

Annual Report

Senior Practitioner
Disability and Community
Services

July 2019 to June 2020



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I Executive Summary

As outlined in the *Disability Services Act 2011* (Tas), (the Act) the Senior Practitioner must provide to the Secretary by 1 September each year a report consisting of:

- (a) information on the performance of the functions, and the exercise of the powers, of the Senior Practitioner during the previous financial year
- (b) data relating to the use of restrictive interventions during the previous financial year.

It is also a requirement of the Act that a report provided to the Secretary under Section 31 must not enable a person with disability to be identified.

Finally, the Secretary must ensure that a copy of the report provided to the Secretary under Section 31 is available to the public at an electronic website of the Department for at least twelve months after it is so provided. The Senior Practitioner's reports are available at

www.communities.tas.gov.au/disability/office-of-the-senior-practitioner.

The report outlines the activities conducted by the Senior Practitioner in order to make recommendations about the provision of specialist disability services as well as the regulation of the use of restrictive interventions. This report details the data relating to the use of restrictive interventions from 1 July 2019 to 30 June 2020.

The data indicates some trends that require further examination and the development of guidelines and standards in accordance with best practice in the disability sector as related to the incidence of use of restrictive interventions.

The report concludes with some areas identified as priorities to assist the sector to provide improved services for those living with disability during the next reporting period.



2 Commencement of the NDIS Quality and Safeguards Commission

On 1 July 2019 the NDIS Commission (the Commission) started operations in Tasmania.

The Commission has a number of functions and responsibilities including:

- registering and regulating NDIS providers and overseeing provider quality
- monitoring compliance with the NDIS Practice Standards and NDIS Code of Conduct
- responding to concerns, complaints and reportable incidents
- advising providers on in-house complaints management and supporting participants to make a complaint
- advising providers on incident management systems and how to report serious incidents to the NDIS Commission
- working with people with disability, NDIS providers and workers to improve their skills and knowledge
- monitoring the use of restrictive practices and educating providers and participants about behaviour support strategies
- working with states and territories to design and implement nationally consistent NDIS worker screening
- providing market oversight by monitoring changes in the market that need attention
- sharing information with other regulatory bodies.

The arrival of the Commission has meant, for the first time that NDIS registered disability service providers are now operating under two separate legislative and regulatory frameworks – namely the *National Disability Insurance Scheme Act 2013* and associated Rules, as well as the *Tasmanian Disability Services Act 2011*. In relation to the use of restrictive interventions, service providers now need to report their use to the Commission monthly if authorised or weekly if unauthorised (a reportable incident). Where a restriction does not need authorisation (e.g. use of chemical restraint) the action remains a reportable incident until a behaviour support plan is developed.

The Office of the Senior Practitioner continues in its role under section 6 of the Act, including the facilitation of approvals for the use of restrictive interventions and now works with the Commission to further the goal of reducing and eliminating the use of restrictive interventions.



3 Processing of Applications

3.1 Background

A disability services provider or a funded private person must not carry out, in relation to a person with disability who is under their care or control, a restrictive intervention unless there is in force an approval under section 38 or section 42 of the Act.

Section 4 of the Act provides a definition of restrictive intervention as follows:

restrictive intervention means any action that is taken to restrict the rights or freedom of movement of a person with disability for the primary purpose of the behavioural control of the person but does not include such an action that is –

- (a) taken for therapeutic purposes; or
- (b) taken to enable the safe transportation of the person; or
- (c) authorised under any enactment relating to the provision of mental health services or to guardianship;

Part 6 of the Act provides for the regulation and monitoring of restrictive interventions. The Act separates ‘restrictive interventions’ into two categories – ‘environmental restrictions’ and ‘personal restrictions’.

Personal restrictions can only be approved by the Guardianship and Administration Board (the Board) under section 42 of the Act and they are also able to approve the use of environmental restrictions under the same section of the Act.

The Secretary of the Department of Communities Tasmania can only approve environmental restrictions under section 38 of the Act.

Under Section 36 of the Act a restrictive intervention that has not been authorised is only allowed to be used if: a) the action is used to protect a person from harm; b) the action used is the least intrusive type of restriction; c) the Senior Practitioner is notified as soon as practicable after use of the action and; d) the action isn’t used again for 72 hours.

