

Senior Practitioner Annual Report



ACT SENIOR PRACTITIONER REPORT 2021-22

REPORT ON FUNCTIONS UNDER THE *SENIOR PRACTITIONER ACT 2018*



Community Services Directorate

FOREWORD



I am pleased to present the fourth annual report, which details the key achievements of the Office of the Senior Practitioner (OSP), 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 (ACT).

I have spent just over 12 months in the role of Senior Practitioner, and I am proud of the resilience, agility and dedication of our stakeholders and providers in working together to keep Canberra's most vulnerable population safe. The 2021-2022 financial year continued to be challenging for all Canberra's due to COVID-19 restrictions, border and business closures and continued spread of the virus. All providers have adapted incredibly well and there has been an overwhelming sense of community.

The OSP has experienced a stabilising year with our team remaining consistent, allowing providers to become familiar with each staff member and their areas of expertise. There has been a significant amount of work in developing and drafting two new Guidelines and embedding processes and procedures to ensure we continue to provide consistent, accountable, and trusted practice advice to stakeholders.

As this is the fourth year since the introduction of the Senior Practitioner Act 2018 (the Act), the OSP remained focused on education and awareness activities about restrictive practices and supporting providers to reduce and eliminate restrictive practices where possible. Additionally, the OSP has invested time, energy, and resources into embedding good regulatory and compliance habits through regular audits of provider reporting. This has extended to discussions with providers regarding their reporting culture and how this can be fostered and improved.

With the introduction of the ACT Restrictive Intervention Data System (RIDS), providers are now using RIDS to upload positive behaviour support plans and report restrictive practices, those within a registered behaviour support plan basis and those not yet within a behaviour support plan. The data being collected in RIDS will allow the OSP to analyse and interpret data trends, and carry out research into the reduction, elimination, and use of restrictive practices.

I would also like to take this opportunity to thank our stakeholders as our success and achievements throughout the year is largely attributed to the hard work, dedication, input and engagement of our providers, practitioners, community of practice, independent clinicians, government and non-government partners, and consumers and their families and advocates.

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 2022

KEY ACTIVITIES AND ACHIEVEMENTS

This report details the key achievements and activities undertaken by the OSP 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

Disability providers continue to have good engagement with the OSP to meet their obligations under the Act. However, some concerns remain about the limited number and availability of NDIS (National Disability Insurance Scheme) registered behaviour support practitioners who are deemed suitable to write positive behaviour support plans.

The OSP conducted 37 site inspections of disability provider facilities in 2021-22 who provide services to 106 participants. These site visits focused on assisting and supporting providers to comply with legislative requirements of the Act and to ensure awareness and understanding of the Act. The site visits assisted in the identification of restrictive practices, supported providers to meet reporting requirements, and resulted in the immediate removal of restrictive practices for some participants. For one participant receiving supported independent living care, a site visit resulted in the immediate removal of multiple environmental restraints which had been implemented without review and without cause for more than a year.

The OSP has also continued to participate in monthly meetings between the NDIS Quality and Safeguards Commission (NDIS Commission) and NSW Department of Communities and Justice, to foster collaboration, consistency and maintain a co-regulatory model for the regulation and oversight of restrictive practices for NDIS participants.

EDUCATION

The OSP has continued to support the education and care sectors to develop 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, the Australian Capital Territory (ACT) education and care 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 OSP partnered with CECA (Children's Education and Care Assurance), which is the Australian Capital Territory's (ACT) Regulatory Authority for the early childhood education and care Sector. Educators and out of hours school carers were invited to attend information sessions about behaviours of concern, restrictive practices, positive behaviour support plans and provider responsibilities under the Act. The sessions were well received and strengthened the Senior Practitioner's relationship with this sector. As a result of the initial information sessions, individualised training and education was completed with multiple children's education and care providers.

