



Community Advocacy Clinic

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Dear [Atten],

We are writing to you as members of the UTS *Law Health Justice Community Advocacy Clinic*, to express our deep concern with the continued use of restrictive practices on people with disability across New South Wales. These practices - chemical, physical, mechanical, and environmental restraints - often breach basic human rights, leaving enduring physical and psychological trauma. The trauma inflicted by restrictive practices is vividly and consistently documented through firsthand accounts that document experiences of pain, harm and violation. Individuals frequently describe feeling powerless, dehumanised, and scared - "I thought I was going to die", "I couldn't do anything; I was chained up" ... "having nightmares" - yet these practices continue and are so often justified under the guise of safety. Despite State and Commonwealth undertakings to reduce and eliminate restrictive practices - and commitments under the *Convention on the Rights of Persons with Disabilities* (CRPD) and the *Optional Protocol to the Convention Against Torture* (OPCAT) - the ongoing prevalence of such practices highlights a failure to meet legal obligations as well as national promises of inclusive, rights-based care. We respectfully urge the NSW Government to take decisive action. This letter outlines key gaps and provides five practical recommendations to help reduce and ultimately eliminate restrictive practices, ensuring the dignity and safety of people with disability in our communities.

Recommendations from the Royal Commission: An Urgent Need for Change

In 2020–2021, the NDIS Quality and Safeguards Commission received 1,044,851 reportable incident notifications, with 98.7% relating to unauthorised restrictive practices. As such, in this 12-month period there were approximately 1 million instances where a person with disability was restrained without authority. Soon after, the *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* drew attention to the systematic problems associated with restrictive practices and called for reforms to uphold the dignity, equality, and inclusion of people with disability. Poor data collection, insufficient evidence-based research, and lack of oversight were highlighted as hindrances to alternate strategy development. Moreover, the absence of National Preventive Mechanisms (NPMs) in NSW under OPCAT leaves a regulatory gap in monitoring restrictive practices. Further, a lack of a formal redress scheme leaves those subjected to unauthorised restrictive practices in need of assistance. These findings highlight the urgent need for the NSW Government to lead decisive reforms aimed at reducing and eliminating restrictive practices.

Our Recommendations

1. Alternatives to Restrictive Practices: Evidence-based Research

Alternatives to restrictive practices exist. The *Royal Commission's* 'Reducing Restrictive Practices: A Review of Evidence-based Alternatives' highlighted several promising international models such as *Safewards*, *No Force First*, and *Six Core Strategies*. However, compelling data on which alternative model is most effective is currently lacking. The NSW Government must fund further research into promising models and trial such alternatives to determine best practice. This would be of great value not just the State and other Australian jurisdictions, but also internationally.

2. Strengthen Training of Frontline Workers

Training programs must move beyond technical instruction and foster cultural change within disability services. Any training must foster the collective ownership of change, and support staff autonomy and empowerment. These values must also be promoted as frameworks that seek to reduce and eliminate restrictive practices are trialed and ultimately introduced. Frontline staff bear the brunt of resource constraints and other pressures. New initiatives should incorporate staff feedback to alleviate workplace pressure and integrate evidence-based mindfulness interventions that have been shown to improve positive interactions and reduce incidents of aggression.

While the State and Commonwealth have committed to reduce and eliminate restrictive practices, for now, they are only authorised through Positive Behaviour Support (PBS) plans. The effectiveness and quality of these plans, however, remain questionable. It is essential that the quality of plans is improved to ensure that they are accessible. The plans must be co-designed with people with disability to reflect cultural and personal contexts. This will help to ensure that they are used as genuine guides to person-centred care. The *Royal Commission* has also highlighted the critical need for adequately trained frontline workers to correctly implement tailored PBS plans.

3. Establish NSW National Preventive Mechanism (NPM) and Improve Data Collection

As a signatory to OPCAT, Australia must designate NPMs across all jurisdictions. NSW is currently one of the few jurisdictions yet to fulfil this duty. A NSW NPM must be functionally independent, adequately resourced, and empowered to investigate places where liberty is restricted, including disability housing. Legislation similar to the *Monitoring of Places of Detention Act 2018* (ACT) should be introduced in NSW to formalise this obligation. A further related need is accurate data. This is essential for monitoring, the development of best practice, and improving compliance in NSW.

4. Increase Public Awareness through community-based education

The NSW Government needs to provide education on unauthorised restrictive practices to families, service providers and the wider public. Shifting the focus from an individual's *behaviours of concern* to *environments of concern* that can lead to behaviours that are met with restraint can be facilitated through community workshops and professional training. These activities can include informative educational programs, social media, and public advocacy. This will share lived experiences, challenge stigma and misinformation, and foster empathy to create broader societal change.

5. Create a Redress Scheme

Each instance of unauthorised restrictive practice may amount to a breach of civil or criminal law. Victims currently face barriers to justice due to lack of referrals and legal guidance. We call for a formal redress scheme with a requirement for the NDIS Commissioner to refer victims to legal services. Mandating such a duty would better align with Australia's obligations under Articles 5, 12 and 13 of the *CRPD* by ensuring that the NDIS Commissioner provides more individualised assistance and greater access to justice for those subject to unauthorised restrictive practices.

The NSW Government is currently falling short of its national and international obligations to protect people with disability. The evidence-based recommendations outlined in this letter are practical and align with the lived experiences of people with disability, their families, and the broader community. We urge the NSW Government to play a leading role in driving change across Australia by implementing the recommendations from the *Royal Commission*, thereby upholding the core values of justice, autonomy, and inclusivity embedded in both domestic law and international human rights standards.

We urge you to act with urgency and leadership.

Sincerely,

Law Health Justice Community Advocacy Clinic