

Rights Restrictions 101 | eLearning (Transcript)

Good day everyone! If you are tuning into today's e-learning we will be covering Rights Restrictions 101. Let's get started!

If you watched the previous e-learning on Getting Rights Right, we learned that promoting people's rights can sometimes be tricky. As service providers, we typically have the best intent to support people to exercise their rights, and to live self-directed lives. However, the impact of our support does not always align with our intent. At times, people we support experience rights restrictions. Some rights restrictions are imposed by systemic barriers and others as a result of the ways in which we support people, in particular when it comes to keeping people safe.

Now what is a rights restriction? A rights restriction is an externally imposed limitation of rights. An artificial or temporary limitation imposed on a person's freedom to exercise their rights and freedoms. Generally, it is understood that something is restrictive when it impedes the opportunity for people to enjoy the same liberties as other citizens do.

At times, people with disabilities require enduring support in many areas of life. They may require support to get dressed, use the bathroom, or cross the street.

This support helps them stay safe. At times, it can be challenging to determine whether activities are supportive or restrictive in nature.

Some considerations that are critical to that determination are:

- Are everyone else's rights restricted in a similar fashion?
- How does the person perceive the activity is it enabling or restricting?
- Does the person actively and freely consent and request the activity?

There are several different areas in one's life in which people experience rights restrictions. I am going to spend some time and go over a few common rights, and how we might be restricting them. This is not an exhaustive list, for a more detailed overview on common rights and restrictions, please take a peek at the [Leading Practice Guidelines](#).

To start us off, the right to privacy, this includes time and space for personal needs, to make phone calls, to send and receive mail, to entertain friends and family free of watching eyes, to enjoy sexual relationships in private and without intrusion. This looks like:

- Friendships are encouraged.

- People are trusted to visit with family and friends in private
- Private places are available to people.
- Portable phones are available and accessible. People do not have to ask permission to use the phone.
- People's mail is not read by staff or others, without permission.
- Staff and visitors knock before entering the person's home or bedroom.

For this one I like to share a personal story. During all my spare time I am also an advisor for People First of Manitoba. For anyone that may not be familiar, People First of Manitoba is an advocacy group that is led by people labelled with an intellectual disability. And so I was at a chapter meeting for People First, and the main area of discussion was rights restrictions. A member shared his experience with us, and I got his permission to share his story with all of you. When we delve into the topic of privacy, this person was incredibly passionate about his right to personal space. He shared with us that every day we would return home from work, and find that a staff had entered his room without permission and made his bed on his behalf. He felt really violated by this that someone would enter his

space without consulting with him first. Ultimately this created a lot tension and distrust with his support team. This is a great example of our impact as service providers does not always align with our intent. I am confident that this staff member had the best intentions when making the bed. I am sure they just wanted to help the person and make their day easier. And perhaps making the bed was even part of the daily task list. However, upon further reflection and when we dig into the way we support people, we may be unintentionally breaching their rights. The easiest way to remove this restriction would be to simply stop making the person's bed without his consent. And in his case, he didn't want his bed made at all, and as support staff we need to be okay with that.

- People have the right to adequate food and nutrition, and access to food, snacks, and beverages. This means that:
- People can eat or have a snack or beverage when they want to, and they are not confined to eat at designated scheduled times.
- People choose their own food and beverages based on individual preferences;

- People are not prevented from entering the kitchen or food storage areas for any reasons, but especially because a roommate is restricted from those areas;
- People are included in planning for meals and food purchases.
- And even if there are no locks in the kitchen or on cabinets, but there is a secret stash of snacks hidden away in the office, then this would still be deemed as a restriction because it limits people's access to their food.

People have the right to earn, hold, and spend money. This means that:

- People have the right to apply for and get meaningful jobs in their community;
- People are paid on a regular basis and keep their own money; whether this is in their own bank account or on their person.
- People have access to a safe place to keep their money; and do not have to ask permission to access or spend their own money
- And people have access to the community to spend their money in ways they choose.

Many of us here are regulated by licensing requirements to keep people's money locked and secure. This often looks like money being kept in a safe in the office. We can find a balance with adhering to licensing standards while also promoting people's rights. For instance, can people lock their money in a private safe in their room? If that is not possible, do people have readily available access to the safe in the office? Can they have a key to the safe so they do not need to ask for permission to get their money. We can often get creative in how we promote people's rights while also, following guidelines set out by licensing bodies.

Next is the right to freedom of movement and access to all areas of one's home, with due regard for the privacy of others. This means that:

- People are not restricted to certain areas of their own home;
- Doors are not locked;
- Leisure activities and supplies are not locked up in closets and rooms; a quick example of this is how sometimes people will lock iPads or phones during certain times.
- Alarms are not used to alert staff of the location of people;
- People are not locked in, but rather intruders are locked out

- People have keys to their home;
- Fences do not lock people into their yards;
- The location of door locks, knobs and window latches do not create environmental restrictions that inhibit free movement of people.

In my experience with Personal Outcome Measures Interview, people often say that they do not experience rights restrictions, but when I word the question differently such as: are there any house rules then this will often highlight potential restrictions. People have shared that the house rules are that they are not allowed to use the staff bathroom in the home, or they're only allowed one cup of coffee, or they are not granted access to the home's WIFI. Another great question I like to ask is WHO chooses. For example, I will ask someone what time they go to bed, and they might say 10pm. I will ask who chooses that time, and they might respond with the staff chose what time I go to bed. This is a rights restriction. People should be in the driver seat of the choices that impact them. Our conversation about rights, especially with those we support, needs to be accessible and in plain language.