The OSP has continued to have regular meetings with the ACT Education Directorate's (ACT ED) Complex Case Management and Student Engagement branch. These meetings enable resource sharing and facilitate the collaborative development of materials including fact sheets and guides designed to increase understanding of restrictive practices within the educational context and how the sector can contribute to a holistic response for children.

Collaboration between the Office of the Senior Practitioner, the ACT ED, ACT Association of Independent School (ACT AIS) and the Canberra and Goulburn Catholic Education Office has also fostered a shared understanding of the intersection of community norms and case studies on environmental restraint within an educational setting.

The registration of a joint education panel (including AIS and Catholic Schools) to approve restrictive practices and a soon to be approved independent clinician for that panel will lead to all positive behaviour support plans for children and young people in educational contexts to be registered by the Senior Practitioner. This is an important milestone, and the Senior Practitioner looks forward to finalising the training of the panel's independent clinician and ensuring that plans are of suitable quality, are legislatively compliant and that focus on reducing and eliminating the use of restrictive practices for children in ACT schools.

The ongoing COVID-19 pandemic continued to create barriers to the resumption of site visits to ACT public schools. The OSP will continue to work with the ACT Education Directorate, ACT AIS, and Catholic Education schools to complete school visits (virtually if needed) and engagement with school leaders in the ongoing requirements of the Act.

CARE AND PROTECTION OF CHILDREN

The Office meets with care and protection providers monthly 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 presentations to kinship carers which focused on the role of the Senior Practitioner and the identification of restrictive practices.

The OSP completed 12 site visits to ACT Together residential homes in early 2022. These inspections led to the identification of restrictive practices and provided support to ACT Together in meeting reporting requirements.

The OSP has also worked collaboratively with ACT Together, Child and Youth Protection Services and ACT Health to assist in ensuring that there is continuity of care for young people exiting Bimberi Youth Justice Centre. Concerns were raised regarding information sharing between agencies regarding prescribed medications and how this impacts the ability of providers to identify possible chemical restraints. Further work in the next 12 months with the ACT Chief Psychiatrist will be focused on collaboration and problem solving this issue.

NDIS PARTICIPANTS IN AGED CARE

The OSP has continued to conduct on-site visits to aged care facilities, conduct information sessions, hold meetings with management and care workers to provide information regarding their obligations under the Act, and where possible, meet with the NDIS participants in each facility. The OSP completed five site visits in 2021-2022 to these providers who deliver care to a total of 22 NDIS participants. The OSP continues to work with our co-regulators in these settings, to identify participants who fall under the scope of the Senior Practitioner Act and may be subject to restrictive practices.

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 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 continued to invest in administrative, professional and organisational systems that facilitate implementation of the multi-tiered approach. This has included the educative approach in

conducting seminars and information sessions, sector specific education and training, and the introduction of online reporting systems and the development of sector wide consultative groups.

LEGISLATION AND POLICY

The Act is significant legislation. However, like any new legislation, after some time in implementing it, amendments are sometimes necessary to ensure that the intention of the Act can reasonably be fulfilled.

Considering this, the Senior Practitioner Amendment Bill 2021 to amend the date for review of the Act to be after its fifth year of operation was passed in August 2021. This important amendment will enable a comprehensive and robust review of the Act. The extension also recognises that the OSP and the sectors it regulates were significantly impacted by successive public emergencies in 2020 and 2021.

Since the launch of the ACT RIDS in June 2021, providers have been onboarding to the online and electronic data system to create positive behaviour support plans and report against restrictive practices. The OSP is currently preparing for participation in a robust review of the implementation of the Act and looks forward to hearing the voices and experiences of people subject to restrictive practices, and our other stakeholders feedback on the effectiveness of the Act, and to identifying areas for improvement.

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 diminish our commitment to ensuring these sessions continued. The OSP was able to return to face-to-face delivery of information sessions to individual services and providers but remained flexible in offering virtual sessions where appropriate. The OSP delivered 36 interactive education sessions on the Act and role of the Senior Practitioner throughout the year, covering providers from all sectors.

