



The New Zealand Psychological Society

*Te Rōpū Mātai Hinengaro o Aotearoa*

**Seclusion and restraint in mental health and educational facilities**

**A submission on behalf of the New Zealand Psychological Society**

**to the**

**Human Rights Commission**

**prepared**

**by the**

**New Zealand Psychological Society**

***Te Rōpū Mātai Hinengaro o Aotearoa***

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## **About the New Zealand Psychological Society**

The New Zealand Psychological Society (NZPsS) is the largest professional association for psychologists in New Zealand. It has over 1100 members who apply psychology in a wide range of practical and academic contexts to health, education, young people's services, organisations and corrections. Our collective aim is to improve individual and community wellbeing by disseminating and advancing the rigorous practice of psychology.

Our members are at the forefront of research and innovation in designing systems of support for young people at the margins of our society, their whānau, educators and support agencies.

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## Introduction

This brief submission summarises the NZPsS view on the use of restraint and seclusion in health and educational settings. The NZPsS agrees with the definitions of seclusion and restraint noted by Te Pou<sup>1</sup> that removing an individual's freedom to their normal environment is the focus of restraint and containment and isolation and reduction of sensory input are the key features of seclusion.

The NZPsS endorses the excellent work undertaken by Te Pou on reducing restraint and seclusion in mental health settings. This work provides practical ways to ensure that personal restraint, which Te Pou describes as an "adverse event"<sup>2</sup> is reduced and prevented.

## The focus of this submission

This submission focuses only on the workforce issues which we believe are central to the issue of seclusion and restraint in both mental health, educational and justice settings.

## Why do seclusion and restraint occur?

There are many reasons why staff in educational or mental health settings may choose seclusion and restraint to manage the behaviours of children, youth and adults. These can vary from concerns for the welfare of the child/adult or others, an attempt to minimize disruption or an attempt to modify future behaviours amongst others. The NZPsS agrees that seclusion and restraint is a human rights issue that needs to be addressed at the level of policies, practices and structures.

The recently released Ministry of Education's guidelines on Behaviour Management to Minimise Physical Restraint attempts to distinguish between seclusion, time out and cool down time.<sup>3</sup> The NZPsS supports strategies that avoid coercive methods of control with young people. The Ministry of Education has prepared advice about providing positive guidance with good alternatives to Time Out.<sup>4</sup>

*'Time-out' is an intervention strategy that is sometimes used to deal with excess anger or a lack of impulse control. It consists of removing and isolating the child from the action. The aim is to provide a brief space for the child to calm down and regain control. Although it may act as a control mechanism, "time-out" is not an acceptable strategy in the early childhood education context. It does not encourage reflection or give children an understanding of the effects of their action on others, nor does it demonstrate a right way to behave. Moreover, a child who will quietly sit apart in 'time-out' is being compliant and therefore does not need to regain control. Solitary confinement is deemed an unacceptable practice in early childhood education...*

The NZPsS advocates for guiding and redirecting strategies that help prepare and educate young people about managing their emotions and so prepare them for later life.

## Workforce issues and their contribution to seclusion and restraint

The view of the NZPsS is that workforce issues play an important part in the perpetuation of seclusion and restraint practices. When there are shortages of trained professionals who are knowledgeable about behavioural approaches to challenging behaviours, staff may feel they have few alternatives available to them.

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<sup>1</sup> Te Pou, 2008. "Best practice in the reduction and elimination of seclusion and restraint. p1

<sup>2</sup> Te Pou, 2015. "Towards restraint-free mental health practice". p4

<sup>3</sup> Ministry of Education. (2016). Guidance for New Zealand Schools on Behaviour Management to Minimise Physical Restraint. Retrieved from <http://www.education.govt.nz/assets/Uploads/Guidance-for-New-Zealand-Schools-on-Behaviour-Mgmt-to-Minimise-Physical-....pdf> p14

<sup>4</sup> Ministry of Education. (1998). Providing Positive Guidance: Guidelines for early childhood education services Retrieved from <http://www.education.govt.nz/assets/Documents/Early-Childhood/ProvidingPositiveGuidance.pdf>, p.28

NZPsS President Quentin Abraham notes in a recent letter to the Dominion Post,<sup>5</sup>

*What do we do when school staff at Miramar Central School lock an autistic boy in a small dark room? The school staff may have had the best of intentions for the wellbeing of this child and the other children but where were the trained professionals who are able to advise on a better way to deal with challenging behaviours?*

The question Quentin raised in this particular situation is how can teachers and other educators cope when the Ministry of Education's budget is so limited they only employ 182 psychologists nationally for just under a million pre-school and school children?

The shortage of qualified professionals such as educational psychologists has meant that they are often only able to work with children of greatest need and in crisis situations. Early intervention by educational psychologists with children identified with difficult behaviour and learning difficulties are likely to prevent challenging behaviours from escalating.

It is beyond the scope of this submission to discuss workforce issues in DHBs and corrections facilities except to say it is important that workforce planning be considered as an essential part of any solution to the reduction and elimination of seclusion and restraint. Sufficient numbers of Māori and Pasifika psychologists are integral to this solution as are services which are accessible, affordable and focus on prevention. Such services need to be staffed by sufficient specialist psychologists and other staff who are enabled to fully use their skills across health, education and corrections and can advise, prescribe and support solutions to challenging behaviours other than restraint and seclusion.

## Legal Changes

The NZPsS believes that the proposal to change the law to legislate against seclusion and restraint is unlikely to result in any meaningful, practical change. The Education Act 1989 already states that: "No person...shall use force, by way of correction or punishment, towards any student or child enrolled at or attending the school, institution, or service."<sup>6</sup> Education (Early Childhood Services) Regulations 2008<sup>7</sup> notes that a service provider or educator providing home-based services must ensure that no child is ill-treated, including: in guiding or controlling a child, has subjected the child to solitary confinement, immobilisation, or deprivation of food, drink, warmth, shelter, or protection.

The Ministry of Education's guidelines as cited above states categorically that "Seclusion should no longer be used in New Zealand schools."<sup>8</sup> The NZPsS advocates that time and resources are focused on supporting children and young people in educational environments. The majority of those working with children and young people want to use the most successful and least aversive and management strategies.

## Conclusion

This submission has focused on the need to underpin strategies aimed at a seclusion and restraint free Aotearoa. It recognises that seclusion and restraint is a symptom of workforces that are struggling to cope, are doing their best to cope under difficult circumstances but desperately need specialist help and support. Psychologists are an example of a professional group who could assist in making a considerable difference to providing effective alternatives to seclusion and restraint. Access to appropriate care is a human right and the central recommendation of this submission is that effective workforce planning needs to occur to determine the level of patient/client/student needs, the shortfall in services and the workforce strategies required to meet these needs.

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<sup>5</sup> Abraham, Q. (2016, 20 October). Letter: Special needs help. *The Dominion Post News*, p. A10.

<sup>6</sup> *Educational Act 1989 No 80*. Retrieved from <http://www.legislation.govt.nz/act/public/1989/0080/latest/DLM175959.html>

<sup>7</sup> Education (Early Childhood Services) Regulations 2008. Retrieved from <http://www.legislation.govt.nz/regulation/public/2008/0204/latest/096be8ed810f37da.pdf> (Sec 56 p33)

<sup>8</sup> Ministry of Education. (2016). Opt cit. p1