

# AUTHORISING RESTRICTIVE PRACTICES

## 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) in its commitment to supporting people with disability to thrive.

As such, the department is dedicated 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 compatible with human rights and, when making a decision, to give proper consideration to human rights.

This fact sheet provides practitioners, service providers and disability support workers with information about the authorisation of restrictive practices as applied to adults (18 years or older) who:

- have an intellectual or cognitive disability
- are receiving services provided by the department, or services prescribed by regulation and funded under an NDIS participant plan
- behave in a way that causes physical harm or a serious risk of physical harm to themselves or others.

### What are restrictive practices?

The *Disability Services Act 2006* (the Act) defines restrictive practices as any of the following practices used in response to the behaviour of an adult with an intellectual or cognitive disability that causes harm to the adult or others:

- containing or secluding an adult
- using chemical, mechanical or physical restraint on an adult
- restricting access of the adult.

These terms are further defined in the Act.

**Important note:** *The locking of gates, doors and windows to safeguard adults who only have a skills deficit that might otherwise place them at risk is not a restrictive practice under the Act. For further information see the Information Sheet, Locking of Gates, Doors and Windows.*

### Regulating the use of restrictive practices

The NDIS Quality and Safeguards Commission regulates the use of restrictive practices in the provision of services to NDIS participants. In addition to this, the Act specifies certain conditions under which a restrictive practices authorisation may be considered.

### What is authorisation?

In accordance with the Act, a restrictive practice may only be authorised as part of a planned response to an adult's behaviour that causes harm where it has been demonstrated that such a response is the least restrictive way of ensuring the safety of the adult or others (as is practicable in the circumstances). The Act also requires that a relevant service provider undertakes appropriate assessment and develops a Positive Behaviour Support Plan.

A key safeguard of the Act is the requirement that Disability Services, or services prescribed by regulation and funded under a NDIS participant plan must seek authorisation from the relevant independent body or person prior to the use of the restrictive practice where a state authorisation is available.

The Act safeguards the human rights of people with an intellectual or cognitive disability from the inappropriate use of restrictive practices. The Act provides an accountability framework that allows for transparency in the decision-making process to authorise the use of a restrictive practice.

The Act sets out a number of requirements that the relevant disability service provider must follow to lawfully use a restrictive practice. This includes using the restrictive practice where:

- it complies with the approval or consent of the relevant decision maker
- it is necessary to prevent the adult's behaviour that causes harm to the adult or others
- it is the least restrictive way of ensuring the safety of the adult or others (as is practicable in the circumstances)
- it complies with a Positive Behaviour Support Plan developed for the adult.

Authorisation must be sought by each relevant disability service provider that intends to use the restrictive practice on the adult. For example, where an adult receives disability services from both an accommodation support provider and a community access provider, and where both service providers propose to use a restrictive practice on the adult, then both services are required to seek authorisation for any restrictive practice used in response to the adult's behaviour that causes harm.

Further, authorisation must be sought for each specific type of restrictive practice. Authorisation for use of one restrictive practice does not allow a service provider to legally use any other restrictive practices. For example, in the instance where a service provider has been authorised to use physical restraint, and it is proposed to also use mechanical restraint, a separate authorisation is required. This would initially be through a [short term approval application](#).

Authorisation may be given to use a restrictive practice for a time-limited period only. The decision to authorise a restrictive practice must be regularly reviewed within agreed timeframes.

### Who can authorise a restrictive practice?

This depends on:

- whether the use of the restrictive practice is planned or unplanned
- the type of restrictive practice (containment and seclusion, chemical/mechanical/physical restraint or restricting access)
- the type of disability service the adult is receiving (respite and/or community access only, or accommodation and community support alone, together, or in conjunction with respite and/or community access).

This information is outlined in the Restrictive Practices Requirements table at the end of this fact sheet.

### How to seek authorisation

Many adults in the target group will be receiving support from more than one service, and some adults may be in receipt of more than one restrictive practice. Irrespective of the number of service providers or the number of restrictive practices, an adult should have a single Positive Behaviour Support Plan developed. This plan should take into account and incorporate the range of service settings, the types of restrictive practices, and all aspects of the adult's behaviour support needs. This plan must be consistent with the adult's broader needs as outlined in their individual plan.

In general, where an adult is receiving disability support from more than one disability service provider, the service providing the most hours of support to the adult should take primary responsibility for coordinating the assessment and planning activities and obtaining authorisation for that adult. In situations where primary responsibility is difficult to ascertain or by mutual agreement between service providers, this arrangement may vary.

Collaboration between service providers for the adult is critical, so that the single Positive Behaviour Support Plan reflects the adult's different needs in different service environments. However, the plan must also have consistency of the planned approaches across service providers and environments.

