



Australian Lawyers for Human Rights Position Statement on the Use of Restrictive Practices upon Persons with Disabilities

1. Australian Lawyers for Human Rights (ALHR) condemns the serious human rights violations resulting from the systematic, forced and prevalent use of restrictive practices upon individuals with disabilities.
2. Restrictive practices involve the use of interventions which restrict the freedom of movement of persons with disabilities and which violate their rights to bodily integrity and liberty and security of person.
3. Restrictive practices include chemical, mechanical and physical restraint, along with seclusion, and are imposed upon persons with disabilities in a number of settings. These settings include schools, where children with autism have been caged or restrained, nursing homes, where aged persons with dementia have been chemically or physically restrained, Emergency Departments, where persons exhibiting “challenging behaviour” may be placed in seclusion or chemically or physically restrained, and mental health facilities.
4. ALHR is concerned that while the use of restrictive practices is purportedly justified as a method of managing “challenging behaviours”, in effect restrictive practices are used as a means of coercion or discipline against persons with disabilities or for institutional convenience.
5. It is the position of ALHR that the use of restrictive practices against persons with disabilities is unacceptable under any circumstances and is a clear violation of international human rights standards.
6. ALHR strongly supports the need for domestic law reform within Australia, as well as international measures, in each case consistent with the *UN Convention on the Rights of*



Persons with Disabilities (CRPD) to protect the human rights of the many thousands of persons with disabilities who annually are subjected to restrictive practices.

7. In order to prevent human rights violations and protect all Australians with disabilities from the use of restrictive practices, ALHR calls on the Federal and State and Territory Governments to:
 - a. Amend legislation, such as mental health legislation, that permits the imposition of restrictive practices upon persons with disabilities;
 - b. Recognise and implement the requirements of the Convention on the Rights of Persons with Disabilities that promote freedom of movement, the right to bodily integrity and the right to liberty and security of person;
 - c. Recognise that “challenging behaviours” may be a form of communication by a person with disabilities that something is wrong and they need help. Building support for persons with disabilities and engaging preventative measures may reduce the prevalence of “challenging behaviour”. In particular, preventative measures to ensure that persons with disabilities are protected from the harm of restrictive practices must be engaged. Positive Behaviour Support programs have the dual aim of improving the quality of life of persons with disabilities and decreasing the frequency and severity of “challenging behaviour”. The use of Positive Behaviour Support programs may minimise the use of restrictive practices and should be incorporated into the personal plans of persons with disabilities.
 - d. Provide reasonable accommodations in settings where persons with disabilities are currently subjected to restrictive practices. For example, rather than restrain or seclude a person in mental health crisis who is exhibiting “challenging behaviour” in an emergency department while waiting for admission to a mental health facility, provide a quiet area away from the stimulus of the emergency department.

8. ALHR strongly believes that Australia is well-placed to undertake landmark legislative reform in the area of restrictive practices, in order to reduce their prevalence and save the lives of those persons with disabilities who die or are injured because of the use of restrictive practices upon them.



9. ALHR supports legislative reform in Australia to eradicate such practices, and to afford human rights protection for the many thousands of individuals with disabilities who are subjected to these heinous practices.

About ALHR

ALHR was established in 1993 and is a national network of over 800 Australian solicitors, barristers, academics, judicial officers and law students who practise and promote international human rights law in Australia. ALHR has active and engaged National, State and Territory committees as well as specialist national thematic committees.

ALHR seeks to utilise its extensive experience and expertise in the principles and practice of international human rights law in Australia in order to:

- Promote and support lawyers' practice of human rights law in Australia
- Promote Federal and State laws across Australia that comply with the principles of international human rights law
- Engage with the United Nations in relation to Australian human rights violations
- Engage internationally to promote human rights and the rule of law.

Through the provision of training, education, publications, CLE courses, conferences, seminars and mentoring, ALHR assists members to continue to develop their knowledge of human rights law and incorporate human rights principles into their areas of legal practice in Australia.