Case Study: The positive outcomes of Senior Practitioner information sessions

As a result of an initial information session with staff from the OSP, a provider was able to identify restrictive practices occurring for a particular person who was experiencing challenges in multiple areas of their life. Significant behaviours of concern had resulted in physical restraint being used to ensure the safety of the child and those around them. The OSP reached out to its community of practice and identified a suitable positive behaviour support provider who was able to accept the referral immediately as well as connecting the provider to the ACT Government's Integrated Service Response Program (ISRP) which operates out of the Office for Disability in the Community Services Directorate. ISRP works with the National Disability Insurance Agency (NDIA) and service providers to resolve crises and highly complex situations for people with intensive support needs.

Currently a positive behaviour support plan is being developed and the practitioner is working with the provider, child, and their family to implement supports. At the same time the provider was able to be onboarded onto RIDS to beginning reporting any uses of restrictive practices. The OSP will continue to work with the provider to ensure that restrictive practices can be reduced and where possible eliminated, and that the child's quality of life is improved.

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 we thank the presenters for their time, expertise, and willingness to engage, support and educate the ACT community of practitioners.

One seminar was held in 2021-2022 which focused on sexual health and disability and highlighted how to embed sexual wellbeing and human rights in disability services, individual decision-making in health care, supported and substitute decision-making in the ACT and how to give practical support regarding decisions around sexual and reproductive health. The seminar was held in an online forum, in response to the Covid-19 pandemic and social distancing requirements. All presentations and resources from seminars 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).

With 12 successful Seminars having been held to date, the OSP is reviewing the best format, frequency, and duration for future seminars to ensure maximum engagement. The OSP remains committed to showcasing current Australian research and evidence-based practice for the reduction and elimination of restrictive practices.

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 positive behaviour support plans for children and young people aged under 18 years to the Public Advocate. The Senior Practitioner meets with the Public Advocate and their team on a regular basis, as well as members of the Human Rights Commission including the Disability Commissioner.

Regular meetings have been held between the OSP 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.

ACT SENIOR PRACTITIONER NEWSLETTER

In August 2021, the OSP began publishing a monthly newsletter which is sent out to practitioners, providers, people subject to restrictive practices, and their guardians, families, and advocates. The newsletter is currently received by 166 people and provides this community with important updates from the Senior Practitioner, information and guidance regarding best practice, resources for practitioners, legislative updates from a range of sectors, additional guidance surrounding reporting requirements and the RIDS, and plan submissions to the

central panel, amongst much more. Analysis of engagement rate data highlights a high 70% engagement rate among subscribers to the newsletter.

The monthly newsletter will continue to be an important method for the Senior Practitioner to disseminate information, educative resources and advice about restrictive practices and the rights of people subject to restrictive practices and to continually promote the reduction and elimination of restrictive practices.

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*

AUSTRALIAN CATHOLIC UNIVERSITY RESEARCH PROJECT

The OSP is currently collaborating with the Australian Catholic University on a research project. The project is a qualitative, critical discourse analysis of positive behaviour support plans to interpret how adults, children and young people (including their interests and needs) are constructed in the positive behaviour support context in existing plans registered with the ACT Office of the Senior Practitioner. Critical discourse analysis is an interdisciplinary research approach that studies the connections between power, language and social constructs and the social and material consequences of language. The study aims to inform ongoing conversations around best practice in positive behaviour support plan development and writing, both within the ACT and across broader jurisdictions.

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 a valuable peer support and networking opportunity, the Community of Practice also facilitates the plan authors receiving 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. In 2021-22, the Community of Practice received presentations regarding trauma informed practice and positive behaviour support, writing interim behaviour support plans, the legislative requirements of a positive behaviour support plan and how to improve quality, and including the voice of people subject to restrictive practices in their positive behaviour support plans.

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.