3.2 Secretary Approvals for Restrictive Interventions

A disability services provider or funded private person may apply to the Secretary for approval to carry out, in relation to a person with disability, a type of restrictive intervention that is an environmental restriction.

The Secretary can only approve an application if the Secretary is satisfied that consultation has occurred with the person with disability or a person nominated by the person, any persons who have expertise in the carrying out of the proposed intervention and with the Senior Practitioner.



Before granting an approval, the Secretary must be satisfied that the restrictive intervention will be carried out only to ensure the safety, health or wellbeing of the person or other persons and that the restriction is the least restrictive alternative available in the circumstances.

In reaching a decision whether to grant an approval the Secretary must have regard to a number of issues (detailed under section 38) including the best interests of the person with disability, any alternative methods reasonably suitable to address the situation and the nature and degree of risk to the person with disability. Approvals are only valid for three months.

Table 1: Applications approved by the Secretary (environmental restrictions)

Location	Setting	Description of restriction	Date	Further Approvals	Approvals Prior	Applicant
South	accommodation	Cover on Treadmill control	28/10/19	none	none	House Coordinator
North	accommodation	Locked cupboards	28/10/19	06/02/20 04/06/20	none	CSO manager
North	accommodation	Access to TV	17/12/19	25/06/20	9	Team Leader
South	accommodation	Electronic communication	13/01/20	none	1	CSO based clinician
North West	accommodation	Lighters, sharps, power cords	21/02/20	none	none	CSO Manager
North	accommodation	Access to knives	10/03/20	05/06/20	none	CSO manager
South	accommodation	Access to Laundry	19/03/20	none	none	CSO manager
North	accommodation	Access to food	03/04/20	25/06/20	none	CSO manager



North	accommodation	Access to plastic	07/04/20	none	1	CSO supervisor
South	accommodation	Access to lighters	20/04/20	none	none	CSO manager
South	accommodation	Limited access to community	23/04/20	none	none	CSO manager
North	accommodation	Locked cupboards	19/06/20	none	none	CSO manager
North West	accommodation	Locked cupboards	18/05/20	none	none	CSO manager
North West	accommodation	Locked pantry	03/06/20	none	none	CSO manager
South	accommodation	Locked cupboard	18/06/20	none	none	CSO manager
North	accommodation	Locked cabinet	15/06/20	none	none	CSO manager
South	accommodation	No internet access	23/06/20	none	5	CSO manager
North	accommodation	Access to sharps	23/06/20	none	none	CSO manager

Eighteen approvals related to use of an environmental restriction during the 2019-20 financial year, which is significantly more than the last reporting period (two).