It is the responsibility of the disability service provider with primary responsibility to initiate the authorisation process by lodging the necessary documents. These include a comprehensive assessment report and Positive Behaviour Support Plan. For containment and seclusion, this lodging is done jointly with the department, except where the person is receiving respite and/or community access services only, in which case it is the relevant service provider's responsibility. Each service provider who is going to be using a restrictive practice must have their own authorisation.

In some instances, an application for the appointment of a formal guardian for restrictive practices will need to be made to the Queensland Civil and Administrative Tribunal (QCAT).

It is the responsibility of relevant service providers to work closely with the adult with disability and their family or carers to support and initiate the application process. Refer to the Queensland Civil and Administrative Tribunal website: [www.qcat.qld.gov.au](http://www.qcat.qld.gov.au) for further information about guardianship and guardians.

## Reviewing authorisation

The decision to approve or consent to a restrictive practice must be regularly reviewed within agreed time frames. Significant changes to the use of a restrictive practice also require a review of the decision to approve or consent to a restrictive practice.

## Further Information

For more information, contact the Positive Behaviour Support and Restrictive Practice team on 1800 902 006 or [enquiries\\_RP@dssdsatsip.qld.gov.au](mailto:enquiries_RP@dssdsatsip.qld.gov.au).

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Christopher Booker  
Director, Positive Behaviour Support & Restrictive Practices

## Restrictive practice requirements

Restrictive practice		Assessment	Plan	Approval / Consent	Plan implementation	Monitoring	Review
Containment or seclusion	General*	Multidisciplinary assessment (Disability Services)	Positive Behaviour Support Plan (Disability Services)	Queensland Civil and Administrative Tribunal	Relevant service provider (support from Disability Services)	Relevant service provider (support from Disability Services)	Queensland Civil and Administrative Tribunal
	Respite or community access service only	Risk assessment (relevant service provider)	Respite/community access plan (relevant service provider)	Guardian for a restrictive practice (respite) matter	Relevant service provider	Relevant service provider	Guardian for a restrictive practice (respite) matter
	Short term approval	—	—	Short term approval (public guardian)	Relevant service provider	Relevant service provider	—
Physical restraint or mechanical restraint	General*	Assessment (appropriately qualified person)****	Positive Behaviour Support Plan (relevant service provider)	Guardian for a restrictive practice (general) matter	Relevant service provider	Relevant service provider	Guardian for a restrictive practice (general) matter
	Respite or community access service only	Risk assessment (relevant service provider)	Respite/community access plan (relevant service provider)	Relevant decision-maker (respite)	Relevant service provider	Relevant service provider	Relevant decision-maker (respite)
	Short term approval	—	—	Short term approval (Chief Executive delegate, Disability Services)	Relevant service provider	Relevant service provider	—
Chemical restraint	General*	Assessment (appropriately qualified person)****	Positive Behaviour Support Plan (relevant service provider, with information from the treating doctor)	Guardian for a restrictive practice (general) matter	Relevant service provider	Relevant service provider	Guardian for a restrictive practice (general) matter
	Respite (fixed dose) Only**	—	—	Relevant decision-maker (respite)	—	—	—
	Community access services (fixed dose) only	Risk assessment (relevant service provider)	Respite/community access plan (relevant service provider with information from the treating doctor)	Guardian for a restrictive practice (respite) matter	Relevant service provider	Relevant service provider	Guardian for a restrictive practice (respite) matter
	Respite or community access service (PRN)	Risk assessment (relevant service provider)	Respite/community access plan (relevant service provider with information from the treating doctor)	Guardian for a restrictive practice (respite) matter	Relevant service provider	Relevant service provider	Guardian for a restrictive practice (respite) matter
	Short term approval	—	—	Short term approval (Chief Executive delegate, Disability Services)	Relevant service provider	Relevant service provider	—
Restricting Access	General*	Assessment (relevant service provider)	Positive Behaviour Support Plan (relevant service provider)	Relevant decision-maker	Relevant service provider	Relevant service provider	Relevant decision-maker
	Respite or community access service only	Risk assessment (relevant service provider)	Respite/community access plan (relevant service provider)	Relevant decision-maker (respite)	Relevant service provider	Relevant service provider	Relevant decision-maker (respite)
	Short term approval	—	—	Short term approval (Chief Executive delegate, Disability Services)	Relevant service provider	Relevant service provider	—

\* Where the adult in is receipt of a funded accommodation support package and also has additional respite/community access services, the general rule applies.

\*\* Plan implementation, monitoring and review not required for Chemical Restraint Respite (fixed dose) only.

\*\*\* For definitions used in this table please see the Glossary.

\*\*\*\* For assessing an adult with an intellectual or cognitive disability, a person is appropriately qualified if the person has the qualifications or experience appropriate to conduct the assessment. Examples of who might be appropriately qualified persons: behaviour analysts, medical practitioners, psychologists, psychiatrists, speech and language pathologists, occupational therapists, registered nurses, social workers (*DSA 2006, s149*).