RESOURCE WORKING GROUP

The Resource Working Group (RWG) was established in 2018 during a time of legislative establishment and the group has been integral in providing a space for community consultation on a variety of resources developed by the Office of the Senior Practitioner. Now that the legislation is established and a range of resources have been published, the OSP has conducted a review of the RWG and reflected on the ways in which we consult with our different stakeholders. The OSP has sought to minimise any duplication of working groups, reviewed various terms of reference, and has introduced a newsletter that has been in circulation for over six months. As such, the

frequency of the RRWG has been reduced (from quarterly to an 'ad-hoc' or as required basis) and has been renamed as the Consumer Consultation Group. This means the Consumer Consultation Group will meet when the OSP requires consultation on a particular publication, resource, position statement and or legislative amendments. Members of the RWG have been consulted on this change as well as encouraged to join the Community of Practice which has a consistent and strong following each quarter.

RESTRICTIVE PRACTICE OVERSIGHT STEERING GROUP (RPOSG)

The RPOSG is whole-of-government steering group which meets quarterly and aims to provide strategic policy expertise to guide the implementation of a whole-of-government approach to reducing and eliminating restrictive practices in the ACT, including implementation of the Senior Practitioner's role under the *Senior Practitioner Act 2018*. This group works across government sectors to:

- Promote and support the role of the Senior Practitioner framework
- Identify best practice and ensure that people's rights are protected
- Provide expert advice and cooperation to enable monitoring and reporting of restrictive practices
- Advise on strategic policy expertise regarding the development of guidelines and standards
- Ensures that the principals of the *Human Rights Act 2014* are embedded in policy and practice
- Identify and facilitate strategic links between the Senior Practitioner and relevant professionals, professional bodies and academic institutions
- Authorise and provide feedback on resources developed by the OSP and other working groups.

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 (RIDS)

From 30 August 2021, the OSP no longer accepted manual reports of restrictive practices or panel submissions. Continued and intensive support was provided to organisations from all sectors to report in RIDS, the ACT's web based online reporting system. This new system has also allowed for more stream-lined approval and registration of positive behaviour support plans. The system also allows for increased collaboration between multiple service providers working with the same person and facilitates consistent approaches to the reduction and elimination of restrictive practices.

As with the implementation of any new system there have been some challenges identified in the early stages of RIDS usage. The OSP has worked closely with service providers and the vendor for RIDS to manage these issues and minimise the impacts on providers and people subject to restrictive practices.

The OSP is currently focusing on supporting providers who have not been onboarded to RIDS as well as providing continuing education and support to organisations currently reporting in RIDS. To this end, the OSP conducted 196 separate education and information sessions specifically targeted at RIDS onboarding during the past 12 months. An e-learning module for the use of RIDS has also been developed, alongside a Restrictive Practice Data Reporting Guide which is available through RIDS.

The Y Canberra Region's (YMCA) story is indicative of provider experiences with RIDS and highlights the streamlined reporting capabilities of the system. The YMCA was fully onboarded to RIDS in August 2021 and received extensive support from the Office of the Senior Practitioner.

In reflecting on the experience of reporting within the system the YMCA stated that "once you know the system and the layout of the dashboard, it is very easy to report" and suggest that providers "familiarise (themselves) with the system prior to making a report, click all the tabs and see what is listed under them so you can be prepared and utilising the guide available on the homepage of ACT RIDS."

In the coming year, the OSP will be focusing on utilising the full functionality of RIDS to allow providers 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 monitor the use of restrictive practices more effectively over time. The onboarding of all sectors and providers who may need to report will also be a key focus.

DATA LAKE PROJECT

In 2021-22 the OSP has worked with the Data Excellence Team (SPaDE) to establish full functionality of the RIDS system and link this system with the ACT Government's 'Data Lake'. The Data Lake is a data repository that allows data to be safely and securely stored, de-identified, shared, analysed, and used within the ACT Government. The data collected by the OSP is highly sensitive and the Data Lake provides increased security around this data. This arrangement will also enable improved analysis of data at different levels, including, ACT wide, by sectors, by provider, by provider location and by individual person. This will allow the OSP to analyse data to a greater extent and at a finer level of detail, identify areas in need of further investigation and underreporting by providers. This will help guide resources and activities in education, compliance, and enforcement to the areas of the highest risk. Effective communication of individual, organisational and sector wide trends in the use of restrictive practices will be an important step in giving providers the tools and information to continue reduce and eliminate restrictive practices where possible.