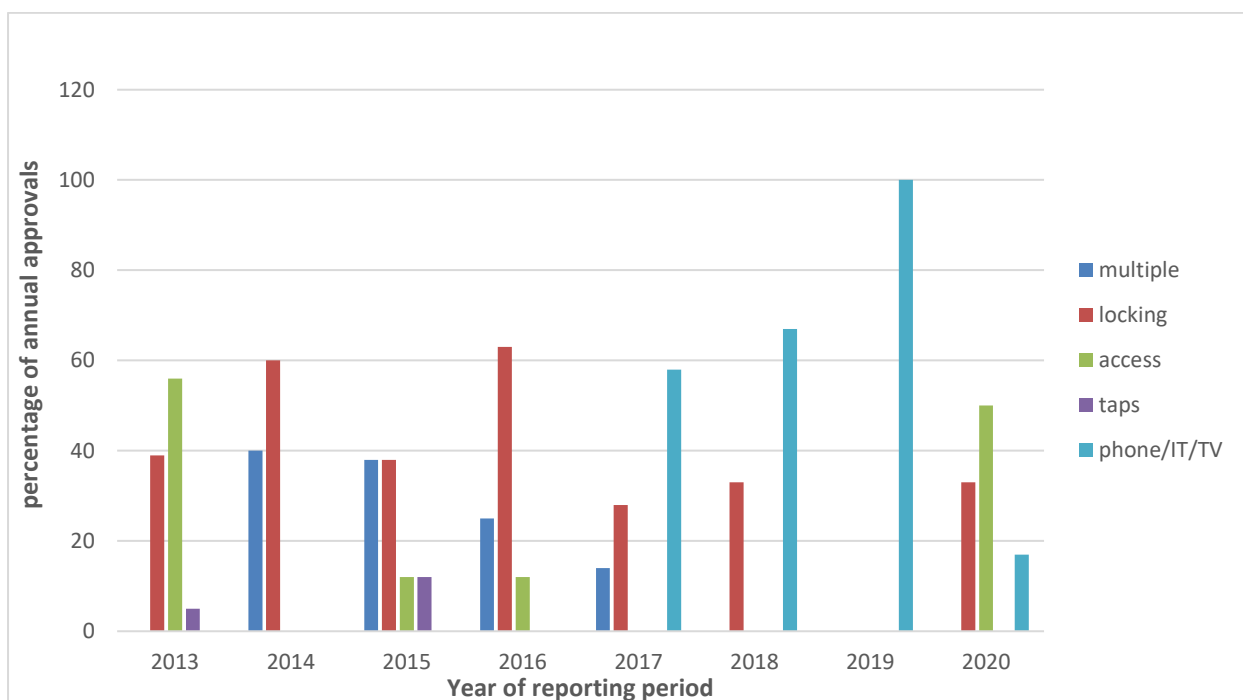
As well as the approvals for two individuals from the previous reporting period continuing (no internet access and limiting access to TV), the increase in approvals this reporting period almost entirely relates to authorising restrictions to food, knives, lighters and the community. In late November 2019 the Guardian and Administration Board made a ruling that locked cupboards, fridges, doors and gates, whether a personal or environmental restriction, needed to be authorised



rather than relying on an existing practice of using protocols to protect the right of access of people with disability to their environment.

Three individuals where approvals were granted towards the end of 2019 and early 2020 did not need to make further applications because a skill development program was developed for one person (approval date 28 October 2019) whilst two others required additional personal restrictions which were subsequently approved by the Board (approval dates 13 January 2020 and 21 February 20).

Figure 1: Breakdown per category of environmental restriction (percentage of total annual approvals) across reporting periods



As a result of the Board's decision in late 2019 the proportion of types of environmental restriction seen in the 2019-20 period has returned to a similar pattern to 2013, before the use of protocols were introduced to avoid the need to seek approvals for locking fridges, doors and cupboards. Given this trend and the short approval period (three months) for use of an environmental restriction the Senior Practitioner will need to develop streamlined processes to respond to the anticipated large numbers of applications in the next reporting period.

3.3 Guardianship and Administration Board Approvals

A disability services provider or funded private person may apply to the Guardianship and Administration Board (the Board) for approval to carry out, in relation to a person with disability, a type of restrictive intervention that is either a personal restriction or an environmental restriction. The application must contain a statement from the Senior Practitioner as to why he or she is of the opinion the Board ought to grant the approval sought.



An approval can only be granted if the Board has consulted with the person with disability or a person nominated by the person and any persons who have expertise in the carrying out of the proposed intervention. The Board also needs to be satisfied that the type of restriction being considered is for the safety, health or wellbeing of the person and is the least restrictive on the person's freedom of decision as practicable.

Table 2 (below) shows that applications relating to 17 individuals were forwarded to the Board with recommendations for approval. This compares to a figure of seven individuals in the previous reporting period.

Table 2: Applications forwarded to Guardianship and the Administration Board

Location	Setting	Description	Hearing Date/s	Outcome
South	accommodation	Line of sight & access to mobile phone	03/10/19 25/11/19 14/05/20	Approved for 6 months (x2) (previous approvals) 2 Organisations
South	accommodation	Use of body suit	25/11/19	Approved for 12 months (previous approvals)
North	accommodation	Use of Lap Belt	23/12/19	Approved for 12 Months
South	accommodation	Locking front door, fridge and cupboards	25/11/19	Approved for 12 months



