

# Senior Practitioner Report



## ACT SENIOR PRACTITIONER REPORT 2020-21

REPORT ON FUNCTIONS UNDER THE *SENIOR PRACTITIONER ACT 2018*



*COMMUNITY SERVICES DIRECTORATE*

## FOREWORD



I was recently appointed the Senior Practitioner and I bring with me a wealth of knowledge from my time as the National Director Behaviour Support for the National Disability Insurance Scheme (NDIS) Quality and Safeguards Commission and over 20 years' experience in the sector.

I would like to thank Mandy Donley, the inaugural Senior Practitioner, for her leadership of the Office of the Senior Practitioner over the last 3 years and wish her the best in her future endeavours.

I am pleased to present the third annual report, which details the key achievements of the Office of the Senior Practitioner, working in close collaboration with our government, non-government and community partners, to continue to reduce and eliminate restrictive practices in the Australian Capital Territory.

This year continued to be challenging with the COVID19 health emergency impacting on our community, however it has been heart-warming and beautiful to see the ways in which practitioners have adapted to these challenges. The ACT community of practitioners are commended for their resourcefulness, creativity and resilience. Some brilliant examples include physical activity sessions, such as Zumba, being hosted online to ensure residents of a semi-independent and aged care residential facility remain active, and agencies working tirelessly to set residents up on video calling applications so that they can remain in touch with family and friends, reducing the sense of isolation and loneliness.

This year has also seen changes to the Office of the Senior Practitioner, with recruitment being a significant focus. Mandy's departure saw some staffing changes, and a new team has been hired who are highly motivated, diverse and all have a keen interest and passion for upholding human rights and improving the quality of life for vulnerable people.

Another significant focus has been the development and introduction of an online data system, which has required significant investment to develop the infrastructure to support a more streamlined reporting system for providers to report against restrictive practices and create and manage Positive Behaviour Support Plans electronically. As we move forward, the focus will be on embedding the use of this data system to provide the Office of the Senior Practitioner with complex data, to allow us to explore and analyse trends in the implementation of the Act.

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.

Tracey Harkness

ACT Senior Practitioner July 2021

## KEY ACTIVITIES AND ACHIEVEMENTS

This report details the key achievements and activities undertaken by the Office of the Senior Practitioner 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 Senior Practitioner Act 2018 ('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.

### IMPLEMENTATION OF THE ACT

#### *DISABILITY*

Overall, there has been good engagement by disability providers under the Act. However, there have been concerns about the limited number and availability of NDIS-registered behaviour support practitioners who are deemed suitable to write positive behaviour support plans.

The previous Senior Practitioner recognised that the ‘thin market’ of NDIS-registered practitioners has made it difficult for many participants with behaviour support funding in their NDIS plan to access the assistance they require. This is particularly the case for participants with complex needs who are subject to restrictive practices. In response to this in 2020-2021, the Senior Practitioner and the Office for Disability collaborated with a number of different agencies including the NDIS Quality and Safeguards Commission (NDIS Commission) to undertake a Thin Market Project, to look at challenges and quality issues in the behaviour support arena. The project is almost at completion, with the key findings being implemented into the National Action Plan thin market initiative facilitated by Department of Social Services.

The Office of the Senior Practitioner has also continued to participate in monthly meetings between the NDIS Commission and NSW Department of Communities and Justice, to foster a collaboration with the co-regulatory model for the regulation and oversight of restrictive practices for NDIS participants.

### **EDUCATION**

The Office of the Senior Practitioner has continued to support the work of the education and education and care sectors to support the development of policies, processes and practices that enable providers to meet the requirements of the Act.

As the only jurisdiction in Australia that has specific legislation providing a framework for reducing and eliminating restrictive practices for children in education settings, ACT education providers are well positioned to establish and refine approaches to recognise and address the functional causes of behaviours of concern that may lead to, or result in, restrictive practices being applied.

The Senior Practitioner meets fortnightly with the Education Directorate’s Complex Case Management and Student Engagement branch to work collaboratively to develop specific resources including fact sheets designed to increase understanding of restrictive practices and how the sector can contribute to a holistic response for children. Work is ongoing to develop collaborative processes around complaints management and reporting of restrictive practices.