RESTRICTIVE PRACTICES E-LEARNING MODULE

This reporting period saw the launch of the interactive e-learning module on the 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: [OSP- Community Services](#)

COMPLIANCE, COMPLAINTS AND INVESTIGATIONS

The Act requires the Senior Practitioner to regulate the use of restrictive practices by providers. This includes the approval and registration of independent clinicians (formerly 'panel chairs'), registration of positive behaviour support plans, monitoring providers' compliance with the approved positive behaviour support plans, and monitoring compliance with reporting requirements outlined in the Act. Under the Act, the Senior Practitioner also has powers to:

- Receive complaints about anything done by a provider in relation to a positive behaviour support plan that permits the use of a restrictive practice, or about the use of a restrictive practice by a provider
- Conduct investigations, either in response to a complaint or on their own initiative, where restrictive practices are a concern
- Issue a direction to a provider if, after investigating a complaint, the Senior Practitioner is satisfied on reasonable grounds that action needs to be taken in relation to a positive Behaviour Support Plan and/or use of a restrictive practice.

In carrying out these functions the OSP uses a risk-based regulation framework. Risk based regulation practice is a commitment to a philosophy of risk management as the framework for governance. Risks are identified and assessed, ranked and inspection and enforcement undertaken based on the established risks to the cohort of people or products serviced (in the Act's context, vulnerable children, and adults subject to restrictive practices).

The OSP has had a focus on compliance in 2021-22 and completed audits of 22 providers and their compliance with the Act. Where issues regarding the registration of positive behaviour support plans, reporting of restrictive practices or use of restrictive practices were identified, continuing support and education were provided to ensure that the provider could establish and then maintain compliance with the Act.

The OSP received eleven complaints in 2021-22, five of which were referred to other regulatory bodies which have powers to investigate under their relevant legislations. The OSP investigated seven complaints and, in these cases, provided directions to providers, recommendations to improve practices and feedback on complaint outcomes to complainants.

NDIS PARTICIPANT SAFETY STEERING COMMITTEE MEETING

The OSP attends the NDIS Participant Safety Steering Committee, which is meeting regularly to provide guidance for the project including representatives from the NDIS Independent Advisory Council, Disability and Carer Representative Organisations, participants, Commonwealth agencies and states and territories which advise on the development of NDIS participant safety policy and implementation plan. The NDIA is developing an overarching policy on participant safety to guide the work of the NDIA in supporting the ongoing safety of participants and to exercise control over this aspect of their lives.

GUIDELINES

Section 27 of the Senior Practitioner Act authorises the Senior Practitioner to make guidelines in relation to the use of restrictive practices. The Senior Practitioner published the Implementation Guideline for Disability Support Providers in February 2022. The guideline seeks to consolidate complimentary legislation, the National Disability Insurance Scheme (Restrictive Practices and Behaviour Support) Rules 2018 and the Quality and Safeguarding Framework. The guideline seeks to empower all providers working collaboratively with all people to maximise the opportunity for positive outcomes and reduce or eliminate the need for use of restrictive practice in support of people with disability.

Guidelines made under the Act, including this one, are *disallowable instruments*. They have the same legal force as the Act and must be considered when making decisions. The Senior Practitioner is required to make guidelines about positive behaviour support plans and positive behaviour support panels. Guidelines related to positive behaviour support plans and positive behaviour support panels were published in 2019 and 2020 respectively.