North	community access	Use of physical restraint	13/09/19 06/04/20	Approved for 6 months (x2) (previous approvals)
North West	accommodation	Use of harness	10/10/19	Approved for 12 months (previous approvals)
South	accommodation	Use of body suit	25/11/19	Approved for 12 Months (previous approvals)
South	accommodation	Locked door/gate; restrict access to soft drink	28/04/20	Approved for 12 Months
North West	accommodation	Locked front door/gate; locked cupboards/fridge; locked kitchen/bathroom	18/11/20 15/05/20	Approved for 6 Months (x1) 12 Months (x1)
South	accommodation	Use of body suit	16/07/19 23/01/20	Approved for 6 Months (x1) 12 Months (x1)
South	accommodation	Locked front door; use of wheelchair & commode harness; locked kitchen door	09/06/20	Approved for 6 Months



North West	accommodation	Locked front door/gate; locked cupboards	12/12/19	Approved for 6 Months x 2 organisations
South	accommodation	Use of body suit	07/06/19 21/01/20	Approved 6 Months (x1) Approved 12 Months (x1)
North West	accommodation	Use of wheelchair lap belt	23/02/20	Approved 12 Months
South	accommodation	Locked gate	24/03/20	Approved 12 Months
North West	accommodation	Use of barriers, physical restraint & wheelchair belt Locked fridge & pantry	14/05/20	Approved 24 Months
North	accommodation	Lap belt commode/shower chair	06/03/20	Approved 12 Months

The table above shows that of the seventeen individuals who were subject to applications to the Board this reporting period, five of them had applications approved in the previous reporting period. Two individuals had applications approved from two service providers at the same time (accommodation and community access services) to reduce the inconvenience of attending multiple Hearings.



An amendment to the Act (the Board able to approve use of a restriction for up to two years) that was introduced towards the end of the previous reporting period enabling the Board to grant approvals for up to two years took effect during the current reporting period. The data for the current reporting period shows that the Board used the extended approval period in over 60 per cent of applications.

The effect of the Board’s decision to require approvals for actions such as locking doors, fridges, cupboards and drawers can also be seen in the table above. Applications to the Board have increased nearly 250 per cent compared to the previous reporting period. Out of the 12 new applications for 2019-20 nearly 60 per cent are for this type of restrictive intervention.

3.4 Unauthorised Restrictive Interventions

Under certain conditions it may be a defence to a charge of an offence of the use of unauthorised restrictive interventions, if certain conditions are met. Included in those conditions are the need for the Senior Practitioner to be notified by the disability services provider or funded private person as soon as practicable after a restrictive intervention is carried out. Table 3 shows those unauthorised interventions notified during the reporting period.

Table 3: Reports of unauthorised use of restrictive interventions (previous year’s data in brackets)

Restrictive Intervention Type	Total	Accommodation	Community Access
Personal	132 (92)	121 (82)	11 (10)
Environmental	32 (23)	27 (23)	5 (0)
Overall Total	164 (115)	148 (105)	16 (10)

The total of 164 reports for 2019-20 represents a 45 per cent increase in reporting when compared to the previous reporting period. This increase was mainly due to the regular reporting of physical intervention needed by two service providers for two people they support. As a result of this data the Office of the Senior Practitioner (OSP) was able to facilitate applications to the Board for the use of a personal restriction with the two individuals.

A total of 20 service providers notified the OSP about using an unauthorised restrictive intervention during the current reporting period which represents a significant majority of organisations currently providing support to people with disability in Tasmania (see section 3.2 for a further discussion about reporting ‘unauthorised use’).

3.5 Consultations

The Senior Practitioner responded to and gave advice in relation to 314 enquires relating to the potential use of restrictive interventions in the current reporting period. This is an increase of about 60 per cent compared to the previous reporting period. The table below shows the number of consultations in each category of restrictive intervention.



Table 5: Breakdown of category of consultations (previous year's data in brackets)

Type of consultation	Number of consultations
Personal	122 (86)
Environmental	123 (74)
Use of Medication	46 (8)
Policy	23 (27)
Overall Total	314 (192)



