the greatest extent possible*
- *To disseminate information, provide education, and give advice about restrictive practices and the rights of people who may be subject to restrictive practices*
- *To give advice to providers about reducing and eliminating the use of restrictive practices*
- *To give advice to people who may be subject to restrictive practices under positive behaviour support plans*

The Senior Practitioner has independent oversight of the use of restrictive practice in the disability, education (including education and care) and care and protection sectors. A key aspect of the role is to inform, educate and raise awareness across the sectors and within the community, to guide decision making, promote positive alternatives to restrictive practices and preserve a person's rights and freedoms.

During the first year of the Act, this was achieved by:

- presenting regular information sessions on the Act and role of the Senior Practitioner – 377 individuals registered to attend a total of 32 information sessions, which were offered free of charge for anybody impacted by the Act;
- hosting three events in the Senior Practitioner Seminar Series.

- convening the Senior Practitioner Resource Working Group, a cross-sector group of experts tasked with developing resources for individuals, family members, carers and other members of a person's support network, as well as staff regarding restrictive practices;
- providing in-service training and conducting site visits to build providers' understanding of the Act and positive behaviour support framework; and
- producing easy English resources for people with disability on the role and functions of the Senior Practitioner.

Amendments to the Senior Practitioner Act 2018 (effective 15 June 2019)

In June 2019, the Senior Practitioner Act 2018 was amended to further strengthen the ACT Government's commitment to the reduction and elimination of restrictive practices.

The changes ensure alignment with the National Disability Insurance Scheme (NDIS) National Quality and Safeguarding Framework and support a culture of openness of reporting and disclosure to the Senior Practitioner.

The amendments include:

- changing the definition of 'chemical restraint' to align with the NDIS Quality and Safeguarding Framework;
- addressing the use of a restrictive practice outside of a registered positive behaviour support plan where use of the restrictive practice is reasonably believed to be necessary to avoid imminent harm;
- amending applicable penalties to make allowance for the use of a restrictive practice outside of a registered positive behaviour support plan in the circumstances detailed above;
- extending the timeframe for the commencement of offences from 1 July 2019 to 1 July 2020; and

- adding the NDIS National Quality and Safeguards Commission as an entity to which the Senior Practitioner may provide information.

The amendment of the legislation to acknowledge the use of restrictive practice in an emergency, outside of a registered positive behaviour support plan, is not a statement of support for such practices. Rather, it is intended as a mechanism to embed a culture of openness, allowing the Senior Practitioner and her office to work with providers to reduce the use of restrictive practice.

Extension of the date for commencement of Part 8 of the Act (Offences) allows the Senior Practitioner to work with affected parties to ensure education and system supports are in place to enable a successful transition to the new reporting environment.

BUILDING CAPACITY AND CAPABILITY

- *To oversee the use of restrictive practices in accordance with this Act*
- *To develop guidelines and standards on the use of restrictive practices*
- *To ensure, to the greatest extent possible, that the rights of people who may be subject to restrictive practices are protected, and providers comply with any applicable guidelines and standards on the use of restrictive practice*
- *To give directions to providers about the use of restrictive practices under positive behaviour support plans*

The intent of the Act is not to enable the use of restrictive practices, it is to provide a formal framework for the reduction and elimination of restrictive practices in the ACT.

In May 2019, the Senior Practitioner issued two new guidelines to help service providers implement best practice and understand their legal responsibilities for the reduction and elimination of restrictive practices. The guidelines are disallowable instruments under the Act.

The *Positive Behaviour Support Plan Guideline* provides guidance on how to prepare a Positive Behaviour Support Plan, and how to notify the Senior Practitioner about the use of restrictive practices.

The *Positive Behaviour Support Panel Guideline* outlines the role of Positive Behaviour Support Panels, the process for having Plans approved and how to register a Panel. The guidelines also clarify the composition of Panels, including members' experience and qualifications.



Both Guidelines were developed in consultation with key stakeholders across all sectors affected by the Act, and are available on the Community Services Directorate website at <https://www.communityservices.act.gov.au/quality-complaints-and-regulation/office-of-the-senior-practitioner/guidelines>.

POSITIVE BEHAVIOUR SUPPORT PANELS TO APPROVE POSITIVE BEHAVIOUR SUPPORT (PBS) PLANS

All PBS Plans that include a restrictive practice must be approved by a registered Positive Behaviour Support Panel and registered by the Senior Practitioner.