The Senior Practitioner is developing the following guidelines and looks forward to further consultation with all sectors and various stakeholders before publishing:

- Compliance and Enforcement Guideline
- Reporting Guideline
- Complaints and Investigations Guideline

POSITIVE BEHAVIOUR SUPPORT (PBS) PANELS TO APPROVE PLANS

Under the Act, all positive behaviour support plans that include a restrictive practice must be approved by a registered PBS 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 OSP has added an additional quality assurance procedure to the registration process. Each comprehensive positive behaviour support plan approved at panel is assessed by the OSP using the Behaviour Support Plan Quality Evaluation Tool II (BSP-QEII). This tool scores 12 components found to be essential for good quality behaviour support plans. This score is provided to the Senior Practitioner along with the panel recommendations. In one instance a plan of highly concerning quality was identified and the person subject to restrictive practices was able to be linked to another behaviour support practitioner. A well-structured, positive, and implementable plan was then written to properly support the community member.

The Panels now run entirely online using phone and video technology, however face to face panels have been run when attendees are unable to engage in an online format. In 2021–22, the Central Panel convened 90 times and considered 91 plans presented by providers, 75 of those plans were approved by the Central Panel. Of the 16 plans rejected by the panel, nine were rejected as the panel clarified that there were no restrictive practices and five were rejected due to concerns with quality and compliance with the Act.

As of 30 June 2022, of the 75 plans recommended for approval by the central panel, the Senior Practitioner registered 64 plans with 11 awaiting final registration by the Senior Practitioner. As of 30 June 2022, there were 52 active plans.

As a result of proactive auditing and compliance letters sent to providers to remind them of requirements to renew behaviour support plans, as of 30 June 2022 there are 17 plans which are awaiting a panel date.

REDUCTION AND ELIMINATION OF RESTRICTIVE PRACTICES

The primary role of the Act is to provide a formal framework for the reduction and elimination of restrictive practices by service providers in the ACT. As such an audit was completed to investigate the number of positive behaviour support plans which were deregistered during their registration period, withdrawn from the registration and/or panel process, or where a provider declined to submit a new positive behaviour support plan due to all restrictive practices being removed. Percentages were calculated using the number of plans registered within a financial year, divided by the number of plans withdrawn. For the year 1 July 2021 – 30 June 2022, 9.5 % of positive behaviour support plans were no longer needed to be registered as the restrictive practices had been eliminated. This compared to 8.8% for the previous year. Additionally, a further five cases were identified where restrictive practices were removed for people who had never had a positive behaviour support plan and there were three reported cases where some, but not all, restrictive practices were reduced.

These statistics will continue to be captured and may change due to ongoing auditing and compliance activities.

INTERFACE WITH NDIS QUALITY AND SAFEGUARDING COMMISSION

The NDIS Quality and Safeguarding Commission is responsible for regulating the use of restrictive practices nationally, however the authorisation of restrictive practices remains within each jurisdiction. The OSP continues to meet with the Behaviour Support Team from the NDIS 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 OSP is currently developing educational materials in collaboration with the NDIS Commission on the implementation of positive behaviour support plans to roll out in 2022 – 2023.

DRIVING A POSITIVE REPORTING CULTURE IN THE ACT

The Act requires providers to report on all instances 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 2021-22, 53 938 instances of restrictive practices were reported for 252 individuals. This represents a significant increase in the number of episodes, and a slight decrease in the number of individuals reported against. 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

The table below lists reported instances under different categories than previous reports. As a first note “PRN” is a Latin term commonly used in medical writing which stands for “pro re nata”, or “as needed”. In contrast to routine restrictive practices which occur on a fixed length of time (such as a locked door that is always locked), PRN restrictive practices are only implemented when they are needed (such as medication being offered when certain behavioural signs are displayed).

While previous reports listed Unregistered, Routine and PRN reports, the current table lists Unauthorised, Routine Authorised and PRN Authorised. This change was made to make it clear that the most important defining characteristic of reports – namely whether they have been made against a registered positive behaviour support plan (Routine Authorised and Routine PRN) or not (Unauthorised). Unauthorised reports can be either routine restrictive practices or PRN restrictive practices that are used outside of a registered positive behaviour support plan.

