

COMHWA Member Briefing Paper – April  
2023



## Eliminating Restrictive Practices

### Purpose

To eliminate restrictive practices.

### Background

- The *Mental Health Act 2014* (WA) recognizes and regulates two forms of restrictive practice: seclusion and restraint.
  - Seclusion: ‘the confinement of a person who is being provided with treatment or care at an authorised hospital by leaving the person at any time of the day or night alone in a room or area from which it is not within the person’s control to leave<sup>1</sup>.’
  - Physical restraint: ‘the restraint of a person by the application of bodily force to the person’s body to restrict the person’s movement<sup>2</sup>.’
  - Mechanical restraint: ‘the restraint of a person by the application of a device (for example, a belt, harness, manacle, sheet or strap) to a person’s body to restrict the person’s movement<sup>3</sup>.’

The United Nations’ Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment states that ‘It is essential that an absolute ban on all coercive and non-consensual measures, including restraint and solitary confinement of people with psychological or intellectual disabilities, should apply in all places of deprivation of liberty, including in psychiatric and social care institutions<sup>4</sup>.’

The Office of the Chief Psychiatrist is responsible for overseeing and regulating restrictive practice, as set out by the *MHA 2014*, in authorised mental health settings in the State. This means that instances of restrictive practices not defined in the *MHA* (such as chemical or psychological/emotional restraint), or which occur outside of authorised mental health settings (such as emergency departments, in transport or in non-authorised hospital wards) are not recorded or accounted for by an independent body.

The dehumanising effect of restrictive practices on consumers is a major concern for many CoMHWA members, and the lived experience of members consulted for feedback highlighted how these practices led to fear, anxiety and despair for those that are subjected to them. Members noted that instances where these practices were used deeply impacted those restrained, traumatising both the subject of restraint and other consumers witnessing such practices. Some members shared the view that resorting to such restraint represents a profound ‘failure of care’ for consumers of mental health, and have called for a clear timeframe for reducing restrictive practices as well as a target date for the proposed elimination.

### Response to date

The *Mental Health Act 2014* (WA) is currently undergoing a statutory review, commenced in 2021, by the Mental Health Commission. Although the final report and recommendations are

<sup>1</sup> *Mental Health Act 2014* (WA), s. 212

<sup>2</sup> *Mental Health Act 2014* (WA), s. 227

<sup>3</sup> *Mental Health Act 2014* (WA), s.227

<sup>4</sup> Report of the Special Rapporteur on torture and other cruel inhuman or degrading treatment or punishment. 2013, 14. A/HRC/22/53 (United Nations General Assembly, February 1).

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yet to be released, minimising and regulating restrictive practices was a priority by the Commission and in consultation with consumers, carers and clinicians. As part of the process, a review of legislative and other approaches to reducing seclusion and restraint was published<sup>5</sup>.

The Office of the Chief Psychiatrist and the Department of Health's Mental Health Unit held a Forum on the 20<sup>th</sup> of February 2023 consisting of clinicians, carers and consumers gathered to reinvigorate the campaign to end restrictive practices. From this forum, a draft Statement of Intent towards eliminating restrictive practices was produced, but the final Statement is still in progress. The report from the Forum is also still forthcoming, which will convey what attendees thought should be included in the statement.

## CoMHWA's Position

- **CoMHWA believes that the use of restrictive practices should be abolished.** Restrictive practices are not treatments, have no therapeutic benefit, actively undermine human rights and cause psychological and physical harm.
- **CoMHWA maintains that data about restrictive practices should be straightforward and accessible to the public.** This must account for chemical/psychological restraint as well as instances where restrictive practices are used outside of authorised mental health settings.
- **CoMHWA recognises that ending restrictive practice is complex and requires widescale systemic change.** Our recommendations include but are not limited to:
  - An understanding of the different communications needs people in distress might have and a willingness to tailor responses to the person rather than a 'one-size-fits-all' approach.
  - Alternatives to ED that use holistic, person-centred and trauma-informed approaches and that have a strong peer workforce.
  - Human rights, supported decision-making, trauma-informed care and recovery-based approaches.
  - Training on trauma-informed care, non-restrictive practices and de-escalation outside of legislation.
  - Ensuring timely access to care and assessment.

## CoMHWA's Action

CoMHWA attended the Forum for eliminating restrictive practices on the 20<sup>th</sup> of February alongside a CoMHWA member who shared their lived experience with restrictive practices on a panel alongside a carer representative and clinicians.

CoMHWA was invited to give feedback, through consultation with our members, on the draft Statement of Intent produced jointly by the Department of Health's Mental Health Unit and the Office of the Chief Psychiatrist.

As a result of our feedback, CoMHWA has been invited to further workshops and roundtables to co-design the statement with other consumer and carer groups.

CoMHWA has bimonthly meetings with the Chief Psychiatrist, and the discussion of restrictive practices is a standing agenda item at these meetings.

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<sup>5</sup> Gray et al. 2022. 'Legislation and other approaches to reduce seclusion and restraint in adult inpatient mental health services: a systematic mapping review'. <https://www.mhc.wa.gov.au/media/4562/legislation-and-other-approaches-to-reduce-seclusion-and-restraint-in-adult-inpatient-mental-health-services-a-systematic-mapping-review.pdf>

## Consumers of Mental Health WA (CoMHWA)

### Have your say:

CoMHWA is dedicated to representing your views on this issue. To have your say, please get in touch with our Systemic Advocacy Team at [sysadvocacy@comhwa.org.au](mailto:sysadvocacy@comhwa.org.au).