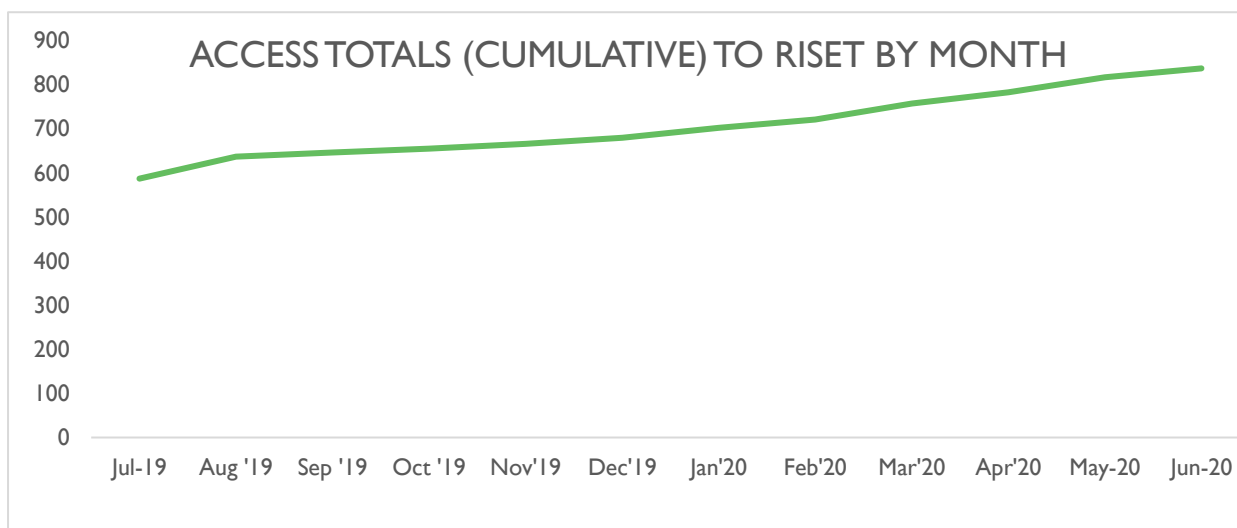
Both categories show a 40 per cent increase in enquires when compared to the previous reporting period. This may be due not only to an increase in awareness of the role of the Senior Practitioner brought about by providing information and education sessions to the sector (which also increased by 40 per cent) but also an awareness from providers about their reporting requirements to the NDIS Quality and Safeguards Commission (the Commission) in Tasmania which commenced operation on 1 July 2019. This is reflected in the large increase in enquires relating to use of medication to control behaviour in spite of the OSP not having a role in the authorisation of chemical restraint in Tasmania.

4 Key Issues

4.1 RISET-Tas

The Restrictive Intervention Self Evaluation Tool – Tas (RISET-Tas) is an on-line tool developed in conjunction with the Office of the Senior Practitioner (Vic). It was launched in August 2018 and during the current reporting period the tool was reviewed, and amendments made to reflect changes to the legislative and regulatory environment of the disability sector in Tasmania.

Figure 2: Cumulative usage of RISET-Tas per month



The graph shows an average access rate of 21 per month and continues to be used predominantly by Tasmanian providers with interest also shown by other jurisdictions within Australia as well as and some overseas organisations.

RISET-Tas can be accessed via the link below using any 'smart' device and requires no password.



Access practice resources and restrictive intervention information

via RISET-TAS online: [RISET-Tas Link](#)



4.2 Unauthorised use of a restrictive intervention

Based on the findings of an audit conducted by the Senior Practitioner in the previous reporting period, the OSP prioritised training efforts towards large organisations that had previously not made a notification relating to the use of an unauthorised restriction as well as those that had not received any information and education about the use of restrictive interventions. Towards the end of this reporting period the OSP also gave service providers the option of using the NDIS Commission's 'reportable incident' form to notify the OSP about use of an unauthorised restriction to assist in reducing their administrative burden.

Data from reports of unauthorised restriction (RUR) shows that only two out of the five organisations identified in the audit sent RUR notifications to the OSP during this current reporting period. In addition to this information, data from the NDIS Commission relating to reportable incidents shows that Tasmanian NDIS service providers are reporting significantly more unauthorised restrictions to the Commission compared to those received by the OSP.

During the next reporting period the OSP will work with the Commission to reduce the discrepancy in this area of reporting and continue to prioritise those providers not reporting by conducting further information sessions with them. The OSP will also continue to promote the fact sheet on '*Unauthorised use of Restrictive Interventions*', the use of Riset-Tas online educational tool and provide on-going information and education sessions to the sector in general.