Chemical restraint remains 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 by mechanical restraint. Overall, the frequency of instances of reported usage for chemical, environmental and mechanical restraint is down, while physical restraint and seclusion usage has remained stable.

The number of instances, 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 that this figure will continue to increase in the short term, before stabilising and reducing in line with positive behaviour support interventions. This increase is also reflective of the extensive compliance activities and audits completed by the OSP in 2021-22 which has increased compliance with reporting requirements and resulted in retrospective reporting to update data.

The implementation of RIDS has significantly improved the ease of reporting for providers. It is expected, as providers further embed practices within their organisations, to see an increase or a levelling out of the number of plans which include a restrictive practice and the individual instances of use of a restrictive practice before we will see a reduction in their use.

Potential data issues

Some restrictive practices may be unreported, 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).

The introduction of RIDS has resulted in an increased quality of reporting from all sectors. However, potential data issues remain. Education remains a strong focus for the OSP to ensure that where restrictive practices are occurring, providers have the training and skills needed to identify them and report as needed. The OSP has invested considerable resources in training and education for all sectors on the use of RIDS. Despite this, some providers are still navigating the system and there have been cases where reporting was entered incorrectly.

| Total Instances of Restrictive Practices for Financial Year 2021 to 2022 - As at 30 June 2022 | | | | | | | | | | | | | | | |
|---|------------------------|------------|---|------------------------|------------|--|------------------------|------------|------------------------------------|------------------------|------------|-----------------------|-----------------------|------------|-------------------|
| Quarter 1 July, August, September 2021 | | | Quarter 2 October, November, December 2021 | | | Quarter 3 January, February, March 2022 | | | Quarter 4 April, May, June 2022 | | | Financial Year Totals | | | |
| | Unauthorised | Authorised | PRN Authorised | Unauthorised | Authorised | PRN Authorised | Unauthorised | Authorised | PRN Authorised | Unauthorised | Authorised | PRN Authorised | Unauthorised | Authorised | PRN Authorised |
| Chemical | 5794 | 4592 | 86 | 6989 | 4488 | 17 | 5079 | 3212 | 33 | 3103 | 3737 | 164 | 20965 | 16029 | 300 |
| Environmental | 2663 | 926 | 96 | 2416 | 1155 | 1 | 2090 | 741 | 0 | 1604 | 785 | 0 | 8773 | 3607 | 97 |
| Mechanical | 700 | 340 | 0 | 780 | 180 | 0 | 529 | 180 | 0 | 438 | 91 | 10 | 2447 | 791 | 10 |
| Physical | 34 | 0 | 2 | 46 | 302 | 0 | 41 | 180 | 0 | 43 | 182 | 0 | 164 | 664 | 2 |
| Seclusion | 24 | 0 | 0 | 15 | 0 | 0 | 30 | 0 | 0 | 25 | 0 | 0 | 94 | 0 | 0 |
| Total | 9215 | 5858 | 184 | 10246 | 6125 | 18 | 7769 | 4313 | 33 | 5208 | 4795 | 174 | 32438 | 21091 | 409 |
| | Total Quarter 1 | | 15257 | Total Quarter 2 | | 16389 | Total Quarter 3 | | 12115 | Total Quarter 4 | | 10182 | Total Episodes | | 53943 |

FUTURE DIRECTIONS

Over the coming year, the OSP will continue to drive models of support that promote greater coordination across sectors and between service providers. The 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 2022–2023 will be further strengthening sector awareness about the requirements of the Act, and an increase in auditing of plan and reporting requirements. The increase in the providers reporting into 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 variable quality of behaviour support plans being developed and the Senior Practitioner intends to target engagement and education activities with plan authors and providers to engage in the development of high-quality positive behaviour support plans and their effective implementation.

