Restraint and human rights

The Restraint Reduction Network is a member organisation of almost 5000, leading a movement to end the misuse of restraint.

Restraint is, by its nature, traumatic. It can and does cause physical and psychological harm. While in some exceptional circumstances restraint can be lawful and lifesaving, we should seek to eliminate its use except to prevent serious and imminent harm.

People need to feel safe, supported and cared for to fulfil their potential and lead meaningful lives. When these basic human needs are not met, people can become distressed. Across health, social care and education it is expected that services respond to distress with appropriate, agile and timely support. Where this doesn't happen and distress escalates, restraint is too often relied upon.

When is the use of restraint misuse?

Staff can face a difficult decision about when to intervene or not.

Restraint must only be used when it is both **necessary** (imminent risk of significant harm, where the risk of not intervening is greater than the risk of intervening) and **proportional** (least restrictive for shortest time possible), in line with the Human Rights Act.

To be lawful, any restraint must meet the test of proportionality. Proportionality, in law, requires the intervention to be:

- justified by a sufficiently important aim
- rationally connected to that aim
- minimally intrusive, and
- striking a fair balance between the individual's rights and those of others.

Misuse of restraint is any that is not necessary or not proportional.

Any person who may display risky behaviours when distressed should have a person-centred care and support plan in place. Care planning should focus on proactively meeting people's needs. Restraint can only be legally included in a care and support plan in line with the four proportionality tests above.

The law protects staff against liability if they act in an emergency where it is necessary to prevent imminent harm and they use the minimum necessary force.

For example, if a child runs into the road and faces immediate danger, physically stopping them is appropriate and failing to act could be negligent. If no cars are present, intervention may not be necessary. Even when risk exists, however, the response must be proportionate e.g., stopping the child may be justified, but using floor restraint might be excessive.

Safeguarding

Any restraint that is either not necessary or not proportional is likely to be abuse.

Incident reporting should ask if the use of restraint was necessary, proportional and in line with the person's care and support plan. A reduction strategy should be in place as a result of post incident learning. If not, the incident should be reported as a safeguarding concern.

When to report a safeguarding concern:

- Any restraint used that is not in the person's care and support plan.
- Any prolonged use of restraint.
- Any routine use of restraint.
- Any restraint that is not necessary.
- Any restraint that is not proportional.

Enforced Isolation

Whether some common practices meet the necessary and proportional test is questionable, for example the routine or prolonged use of enforced isolation. These interventions should never be used routinely and where they are used, there must be a plan to prevent their use in the future.

Terms such as chill out rooms, seclusion, long-term segregation (LTS), and "time out" often mask the reality of enforced isolation. Enforced isolation undermines the fundamental biological and social need for human connection. As such, it poses a significant human rights issue. Enforced isolation has no therapeutic value and can cause profound harm, sometimes (in extreme cases) leading to "social death".

The RRN calls for the use of enforced isolation to be significantly curtailed in all settings. Routine enforced isolation in schools and long-term segregation in hospitals are human rights failures that must end. In line with the 2023 Hollins report recommendations, enforced isolation, or solitary confinement, must be categorised as a "never event" for all children and young people under 18 and for adults with disabilities and/or mental health conditions. Until the practice is eliminated entirely, immediate minimum standards must be enacted to ensure people have access to natural light, private sanitation, meaningful human contact and specialist advocacy. No confinement should ever last over 15 days.

Moving from harmful to therapeutic interventions

RRN's mission is to eliminate the misuse of restraint. We should seek to eliminate its use except to prevent serious and imminent harm.

Responses to distress should be therapeutic and supportive rather than seeking to other or overpower the person.

There is clear evidence that all types of restrictive practices can be reduced within services by embedding approaches such as the Six Core Strategies. The HOPE(S) Model demonstrates that it is possible to reduce and end the use of enforced isolation. Proactive, rights-respecting approaches support staff to prevent distress and eliminate the use of routine, inappropriate and unnecessary restrictive practices. It is essential that services prioritise embedding and implementing these approaches.

Necessary and proportional – checklist for staff

- Is the intervention necessary / justified (e.g. to prevent imminent and significant harm)?
- Does the intervention use minimum necessary force for shortest time possible?
- Will there be less harm caused by intervening than not intervening (balancing rights of all involved including the person being restrained)?
- Is it in line with the person's care and support plan?
- How can I best support the person after the restraint, recognising the restraint may have been traumatic?
- What can we do to better meet needs, preventing the person becoming distressed in future and preventing routine use of restraint?
- If these conditions have not been met, this should be reported to safeguarding as abuse due to inappropriate use of restraint.