As an interim arrangement during early implementation of the Act, the Senior Practitioner established an interim Central Positive Behaviour Support Panel (the Central Panel) to consider all PBS Plans and develop guidelines for future panels to assess and approve Plans.

In 2018-19, the Central Panel convened 14 times and considered 50 PBS Plans submitted by providers. Thirty four out of 50 PBS Plans submitted were approved by the Central Panel. A total of 27 PBS Plans were then registered by the Senior Practitioner.

CASE STUDY: SONIA'S STORY

Sonia* and her guardians have kindly offered to share her experiences of working with the Senior Practitioner in order to help others with a disability, and to help those working with people with disabilities, to look differently at the way clients are supported to live their lives.

Sonia was visited in her home by Senior Practitioner, Mandy Donley. She is the sole NDIS participant living in her Canberra home with 24 hour support.

Sonia had several restrictions in place as part of her day to day life, and Mandy suggested that Sonia may require a registered Positive Behaviour Support Plan to work towards reducing the use of these restrictive practices.

The restrictive practices included locks on her food cupboards, PRN (*pro re nata* or 'as needed') medication for chemically controlling outbursts or so called inappropriate behaviours, and an alarm to alert staff when she was entering or exiting her bedroom.

Sonia's guardians, NDIS coordinator and support staff started to think about why these restrictive practices were in place.

- Had they been left there due to fear that Sonia may engage in what were historically seen as inappropriate behaviours?
- Had the practices been in place for so long that it was assumed that she would not 'cope' without them there?

While Sonia's Positive Behaviour Support Plan was being written in preparation for taking to a Panel Review, some changes were made.

- The locks on Sonia's cupboards were removed. Sonia did not binge eat as feared!
- Sonia had bowls of fruit left out for her to freely access. It only took one or two days before she stopped overindulging!
- The use of Sonia's PRN medication was reviewed. It had not been used for several years so it was removed from her house.

Sonia trialed not using the alarm on her bedroom door. She had no incidents of concern around this and it did not impact on her safety.

So off we went to the Panel armed with Sonia's Positive Behaviour Support Plan, our new perspective and confidence in our own ability ready to place it in action, have it registered and follow all recommendations.

We were pleasantly surprised to find that through the process of looking more closely at the restrictions in place for Sonia, we had eliminated them all! There was no longer a need for Sonia to have a registered Positive Behaviour Support Plan.

The process of looking more closely at the restrictions in place, had shown us all how they were no longer needed and could not be justified at this stage of Sonia's life.

Sonia's disability does not restrict her from living her life. She is an inspiration to all!

*Not her real name

Sonia's experience is an excellent example of how the Senior Practitioner can work together with everybody involved in the care and support of a person to review the use of restrictive practices, including those that have been in place for a long time, and implement positive changes that better support a person, enhance their quality of life and protect their rights and freedoms.

"Just a quick note to let you know how being involved with the development of Positive Behaviour Support Plans has positively affected how we support our clients.

Through giving us greater insight, it has allowed us the opportunity to rethink many of the assumptions we have had about the best way to support our clients.

It has given us the tools to have positive conversations with guardians. It has given us courage and the chance to support each other to make significant changes.

It is making a real and positive difference!"

- Disability support provider

Supporting disability providers in the transition to NDIS Quality and Safeguarding arrangements

The Act supports the ACT's commitments under the NDIS.

The NDIS has made regulating the use of restrictive practices and the use of positive behaviour support a key part of the NDIS Quality and Safeguarding Framework, which came into effect in the ACT on 1 July 2019. The NDIS has enshrined some of these requirements in legislation, namely, the *NDIS Amendment (Quality and Safeguards) Act 2017*.

On 28 June 2019, the Senior Practitioner provided a copy of all registered PBS Plans with authorised restrictive practices to the NDIS Quality and Safeguards Commission as part of the ACT's transition to NDIS Quality and Safeguarding arrangements.

The Senior Practitioner is continuing to work with the NDIS Quality and Safeguards Commission and national Senior Practitioner to ensure timely and effective reporting and information sharing arrangements into the future.