4.3 Roadmap to rights

'*The Roadmap to Dignity without Restraint*' program aims to foster principled thinking about everyday support work which in turn will maximise rights and minimise controls and restraints. The program also focusses on organisational change to transform practice and culture to improve the lives of people with disabilities (Ramcharan, Robertson, Strong & Nankervis, 2009).

Following on from a workshop run by Professor Ramcharan that was held in the previous reporting period the OSP was approached by a provider interested in running a pilot program in implementing the Roadmap in one of its group homes. Since then Professor Ramcharan has met with the OSP and the provider and assisted in the development of an implementation plan. The aim of the pilot program is to measure key variables (e.g. participant quality of life) before gradually introducing all components of the Roadmap (e.g. Choice & Control; Reflective Practice; Trauma Informed Care; Human Rights). Key variables will continue to be measured at six-monthly intervals over time to investigate whether the Roadmap interventions have a positive effect on the work practices and culture of the home and the quality of life of the residents. The pilot program will start being implemented in the next reporting period.

4.4 Positive Behaviour Support Training

In the previous reporting period, the Senior Practitioner facilitated two series of positive behaviour support (PBS) workshops. One was aimed at parents of teenagers and young adults on the autism spectrum with co-occurring anxiety and the second was designed for families, providers and clinicians interested in exploring a neuro-developmental, attachment and trauma-informed (NATI)



approach to PBS. One rationale for organising these workshops was that DCS had identified a service gap in the ability of the sector to respond effectively to young people/adults with disability who exhibit significant hyperarousal and associated behaviours of concern.

Feedback from the NATI workshops was overwhelmingly positive with a majority of participants wanting further exposure to the NATI approach. Given the service gap mentioned above the OSP was able to secure funding for SAL Consulting to run a more in-depth training program which commenced in April 2020 and will finish in September 2020. The main components of the course are:

- A series of 12 webinars across six modules which are supported by additional readings and other activities
- Delivery of coursework coaching targeting each module, including mentoring webinars and discussion questions
- Individual mentoring review of a case study.

The course has been fully subscribed and an evaluation report will be completed by SAL Consulting in the next reporting period.

4.5 Dual Disability Service

Following on from a Roundtable on the Mental Health of people with an Intellectual Disability that was held in October 2018 (previous reporting period) a second meeting took place on 30 July 2019 to discuss planning for a new Dual Disability service as recommended by the Mental Health Integration Taskforce report.

A Mental Health/ID working group was set up in December 2019 co-chaired by the Senior Practitioner and the SMHS Medical Director. Work since then has focussed on Clinical Service development (including a model of service) and feedback and advice has been sought from all stakeholders including established Dual Disability services currently operating in Victoria and ACT.

Once the Model of Service has been completed, work will commence on sector and workforce development. Although progress has been delayed by the COVID-19 restrictions it is anticipated that the service will be operational some time during the next reporting period.

4.6 Work with the National Disability Insurance Scheme

Meetings and information sessions

The NDIS Quality and Safeguards Commission commenced operations in Tasmania on 1 July 2019 and the Senior Practitioner has participated in various workshops and webinars to support the sector to understand this change in the regulatory landscape

National Disability Services continued to facilitate Disability Sector Roundtables in this reporting period where, the Senior Practitioner was a key speaker alongside the State Manager of the Commission.



The Senior Practitioner also disseminated information about restrictive interventions and their role in relation to regulation to NDIS key players in this reporting period including NDIS planners and Support Coordinators.

The Senior Practitioner has continued to attend quarterly Practice Leadership Group (PLG) meetings chaired by the National Senior Practitioner where discussions help frame policy and practice direction which in turn will assist in developing a nationally consistent approach defining and authorising restrictive practices. In August 2019 Hobart hosted a PLG meeting and the Senior Practitioner took the opportunity to invite some of its members to speak at a seminar open to the sector on the following day. Topics included: Convention on the Rights of People with Disabilities, Forensic Disability, Medication, Mental Health and Disability, Replacement Behaviour and the 'How to' of skill development and the PBS Capability Framework. The seminar was well attended, and feedback was very positive.