The Office of the Senior Practitioner has continued with site visits to schools in conjunction with the ACT Education Directorate to engage school leaders in the ongoing requirements of the Act and to conduct walk through visits.

### **CARE AND PROTECTION OF CHILDREN**

During the last reporting period, the Office of the Senior Practitioner collaborated with the Child and Youth Protection Services (CYPS) working group on the development and publication of a chemical restraint fact sheet. Building on this work one of the ACT’s major out of home care providers, ACT Together, developed a chemical restraint register to ensure all children who take medication are identified, and that purpose of medication forms are completed. This work has ensured that children in care have appropriate Positive Behaviour Support plans in place and any use of restrictive practices is reported to the Senior Practitioner.

The Office meets with care and protection providers on a monthly basis, in two separate meetings, one for residential care providers and the other for kinship and foster care providers. These meetings have not only been valuable in building constructive working relationships, but they have also raised awareness of restrictive practices, and enhanced providers’ capacity to implement positive behaviour support. In addition to the stakeholder meetings, the Senior Practitioner has continued to offer training and information sessions and

provide ongoing support to the sector as required. This has included an agency-wide training (Lunch and Learn presentation) and a further three training sessions for individual teams and units.

### **NDIS PARTICIPANTS IN AGED CARE**

On 1 December 2020, the Senior Practitioner expanded its regulatory oversight to include NDIS participants who reside in aged care settings. The Senior Practitioner ran a series of information and educational sessions (including an event as part of the seminar series) and conducted a number of on-sites visits to aged care facilities to conduct information sessions, meeting with management and care workers to provide information about their obligations under the Act and included walk throughs of the facilities and where possible, meeting with the NDIS participants in each home.

In addition to this, in collaboration with the University of Canberra, the Senior Practitioner hosted two Master of Occupational Therapy Students to develop a research report into the reduction and elimination of restrictive practices in aged care. The report has been shared with the aged care provider, and the Office of the Senior Practitioner staff are currently working alongside the provider to develop an implementation plan to ensure that recommendations are understood and adopted into practice.

### **ENSHRINING A POSITIVE BEHAVIOUR SUPPORT FRAMEWORK IN THE ACT**

Positive behaviour support is an evidence-based framework aimed towards increasing a person's quality of life and decreasing any behaviours of concern. It is multi-tiered and establishes the social culture and supports which are needed in order to improve outcomes, including safety, for all people.

The Act enshrines positive behaviour support as a core framework for reducing and eliminating restrictive practices. The Senior Practitioner has focused on investing in administrative, professional and organisational systems that facilitate implementation of the multi-tiered approach. This has included the educative approach in running seminars and sector specific education and training, the introduction of reporting systems and the development of sector wide consultative groups.

### **LEGISLATION AND POLICY**

The Act is a significant piece of legislation. However, like any new legislation, after careful consideration amendments are sometimes necessary to ensure that the intention of the Act can reasonably be fulfilled and that no one is unfairly disadvantaged by its provisions.

On 1 July 2020 the *Senior Practitioner Act 2018* was amended by *The Senior Practitioner Amendment Bill 2019*. The amendments were to:

- Enable commencement of the offences and penalties provision under part 8 of the Act;
- Amend section 46 to remove the penalty of imprisonment and impose a maximum penalty of 50 penalty units.

A fact sheet on offences and penalties was developed and published online prior to this time to help providers prepare to meet their obligations under the Act. A detailed Guideline for Offences under the Act is planned for the next reporting period. Further legislative amendments are currently in consultation and will be proposed in the next reporting period.

### ***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*

Senior Practitioner information sessions continue to be offered free of charge. The challenges of the current pandemic and social distancing did not slow down our commitment to ensuring these sessions continued. In the second half of the reporting year the Office of the Senior Practitioner was able to return to face to face delivery of information sessions to individual services and providers. Over 14 education and interactive sessions on the Act and role of the Senior Practitioner were presented throughout the year particularly to the care and protection and early childhood and childcare sector.