Image: Mandy Donley, ACT Senior Practitioner and Dr Jeffrey Chan, Senior Practitioner – Behaviour Support, NDIS Commission



GROWING PROFESSIONAL EXPERTISE

- *To develop links and access to professionals, professional bodies and academic institutions for the purpose of promoting knowledge and training in restrictive practices.*
- *To carry out research and provide information on best practice options to providers*

Three events in the ACT Senior Practitioner Seminar Series were held throughout 2018-19. The Seminar Series successfully showcased Australian research, policy and evidence-based practice to support the Senior Practitioner's functions under the Act.

These events have each had a particular focus. The first, held in November 2018, was focused on disability services and schools. The second, in February 2019, focused on meeting the needs of vulnerable children and young people. The third, in May 2019, focused on supporting clients with dual diagnoses of intellectual and psychosocial disabilities.

Each Seminar Series event was promoted through a range of service provider networks, the Senior Practitioner webpage, and Eventbrite online.

A total of 709 individuals registered to attend these events and feedback was overwhelmingly positive.

All presentations and resources from these events are available on the Senior Practitioner website at: <https://www.communityservices.act.gov.au/quality-complaints-and-regulation/office-of-the-senior-practitioner/seminar-series>

SEMINAR SERIES FEEDBACK –

What did you enjoy most about the Senior Practitioner Seminar Series event?

“Professionalism, research-based knowledge, objectiveness of presenters.”

“Different views including from interstate providing ideas for policy development.”

“The presentations from interstate, learning what other parts of Australia are doing, and personal stories shared.”

“A range of presenters from varying backgrounds who shared their expertise with relevant examples of positive practice. Hearing what is happening in other areas, both national and international.”

“A number of the presentations highlighted the impact of past trauma on present behaviour - this was helpful as both a reminder and also in providing new insights.”

“Presentations about what works and doesn't work elsewhere and hearing some of the research that is ongoing here.”

“Enjoyed all speakers who were presenting evidenced based data which is so important. Presenters were committed to their work and provided comprehensive presentations.”

Driving a positive reporting culture in the ACT

Providers must report all uses of a restrictive practice to the Senior Practitioner, whether there is a positive behaviour support plan in place for the person or not. Over time, this data will be used to analyse the use of restrictive practices in the ACT and identify trends and areas of focus for the Senior Practitioner.

In 2018-19, an interim reporting system was established to assist providers to meet their obligations under the Act. This interim system has enabled the collection of rudimentary data, giving the Senior Practitioner insight into the restrictive practice landscape across the three service sectors covered by the Act.

As at 30 June 2019, a total of 561 reports were received. These reports are detailed by type of restrictive practice in the table below.

Table 1: Number of reports by all providers

TYPE OF RESTRICTIVE PRACTICE	EMERGENCY	ROUTINE	TOTAL
Chemical restraint	41	7	48
Environmental restraint	10	0	10
Seclusion	201	n/a ¹	201
Physical restraint	300	n/a	300
Mechanical restraint	2	0	2
Total reports	554	7	561

¹n/a: Seclusion and physical restraint cannot be authorised as part of a PBS Plan and their use must, therefore, be classified as an emergency restrictive practice.

As this new positive behaviour framework is further embedded across the ACT, it is expected that the capacity and capability of service providers will continue to increase.

FUTURE DIRECTIONS

Moving into the second year of operation, the Senior Practitioner's Office will continue to embed a positive reporting culture in the ACT and build capacity to implement positive alternatives to restrictive practices, which preserve a person's rights and freedoms.

A highlight of the 2019-20 year will be the implementation of a system to collect data on providers' use of restrictive practices using funds allocated in the 2019-20 budget. Analysis of the data will inform research, which in turn will help us to better target resources and influence practice.






Under the Act, the Senior Practitioner is given scope to provide whole of government services to families and vulnerable individuals. Throughout 2019-20, there will be a greater emphasis on models of support that promote coordination across sectors and service providers, using common language and building on strengths of each sector.








SENIOR PRACTITIONER SEMINAR SERIES









LIST OF PRESENTERS 2018-19




The ACT Senior Practitioner gratefully acknowledges everybody who gave their time to present at the three Senior Practitioner Seminar Series events in 2018-19.

Their incredible support has helped to showcase current Australian research and evidence-based practice for the reduction and elimination of restrictive practices in schools, disability services and child protection settings.

