

FACTSHEET: LOCKING OF GATES, DOORS OR WINDOWS

POSITIVE BEHAVIOUR SUPPORT & RESTRICTIVE PRACTICES

The Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships (the department) draws on its SOLID values (Strengths based, Open, Loyal, Innovative and Dedicated) to commit itself to supporting people with a disability to thrive.

As such, the department is committed to ensuring that adults with intellectual or cognitive disability are supported in appropriate ways which ensure personal safety while actively considering the adult's rights and needs. Furthermore, the department is committed to respecting, protecting and promoting human rights. Under the *Human Rights Act 2019*, the department, as a public entity, has an obligation to act and make decisions in a way that is compatible with human rights and, when making a decision, to give proper consideration to human rights.

This Fact Sheet provides disability service providers, disability support workers and practitioners with information about the *Disability Services Act 2006*, regarding the locking of gates, doors or windows to safeguard adults with an intellectual or cognitive disability who have a skills deficit that might otherwise place them at risk of harm.

Why lock gates, doors or windows?

The *Disability Services Act 2006* (the Act) specifies a set of practices that may only be used by services provided by the department, or services prescribed by regulation and funded under a NDIS participant plan (a relevant service provider) to safeguard adults with an intellectual or cognitive disability, where the adult has a skills deficit.

Under the Act an adult with a skills deficit is defined as:

*“An adult with an intellectual or cognitive disability who cannot safely exit premises where disability services are provided to the adult without supervision, if the **only** reason the adult cannot safely exit the premises without supervision is–*

- (a) the adult lacks road safety skills; or*
- (b) the adult is vulnerable to abuse or exploitation; or*
- (c) the adult is unable to find their way back to the premises; or*
- (d) another reason prescribed under a regulation.”*

A relevant service provider may lock the gates, doors or windows at the premises where disability services are provided to the adult if the **only** reason these are locked is to prevent physical harm being caused to the adult with a skills deficit. This also includes the locking of:

- perimeter gates
- internal or external doors and/or windows while the adult and others are inside the building, restricting exit from the building.

For example, a disability service provider may keep the front gate of an adult's home locked to prevent the adult without the requisite skills to safely negotiate traffic from accessing a roadway without supervision or support.

Who does the legislation apply to?

Under the Act, regulating the use of the practice of locking gates, doors or windows to prevent harm being caused to an adult with a skills deficit only applies to services provided by the department, or services prescribed by regulation and funded under a NDIS participant plan.

How is it different from a restrictive practice?

The locking of gates, doors or windows where the **only** reason is to prevent physical harm being caused to the adult with a skills deficit, is not considered a restrictive practice as defined under the Act.

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Part 6 of the Act identifies restrictive practices as a set of actions used in response to the behaviour of an adult that causes physical harm, or a serious risk of physical harm to the adult or others.

The key distinction between the two sets of practices is that restrictive practices are used to respond to a behaviour of the adult that causes harm to themselves or others; whereas, locking gates, doors or windows is used only in response to an adult's skills deficit that may place the adult at risk of harm.

For example, locking the front gate to prevent the adult from accessing the community without supervision, where there is a risk of the adult assaulting members of the public, would be a restrictive practice (containment) even if adult also lacks road safety skills.

For further information on the requirements for using restrictive practices, refer to the [Restrictive Practices Identification Tool](#).

Requirements under the Act

Although locking gates, doors and windows is not a restrictive practice, the Act specifies requirements which must be met to protect the service provider from potential criminal or civil liability. These requirements are:

- that the service provider acts honestly and without negligence
- that the service provider keeps and implements a policy about locking gates, doors and windows that is consistent with the department's policy
- that the gates, doors or windows are locked in compliance with the policy
- that the service provider takes reasonable steps to minimise the impact of locking the gates, doors or windows on a person living at the premises who is not an adult with a skills deficit.

An individual who is acting for the relevant service provider is protected from potential criminal or civil liability if they comply with the policy or reasonably believe they are complying with the policy.

When should locked gates, doors or windows be considered?

Where a disability service provider holds concerns about an adult's ability to conduct themselves safely outside their home without supervision, an assessment of the adult's skills, abilities and support needs should be conducted. An assessment of the nature and extent of the potential risks that the adult faces should also be completed.

On the basis of the assessment findings, a range of support options should be considered in consultation with the adult and their support network.

Where a decision is made to implement a locked gates, doors or windows strategy, the response should be documented in a plan and approved by the relevant manager of the disability support service. Reasonable steps must also be taken to minimise the impact of the strategy on other adults with a disability who share supports at the premises.

After being implemented, regular monitoring and review of the strategy, its effectiveness and the ongoing need for the practice must be undertaken.

Further Information

For more information, contact the Positive Behaviour Support and Restrictive Practice team on 1800 902 006 or enquiries_rp@dssatsip.qld.gov.au.

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