### ***SENIOR PRACTITIONER SEMINAR SERIES***

The Senior Practitioner Seminar Series continues to showcase Australian research, policy and evidence-based practice to support the Senior Practitioner's functions under the Act. Each Seminar Series event was promoted through a range of service provider networks, the Senior Practitioner webpage, and Eventbrite online. The feedback has been overwhelmingly positive, and the continued generosity and goodwill of the presenters is much appreciated.

Events eight to eleven in the Series were held throughout 2020–2021. The focus has been on further developing expertise and knowledge sharing amongst practitioners. Topics have included psychosocial disability and the justice system, implementing inclusive education, behaviour as communication, developing plans to meet the needs of the person, trauma informed support development and workshops on implementing positive behaviour support plans, aged care, and trauma informed approaches to developing positive behaviour support plans.

All four events were held in an online forum, in response to the Covid-19 Pandemic and social distancing requirements. All presentations and resources from these events are available on the Senior Practitioner website at: [Seminar Series - Community Services \(act.gov.au\)](https://www.act.gov.au/act/senior-practitioner/seminar-series-community-services)

### ***INFORMATION SHARING WITH OTHER KEY AGENCIES***

Under Section 42 of the Act, the Senior Practitioner can share protected information with certain specified entities if satisfied on reasonable grounds that the information is necessary for the exercise of their respective functions.

The oversight of the Senior Practitioner is strengthened by the requirement to provide a copy of all plans for children and young people aged under 18 years to the Public Advocate. The Senior Practitioner meets with the Public Advocate and her team on a regular basis, as well as other members of the Human Rights Commission including the Disability and Community Services Commissioner and other oversight bodies.

Regular meetings have been held between the Office of the Senior Practitioner and the Ombudsman's office to discuss common issues around restrictive practices reporting and the Reportable Conduct Scheme. Due to sector uncertainty, many incidents are reported to both Offices and, at times, are incorrectly reported. In response to this a Memorandum of Understanding between the Senior Practitioner and the Ombudsman's office has been developed for the reporting of incidents. This is expected to be formalised in the next reporting period.

## **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*

## **OCCUPATIONAL THERAPY PROJECT PLACEMENT**

The Office of the Senior Practitioner, Jindalee Nursing Home and the University of Canberra worked collaboratively to create a 20-week, part-time, project for two Master of Occupational Therapy Students.

Between January and April 2021, the students undertook a placement with the Office of the Senior Practitioner as a final requirement of their degrees. The placement students then provided a report with 39 recommendations on how to manage, reduce and eliminate the use of restrictive practices in aged care setting- a timely review with the expansion of the Senior Practitioner's jurisdiction into NDIS participants in aged care. The Senior Practitioner has reviewed these recommendations and plans to use these in the development of implementation guidelines and future community of practice education sessions. At present, this work will continue work with Jindalee in adopting the recommendations into practice via an action and implementation plan. The Senior Practitioner envisages this work will also be transferrable to other aged care providers.

## **COMMUNITY OF PRACTICE**

The Senior Practitioner has a regular and ongoing Community of Practice networking group to support all behaviour support practitioners during the implementation of both the Act and the NDIS Quality and Safeguarding Framework. As well as providing valuable peer support and networking, the Community of Practice provides the opportunity for plan authors to receive updates from the Senior Practitioner, the local National Disability Insurance Agency (NDIA) Director and members of the NDIS Quality and Safeguarding Commission behaviour support team.

As more practitioners provide services in the ACT, the community of practice is becoming a source of information to share resources and case examples to drive the reduction and elimination of restrictive practices in favour of a positive behaviour support framework

## **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*

### ***ACT RESTRICTIVE INTERVENTION DATA SYSTEM (ACTRIDS).***

As reported in last year's report, the last quarter of the reporting period has seen the introduction of the new web based online reporting system of ACT RIDS. This system creates a web-based portal for the lodgement and reporting of plans. This new system will allow for more stream-lined approval and registration of Positive Behaviour Support Plans and will replace the current interim reporting arrangements. RIDS offers providers a free web-based, easy to use reporting system.

Providers will also have the ability to analyse data at the individual, group and service level, manage the risk of restrictive practices within their agency, and receive alerts about any uses of a restrictive practice outside of a registered positive behaviour support plan. This will allow providers to more effectively monitor the use of restrictive practices over time.