PRESENTER	TOPIC
 <p>Dr Jeffrey Chan Senior Practitioner, Behaviour Support, National Disability Insurance Scheme (NDIS) Quality and Safeguards Commission</p>	ACT's transition to NDIS Quality and Safeguards arrangements
 <p>Donna White Assistant Director, Behaviour Support, NDIS Quality and Safeguards Commission</p>	
 <p>Dr Frank Lambrick Senior Practitioner – Disability Victoria</p>	Eleven years of research in Victoria
 <p>Associate Professor Paul Ramcharan Program Lead, Social Policy and Practice Social and Global Studies Centre RMIT University</p>	Restraint-free environments
 <p>Charley Hodgson Senior Practitioner – Disability Tasmania</p>	Lessons from the past for the future: a journey from restriction to participation

PRESENTER	TOPIC
 <p>Jodie Griffiths-Cook Public Advocate and Children and Young People Commission Australian Capital Territory</p>	Reducing restrictive practice in care and protection of children
 <p>Professor Karen Nankervis Chair of the Centre of Excellence for Clinical Innovation and Behaviour Support, University of Queensland Executive Director, Disability Practice and Service Improvement Queensland</p>	Queensland Centre of Excellence
 <p>Sharon Paley Manager in State Operations - Behaviour Team Department of Education Queensland</p>	Evidence-based approaches for reducing and eliminating restrictive practices
 <p>Dr Shiralee Poed Senior Lecturer, Melbourne Graduate School of Education University of Melbourne</p>	Reducing restraint in schools
 <p>Rebecca Cross Director-General, Community Services Directorate Australian Capital Territory</p>	Overseas best practice model
 <p>Dr David Pasalich Senior Lecturer, Research School of Psychology Australian National University</p>	An attachment- and trauma-informed approach to supporting children in kinship care
 <p>Dr Robyn Miller Chief Executive Officer, MacKillop Family Services Victoria</p>	Therapeutic engagement with children and families in the out-of-home-care and child protection systems

PRESENTER	TOPIC
	<p>Professor Daryl Higgins Director, Institute of Child Protection Studies Australian Catholic University</p> <p>Inclusive, child-safe, child-centred practices in child welfare and other youth-serving organisations</p>
	<p>Jacinta Evans Executive Director, Inclusion and Participation, Community Services Directorate Australian Capital Territory</p> <p>Overseas Best Practice Model</p>
	<p>Professor Douglas Boer Professor of Clinical Psychology University of Canberra</p> <p>Conceptualising appropriate, inappropriate, and illegal socio-sexual behaviours in young people with a disability</p>
	<p>Paul North Principal Psychologist, Partnerships Plus Consultant to the ACT Senior Practitioner</p> <p>The role of Polyvagal Theory and Heart Rate Variability in understanding trauma</p>
	<p>Dannii Lane Self-advocate</p> <p>Disability, mental illness and human rights: Restraint and seclusion in Tasmania</p>
	<p>Dr Dinesh Arya Chief Medical Officer, ACT Health Australian Capital Territory</p> <p>What should be our collective clinical governance responsibilities?</p>
	<p>Dr Paul Nguyen Senior Medical Officer, Centre for Developmental Disability Health Victoria</p> <p>How to train your GP: An exploration of the GP mindset and how to make it disability-capable</p>
	<p>Dr Angela Livingstone Psychiatrist, Victorian Dual Disability Service, St Vincent's Hospital Victoria</p> <p>The Victorian Dual Disability Service</p>

PRESENTER	TOPIC
 <p>Professor Julian Trollor Chair of Intellectual Disability Mental Health Head Developmental Disability Neuropsychiatry (3DN) University of New South Wales</p>	<p>Mental health and wellbeing of people with intellectual or developmental disability: challenges in the provision of integrated supports</p>
 <p>Dr Gerry Naughtin Strategic Adviser, Mental Health and Psychosocial Disability National Disability Insurance Agency (NDIA)</p>	<p>Emerging thinking on possible changes to NDIS for psychosocial disability</p>
 <p>Professor Luis Salvador-Curulla Head of the Centre for Mental Health Research, School of Population Health Australian National University</p>	<p>International perspectives on restraint and seclusion in mental health</p>

