

# The Least Restrictive Alternative – is it too Restrictive?

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# Presentation Outline

- Background to the Least Restrictive Alternative (LRA)
- Case Examples
- Discussion

# Origins of the LRA

Perlin (2000)

The LRA found “constitutional life” in the USA in *Lessard v Schmidt* 1972. The Wisconsin Federal Court held that even where dangerousness and mental illness are present, a person can be involuntarily hospitalised only as a last resort. A person could not be deprived of their liberty, if there were less drastic means of achieving the same goal (p1013).



# LRA – A Definition

- Least restrictive or intrusive treatment in the least restrictive environment
- 2 variables, environment and voluntariness
- How do we define restrictive/intrusive treatment?

# Hierarchy of Restrictiveness

- Involuntary, Seclusion Restraint
- Involuntary admission, secure ward
- Involuntary admission, open ward
- Voluntary admission, open ward
- Involuntary treatment, community
- Voluntary treatment, community



# Case Exemplars

- *There are times when consumers, who feel that they are unsafe, attend a mental health facility seeking a safe place to be. In this situation, a consumer may feel safer if they are involuntary patients in a locked facility, because in this situation they know they are unable to harm themselves..*

# Case Exemplars

- Using the hierarchy outlined above, people in this situation would be seen as receiving the most restrictive care – that is, involuntary treatment in a locked ward.
- From the consumer's perspective being involuntary and in the locked ward is less restrictive because the consumer feels safe.



## Case Exemplar 2

- *There may be other occasions when the consumer's status on the ward is ambiguous. The consumer may have been admitted as a voluntary patient, but knows that refusal of treatment or an attempt to leave the facility will in fact mean that their status will change to involuntary. They are voluntary, but they are de facto involuntary.*
- *On these occasions, consumers may prefer to retain their involuntary status because this would mean at least that their status would be reviewed by a body such as the Mental Health Review Tribunal. Of course at the same time, even with the restrictions, the consumer may feel better about the admission because they are "voluntary".*



## Case Exemplar 2

- Using the hierarchy outlined above, consumers who are involuntary, even in an open ward, would have been considered to have been at the highly restrictive end of the continuum. Service providers may argue that by admitting consumers as voluntary patients whenever possible, they are acting in accordance with the least restrictive alternative.
- From the consumer's perspective, involuntary status may in fact be preferable because it would mean access to Tribunal review and so would be, from their perspective, more restrictive. Other consumers may in fact find it less restrictive to be admitted voluntarily. The key variable in this example is consumer choice.

## Case Exemplar 3

- *Imagine a situation where there are severe side effects to the medication. The side effects may be impotence, or tiredness, or tremor, or restlessness to name just a few. Sometimes, the case manager may not understand the impact the side effects are having on the consumer's life. Even if the treating team does know that the consumer is experiencing side effects to the medication, they may believe that the consumer must be treated involuntarily in the community because the consumer may be a danger to self or others when unwell.*



# Case Exemplar 3

- Using the hierarchy with voluntariness and environment as two measures of restrictiveness, it would seem that in this example, the consumer is receiving a service that is less restrictive than either of the examples above, as treatment is being provided in the community, even though this is involuntary.
- Yet the consumer may consider the treatment to be highly restrictive because the medication affects the ability to live a normal life. The consumer may also believe that concerns that are expressed about medication are not being heard.



# Case exemplars - conclusion

In all case examples, the consumer viewed the restrictivity of their experience in a different way from the hierarchy of restrictiveness.

The determinants of restriction were different for consumers, and were far broader than environment and voluntariness.

These exemplars demonstrate that the most important determinants of restriction are consultation and choice.



# Autonomy

- The aim of mental health intervention is promotion of the autonomy of the individual.
- The LRA is a mechanism for preserving autonomy.
- For this reason, the hierarchy of restrictiveness must wherever possible respect the choices of the person receiving treatment.