As mentioned in previous e-learnings when conducting Personal Outcome Measures Interviews, we go over the outcome People Exercise Rights it's

interesting because people often identify the daily choices that we take for granted as the rights that are most important to them. People rarely mention voting, the VPA, or the Canadian Charter of Human rights, but rather the choices like what to eat, who to see, what time to go to bed, or what type of shampoo to buy as the most important rights. This is inspiring because we play a big role to support these day-to-day rights and choices.

However, the reality is that some rights need to be restricted. Rights restrictions are not inherently bad, but the purpose of the restriction must be to keep people and others safe from serious injury or harm. Serious injury is death or suicide, and serious harm can look like for example if someone chooses to walk around the neighborhood naked, there may not be an immediate risk of serious injury but there is certainly harm from a perspective of dignity.

However, rights should not be restricted just because it's always been done that way, or because it's the house rules, or out of staff convenience or even because the team/clinicians/doctors/or substitute decision makers proposed it.

Before restricting someone's right we need to start from a dignity of risk perspective. We need believe that all people are capable and competent and then look at our position in terms of duty to care. Often times we are starting with a

perspective of duty to care and then maybe we will encourage people to make some choices and decisions after we have covered duty to care. Some examples can be if someone wants to smoke, or drink while on medications, or eat chocolate when you have diabetes. In these challenging situations, it's easy to fall into a place of protection and safety, rather than support, facilitation, and empowerment.

Before restricting an individual's right, we must complete adequate due process, which includes several steps:

We want to implement rights restrictions as a last resort. First, we need to teach and support people to gain skills to address the risk of harm in effective ways. Can we avoid the restriction by providing further education?

The person should be involved in the decision-making process related to restriction. The person should be at the heart of this discussion, and should be included at all steps.

We need to make rigorous attempts to support the person to fulfill their responsibilities (this can be support from staff, training, environmental adaptations, everything. We need to get creative! We can leverage a different approach in order to prevent a rights restriction. For instance, someone may not

have a key to their home because maybe they have lost their key several times.

Well, this scenario is also true for myself, I have lost my house keys far too often, I would rather you not talk to my partner about this because it's a hot topic in our household. But the reality is that the bank is not approaching me and threatening me to take away my mortgage because I have proven that I am not responsible to keep my home protected and safe. Rather I got creative, instead of having a key I installed a key pad. This way I can still protect AND access my home using a 4-digit password. At times, there are easy little accommodations like a key pad that can reduce or remove a restriction altogether. Rights restrictions can be a very grey area, and we should exhaust every option before implementing a rights restriction. Because rights restrictions are a last resort.

As I mentioned, we need to discuss the restriction with people, but we also should consult their support network as well. We should also document all of the robust attempts to reduce and remove the rights restrictions.

When we introduce a right restriction, we should simultaneously create a plan to reduce the restriction over time. Whenever rights restrictions are imposed, we should be reviewing them regularly to make sure nothing has changed for the person. People grow and develop, and if we are not reviewing the restrictions

regularly, we run the risk of restricting people beyond what is required. That's when we see restrictions because it's always been done that way

Finally, ideally, we would have the rights restriction plan reviewed and validated by an objective third party. For instance, this can be done by a human rights committee. This is an opportunity to gather a perspective from someone who is not too close to the situation, and will be able to review the attempts to reduce the restrictions and provide feedback if necessary.

It's important to note that just because a person has gone through adequate due process for one rights restriction, it does not speak to the person's competency in other areas. We should be completing adequate due process for every individual rights restriction. This sounds like a lot of work but limiting people's rights is no easy business. If any one of us had our rights restricted the due process is through the court system. This takes times and a lot consideration. The same diligence and consideration should be taken for people we support.

Finding that balance with dignity of risk is challenging. Promoting people's rights is a long, continuous, but meaningful journey. It can be overwhelming where to start. But really the first step is to have transparent conversations with people you support, to establish a baseline of how people are exercising their rights, and

perhaps how some rights are restricted. A tool that helped me deepen my practice of promoting people's rights is an annual Rights Audit. And that is the act of intentionally reviewing our practices and behaviors to ensure that we are not inadvertently restricting people's rights. The rights audit is a tool that prompts us to take a step back, and to look at our support from a rights perspective. The rights audit can be conducted in collaboration with the person you support, or could also act as a self-assessment tool for people who receive supports. If you provide direct support or lead an organization, Rights Audits will support your work of promoting people's rights, and it will help guide you in how to shift certain practices.

To conclude today's e-learning we are going to watch a brief video created by Open Future Learning. The video is titled It's My Home and depicts some of the ways in which we might be intentionally, or unintentionally restricting people's rights. Enjoy!

I like to watch this video in team meetings and I ask staff to point out the practices that resonate with them. It sparks a good discussion on how we can shift our supports so we are treating people's home as their home first, and a workplace second. For example, in one team they realized that they were reading

the person's mail without consulting with them first. Another team talked about how they have often changed the thermostat in the home because they were cold, and they never thought to ask the person to be in control of the temperature of the home.

This e-learning is meant to start a conversation. For more information, please visit the Abilities Manitoba website for more resources and information on right restrictions. Thank you for signing on and we will see you soon!