The system incorporates a new function for providers, that of an Authorised Panel Member (APM) which will streamline the Positive Behaviour Support Panel process and build further capability regarding Positive Behaviour Support Plans within providers. RIDS was launched in June 2021, the roll out of the system and onboarding of providers will continue into the next reporting period. An e-learning module for the use of the RIDS system is also in development.

### ***RESTRICTIVE PRACTICES E-LEARNING MODULE***

This reporting period saw the launch of the interactive e-learning module on the Senior Practitioner Act, designed to assist providers, stakeholders and people subject to restrictive practices to better understand the role of the Senior Practitioner and how the Act contributes to the reduction and elimination of restrictive practices. The e-learning module can be found here: [Office of the Senior Practitioner - Community Services](#)

### ***CONSUMER REFERENCE GROUP***

The Office of the Senior Practitioner has continued to strive towards having the voice of individuals who may be subject to restrictive practices at the heart of everything we do. While this is still developing, progress has been made towards providing more information and resources in an accessible format, as well as promoting a safe space for people subject to restrictive practices to freely speak of their experiences.

During the year, the Senior Practitioner continued to chair the consumer reference group in partnership with Advocacy for Inclusion. This consumer reference group is invaluable in reviewing restrictive practice resources and providing insight into how the Senior Practitioner's oversight, procedures and policies can be improved and made to be more inclusive.



### ***POSITIVE BEHAVIOUR SUPPORT PANELS TO APPROVE PLANS***

Under the Act, all Positive Behaviour Support Plans that include a restrictive practice must be approved by a registered Positive Behaviour Support Panel and registered by the Senior Practitioner. The Panel's role is to ensure that plans are consistent with the Act and any guidelines issued by the Senior. In deciding whether to approve a plan, the Panel must be satisfied that any restrictive practice is necessary to prevent harm to the person or others, is the least restrictive approach reasonably available, and that the plan includes strategies to reduce and eliminate any restrictive practices over time.

The interim Central Panel, established by the Senior Practitioner during early implementation of the Act, continues to operate and has been the mechanism for plans to be approved throughout the year.

The Panels now run entirely online using phone and video technology. In 2020–21, the Central Panel convened 40 times and considered 96 plans presented by providers, 89 of those plans were approved by the Central Panel.

A total of 89 plans were then registered by the Senior Practitioner. 49 plans remain active as at 30 June 2021.

As a result of proactive auditing and letters sent to providers to remind them of requirements to renew behaviour support plans, as at 30 June 2021 there are 15 plans which have been approved by panel and are still in the registration process.

Five plans were not renewed on the basis that the restrictive practices were no longer being used. Three providers reported the reduction or elimination of a restraint, but reported others were still in place

### ***INTERFACE WITH NDIS QUALITY AND SAFEGUARDING COMMISSION***

The NDIS Quality and Safeguarding Commission is responsible for regulating the use of restrictive practices nationally for NDIS participants, however the authorisation of restrictive practices remains within each jurisdiction. The Office of the Senior Practitioner continues to meet with the Behaviour Support Team from the NDIS Quality and Safeguarding Commission on a regular basis. The ACT Senior Practitioner also attends national meetings with other Senior Practitioners and senior executives to discuss best practice and progress towards the reduction and elimination of restrictive practices. The ACT Senior Practitioner is currently involved in collaborative projects with Department of Social Services, ACT government and the NDIS to address the thin market of positive behaviour support specialists available to NDIS participants in the ACT.

### ***DRIVING A POSITIVE REPORTING CULTURE IN THE ACT***

The Act requires providers to report on all episodes of a restrictive practice used in accordance with a registered positive behaviour support plan or outside of a plan in certain emergency harm to self or harm to other situations.

During 2020-2021, 38,614 episodes of restrictive practices were reported for 282 individuals. This represents a significant increase in both number of reports and individuals reported. This does not indicate an increase of use of restrictive practices but a better level of compliance with the requirements of the Act and an increase in awareness of providers' requirements to report.

Chemical restraint is by far the most common type of restrictive practice in use, which reflects a similar trend noted in national data sets within the NDIS. Environmental restraint is the second most prevalent type of restrictive practice, followed closely by mechanical restraint.

