

FACTSHEET: Compliance with requirement to notify approval or consent to use restrictive practices in Queensland

The NDIS Quality and Safeguards Commission (NDIS Commission) commenced in Queensland on 1 July 2019 and service providers must report to the NDIS Commission on the **use** of restrictive practices. The Queensland Government remains responsible for **authorising** the use of restrictive practices for adults with an intellectual or cognitive disability in Queensland.

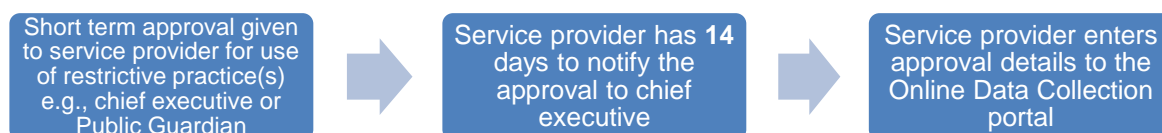
Short term approval for the use of restrictive practices can be provided by the Public Guardian (for the use of containment or seclusion) or by a delegate of the chief executive (for the use of the restrictive practices of restricting access or chemical, physical and mechanical restraint).

Longer term authority to use a restrictive practice requires approval or consent to be provided. The Queensland Civil and Administrative Tribunal (QCAT) approves any further period of use for the restrictive practices of containment and/or seclusion. A guardian for restrictive practice (appointed by QCAT) or a relevant decision maker can provide consent for a further period of use for other restrictive practices, following the development of a positive behaviour support plan.

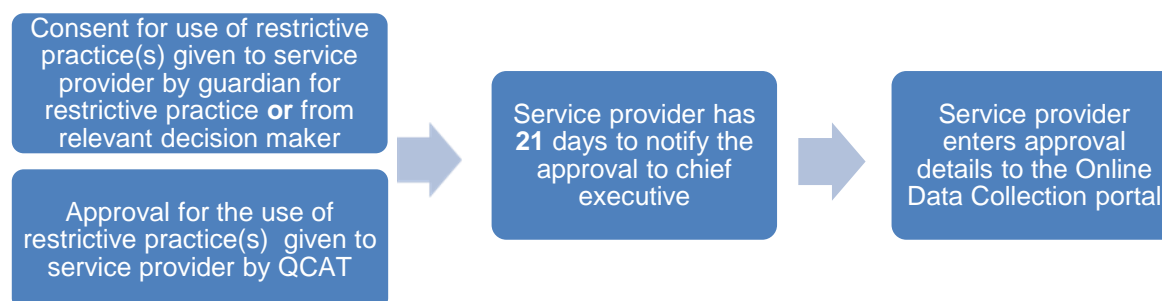
Notification of approval or consent

Service providers must notify the chief executive of any approval (or consent) to use restrictive practices through the ODC portal (<http://odc.disability.qld.gov.au>). The process and legislated timeframes for this to occur are:

When short-term approval is given:



When consent is provided by a guardian for restrictive practice, or by a relevant decision maker; or approval provided by QCAT



Why do approvals and consents need to be reported?

Section 195 of the DSA and Section 7 of the *Disability Services Regulation 2017* outline the requirements and responsibilities of service providers to notify the chief executive of any approvals given for the use of restrictive practices.

The restrictive practices reporting regime is one element of a framework designed to protect and safeguard the rights of people with an intellectual or cognitive disability. Non-compliance with the restrictive practices authorising and reporting regime may result in the use of restrictive practices without any oversight and where this may not be the least restrictive way to respond to the adult's behaviour. This can lead to further risk of harm to the adult or to others.

If the department did not monitor the compliance of service providers in relation to their legislative requirements, it would not be able to support and educate providers or report to government on the number of vulnerable adult Queenslanders who are subject to restrictive practices.

Supporting compliance

The Department of Communities, Disability Services and Seniors has a responsibility to monitor compliance by service providers in notifying approval and consent for restrictive practices, and is committed to supporting service providers to meet their reporting requirements.

The initial compliance approach will be one of collaboration, education and support.

Where the department identifies that a service provider has not reported:

- a short-term approval from the Public Guardian
- a short-term approval from a delegate of the chief executive
- an approval from QCAT

via ODC within the legislated timeframe, the service provider will be contacted and reminded of their legislated responsibilities and offered assistance and support to facilitate compliance. Should compliance not be achieved following this support, the matter will be referred to the department's Safeguards Team for potential investigation and/or referral to the NDIS Commission.

The above process will also be followed if the department become aware of service providers who have received consent for the use of restrictive practices from a guardian for restrictive practice or from a relevant decision maker but have not reported that consent through ODC.

Information and support

[Resources](#), including guides and factsheets, are available on the ODC portal to assist service providers to record approvals and consents.

For support with authorisations and the authorisation process (including recording authorisations in ODC) please contact the Positive Behaviour Support & Restrictive Practices Team in your region (www.communities.qld.gov.au/disability-connect-queensland/national-disability-insurance-scheme/ndis-quality-safeguard-requirements-providers/positive-behaviour-support-restrictive-practices/contact-information) or by either telephoning 1800 902 006 or emailing enquiries_dsa_rp@communities.qld.gov.au.