The Senior Practitioner has continued to work with the Commonwealth Department of Social Services and other jurisdictions to progress work in developing a National Action Plan for developing the NDIS Behaviour Support Market and a set of principles for Nationally Consistent Authorisation.

Behaviour Support Programs

In response to the 'thin market' in behaviour support practitioners (and feeding into the National Action Plan), the Senior Practitioner has developed two programs designed to build behaviour support provider and practitioner capability.

These are:

1. **Development of Interim Behaviour Support Plans (DIP):** A short, practical program that will help people learn the basic skills they need to write simple Interim Behaviour Support Plans (iBSPs) relating to the use of chemical restraint;
2. **New Practitioner Program (NPP):** A longer, 9-12-month supervision program for people wanting to complete full behaviour support referrals as a Specialist Behaviour Support Practitioner.

Intake into the programs occurred towards the end of this reporting period and detailed outcome data will be available in the next reporting period.

4.7 Information and education

During the 2019-20 period the Senior Practitioner presented information sessions to 24 groups and organisations including Allied Health Professionals, TAFE, NDIA planners and Ashley Youth Detention Centre, as well as disability service providers across the state. This was a 40 per cent increase when compared to the previous reporting period and reflects the contribution made by the addition of 3 practice consultants to the OSP. As well as covering restrictive practices and their impact on the rights of people with disability these sessions included topics such as 'Positive Behaviour Support', 'Values and ethics', 'Human Rights and Abuse' and 'Principles of working with someone with behaviours of concern'. The OSP was able to continue providing information



sessions during the COVID-19 'lock down' period (April-June 2020) with the use of Zoom™ and MS Teams™ video platforms.

In the next reporting period, the OSP will focus on expanding our suite of presentations to include person centred topics such as Active Support and Person-centred Planning and Thinking as well as a further behaviour support topic 'How to teach replacement behaviour'.

4.8 Fact/information sheets

During this reporting period the Senior Practitioner has updated the following fact sheets due to the commencement of the Commission and on amendments to the Act:

- Restrictive interventions not requiring authorisation
- Safe transportation
- Locking of fridges and pantries.

In addition, the application form for approvals to the Secretary was amended and the Policy and Procedures for use of Restrictive Interventions were reviewed and updated. The guidelines for making an application to use a restrictive intervention were also updated.

5 Priorities for 2020-21

The main priorities for the Senior Practitioner in the next reporting period will be the following activities:

- Developing streamlined processes to respond to the expected growing volume of applications for approval to use restrictive interventions
- Providing special assessment and other assistance where there is risk of harm or use of a restrictive intervention and no clinicians are available
- Building behaviour support capability of the sector through implementation of the DIP and NPP programs
- Conducting a review of use of the RISE TAs
- Developing information and education presentations on Individual Planning, Active Support and Replacement Behaviour
- Providing on-going monitoring and review of actions deemed for 'therapeutic purposes' or 'safe transportation'.

5.1 Dual Disability Roundtable

The Senior Practitioner will continue to be an active member of the MH/ID working group as co-author of the Model of Service. Tasks that the working group will oversee include development of a workforce recruitment plan, establishment of the MHID team and on-going involvement in the reference group and evaluation processes.



5.2 Roadmap to Rights

During the next reporting period the Senior Practitioner will work with Professor Ramcharan and the participating service provider to develop and implement the pilot program and associated research project. As described in section 3 the program will focus on a selected group home and its residents to illustrate how implementation of the 'Roadmap to Rights' model can change everyday support work, maximise rights and minimise controls and restraints.

5.3 Disability Services Act Review 2020

The Senior Practitioner will be working with all relevant stakeholders in the next reporting period to make recommendations that will more fully align the Act with existing NDIS legislation and contemporary practices in disability support. In particular the Act review will need to consider developing an authorisation process that is fully consistent with the Principles for Nationally Consistent Authorisation. These principles include the need to provide approvals in a timely manner and this will be crucial with expected increases in applications to use environmental restrictions and the potential need in the future to approve use of chemical restraint – by far the most frequently used category of restrictive intervention.

6 References

Ramcharan, P., Robertson, J., Strong, R. and Nankervis, K. (2009). *Restrictive practices in the lives of people with disabilities*. Melbourne: RMIT.

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