The number of episodes, while large, represents a positive reporting culture within the ACT. It is expected that as the legislation matures and regulation is embedded in provider cultures and processes this figure will continue to increase in the short term, before stabilising and reducing in line with positive behaviour support interventions.

#### **Potential data issues**

Some restrictive practices may be unreported, or information may be missing due to the interim measures in place to collect the data while a new Restrictive Intervention Data System is developed for the ACT, leading to undercounting of some types of restrictive practices. For example, low quality of reporting where a restrictive practice is applied much of the time (such as use of bodysuits or long-acting chemicals).

Also, there were instances where data has been amended in reports where there was information not supplied in the reporting fields. If further information was included in the body of text, this information has been included as best as possible. Where further information was not available the record has been excluded, again potentially resulting in underreporting. Alternatively, some reports contained multiple types of restrictive practices, which are counted separately. This may result in a slightly higher count of the number of reports.

As a result, the interim reporting arrangements mean that the data is indicative only. The Introduction of the ACT RIDS system will provide more accurate and accessible data moving forward into the next reporting year.

### Total Episodes of Restrictive Practices

TOTAL EPISODES	Quarter1			Quarter2			Quarter 3			Quarter 4			Financial Year Totals		
	Unregistered	Routine	PRN	Unregistered	Routine	PRN	Unregistered	Routine	PRN	Unregistered	Routine	PRN	Unregistered	Routine	PRN
Chemical	2075	3949	1	1213	6861	122	274	8255	262	1449	4853	117	5011	23918	502
Environmental	361	954	0	581	900	0	133	1094	29	164	891	17	1239	3839	46
Mechanical	241	0	0	91	516	0	111	653	97	197	487	145	640	1656	242
Physical	137	0	38	91	0	55	213	215	73	200	131	20	641	346	186
Seclusion	144	0	0	66	0	0	66	0	1	70	0	1	346	0	2
Not classified by R	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	2958	4903	39	2042	8277	177	797	10217	462	2080	6362	300	7877	29759	978
	TOTAL Q1		7900	TOTAL Q2		10496	TOTAL Q3		11476	TOTAL Q4		8742	TOTAL EPISODES		38614

### Total Reports of the use of Restrictive Practices

TOTAL REPORTS	Quarter1			Quarter2			Quarter 3			Quarter 4			Financial Year Totals		
	Unregistered	Routine	PRN	Unregistered	Routine	PRN	Unregistered	Routine	PRN	Unregistered	Routine	PRN	Unregistered	Routine	PRN
total	379	114	2	220	170	5	112	207	9	353	146	4	1064	637	20
Chemical	379	114	2	220	170	5	112	207	9	353	146	4	1064	637	20
Environmental	54	194	0	72	178	0	34	176	3	28	109	1	188	657	4
Mechanical	96	0	0	46	98	0	23	115	37	24	86	28	189	299	65
Physical	137	0	2	90	0	3	108	12	4	115	10	2	450	22	11
Seclusion	109	0	0	54	0	0	56	0	1	67	0	1	286	0	2
Not classified by	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	775	308	4	482	446	8	333	510	54	587	351	36	2177	1615	102
	TOTAL Q1		1087	TOTAL Q2		936	TOTAL Q3		897	TOTAL Q4		974	TOTAL REPORTS		3894

PRN (Pro Re Nata) means "as required" (as opposed to regularly eg. daily)

## FUTURE DIRECTIONS

Over the coming year, the Senior Practitioner will continue to drive models of support that promote greater coordination across sectors and between service providers. The new Restrictive Intervention Data System (RIDS) will be vital, not only for reporting all uses of a restrictive practice but will also enable different service providers across multiple sectors to confidentially share and collaborate in the development and implementation of a positive behaviour support plan for a person.

Another area of focus for 2020-21 will be further strengthening sector awareness about the requirements of the Act, and an increase in auditing of plan and reporting requirements. The introduction of RIDS will provide a more accurate dataset which will allow the Senior Practitioner to proactively monitor reporting against plans and monitor real time trends in the implementation and application of restrictive practices. Of continuing concern is the quality of plans being developed and the Senior Practitioner intends to continue to work with plan authors and providers to engage in the development of high-quality plans and implementation of plans.