

Disability Services POLICY

Title: Restrictive practices (full legislative scheme)

Policy Statement:

Supporting adults who exhibit behaviour that causes harm or risk of harm

The Department of Communities, Disability Services and Seniors is committed to ensuring adults with an intellectual or cognitive disability who exhibit behaviour that causes harm and are receiving disability services from a relevant service provider, are supported in appropriate ways, in a safe environment and in a way that recognises their rights and needs.

The focus should be on preventing or reducing the behaviour that causes harm through supporting the adult to live a full and active life with opportunities to engage in community activities and other activities of interest, develop relationships and learn new skills.

Use of restrictive practices to manage behaviour that causes harm

If restrictive practices are considered to be the least restrictive alternative to ensure the safety of the adult and others in response to the behaviour of the adult with an intellectual or cognitive disability who is receiving disability services from a relevant service provider, they should only be used in a way that:

- has regard to the human rights of the adult;
- safeguards the adult or others from harm;
- maximises the opportunity for positive outcomes for the adult and aims to reduce or eliminate the need to use restrictive practices; and
- ensures transparency and accountability in the use of restrictive practices.

A relevant service provider is a funded service provider who provides disability services to an adult with an intellectual or cognitive disability and:

- receives funds from the Department to provide disability services; or
- provides disability services prescribed by regulation to a participant under the participant's NDIS plan.

Principles:

Human rights and service delivery:

Adults with an intellectual or cognitive disability:

- have the same human rights as other members of society and should be empowered to exercise their rights;
- have the right to live lives free from abuse, neglect or exploitation;
- have the right to services that are provided in accordance with section 18 (Human rights principle) and sections 19 – 32 (Service delivery principles) of the Act; and
- have the right to receive disability services from a relevant service provider in accordance with principles set out in section 142.

Assessment of individual

Behaviour that causes harm occurs for a reason. Gaining an understanding of the adult and the purpose or function of their behaviour is an essential component in the development of appropriate support strategies

Positive and proactive approach

A positive and proactive approach to behaviour support should be implemented. A positive approach involves the development of multi-element positive behaviour support plans that support the adult to live a full and active life and learn new skills.

Use of a restrictive practice:

A restrictive practice should only be used:

- where necessary to prevent harm to the adult or others; and
- where it is the least restrictive way of ensuring the safety of the adult or others.

A relevant service provider should provide disability services in a way that:

- promotes the adult's development and physical, mental, social and vocational ability and increase opportunities for participation and inclusion in the community;
- responds to the adult's needs and goals;
- ensures the adult and their family and friends are given an opportunity to participate in the development of strategies for the care and support of the adult;
- involves positive behaviour support planning informed by evidence-based best practice which includes the implementation of strategies, to produce behavioural change, focussed on skills development and environmental design;
- ensures transparency and accountability in the use of restrictive practices;
- recognises that restrictive practices should not be used to punish an adult or in response to behaviour that does not cause harm to the adult or others;
- aims to reduce the intensity, frequency and duration of the adult's behaviour that causes harm to the adult or others;
- aims to reduce or eliminate the need for the restrictive practice; and
- ensures adequate standards of staff skills and knowledge both in terms of the legislative and regulatory requirements and the proportionate, safe and responsible use of a restrictive practice.

Objectives:

This policy deals with the use of restrictive practices under the full legislative scheme. If a relevant service provider obtains approval or consent to use restrictive practices under the full legislative scheme, they will be required under the Human Services Quality Framework to develop and implement policies/procedures for delivering services in the least restrictive way and which comply with legislative requirements for use of restrictive practices and positive behaviour support planning.

Scope:

This policy applies to services provided or funded by the Department of Communities, Disability Services and Seniors, or services prescribed by regulation and funded under a NDIS participant plan (a relevant service provider) who provide disability services to an adult with an intellectual or cognitive disability whose behaviour either causes harm to the adult or others, or represents a serious risk of harm to the adult or others ('behaviour that causes harm').

The adult with an intellectual or cognitive disability must have impaired decision-making capacity in relation to making decisions about the use of restrictive practices.

This policy does not apply to:

- situations where the **only** reason the gates, doors or windows are locked is to prevent physical harm being caused to an adult with a skills deficit — these requirements are detailed in a separate operational policy and procedure entitled “*Locking of gates, doors and windows as the least restrictive way of supporting an adult with an intellectual or cognitive disability safely*”;
- private agencies or other services that are **not provided or funded** by the Department of Communities, Disability Services and Seniors, or where adults are supported by their family or in other informal support arrangements not funded or provided by the Department;
- other Queensland Government departments even if receiving funds from the Department of Communities, Disability Services and Seniors or the NDIS – see *Disability Services Act 2006*, sections 140(1) and (3); or
- the use of medication prescribed by a health provider or a person acting under the health provider’s direction or supervision to facilitate or enable a single instance of health care under the *Guardianship and Administration Act 2000*.

General disability services or respite and/or community access services

This policy must be read in conjunction with:

- Procedure: Restrictive practices — general disability services (full legislative scheme); and
- Procedure: Restrictive practices — respite and/or community access services only (full legislative scheme).

General Disability Services refers to one or a combination of the following (except where respite or community access is the only service being provided):

- accommodation support services
- respite services
- community support services
- community access
- advocacy or information services or services that provide alternative forms of communication
- research, training or development services
- assistance with daily life tasks in a group or shared living arrangement
- daily personal activities
- development of daily living and life skills
- therapeutic supports
- specialist positive behaviour support
- assistance in coordinating or managing life stages, transitions and supports
- management of funding for supports
- participation in community, social and civic activities
- interpreting and translation
- high intensity daily personal activities
- group and centre based activities

- support coordination

Respite or community access services refer to situations where the **only** disability service the adult with an intellectual or cognitive disability receives is a respite or community access service.

The adult cannot receive any other disability service from either the Department of Communities, Disability Services and Seniors or a relevant service provider.

Short term approvals (where there is an immediate and serious risk of harm)

At times it may be necessary for a service provider to respond to an adult's behaviour that causes harm. An immediate response may be required and a restrictive practice used in order to prevent a serious risk of harm to the adult or another person.

For example, the incident could involve an adult with an intellectual or cognitive disability whose behaviour causes harm and who recently moved out of home for the first time into a service funded by the department. Alternatively, the incident could involve an adult in receipt of Department support or funding whose behaviour has suddenly escalated where their behaviour puts the adult or someone else at immediate and serious risk of harm.

The *Disability Services Act 2006* and the *Guardianship and Administration Act 2000* make provisions to allow for a short-term approval for the use of a restrictive practice, where there is an immediate and serious risk of harm to the adult or another person, while further assessment and positive behaviour support planning is undertaken. Short term approvals can be provided for up to six months and can only be extended in exceptional circumstances.

See the Department policy and procedure for 'Short term approvals for the use of restrictive practices in disability services'.

Requirements of policy and procedures

In accordance with section 218 of the Act, relevant service providers must keep and implement a policy that is consistent with this policy and also consistent with the Procedure - Locking of gates, doors, or windows as the least restrictive of supporting an adult with an intellectual or cognitive disability safely.

The policy and procedure must as a minimum outline the procedures a relevant service provider will use to ensure gates, doors and windows are locked only if it is—

- necessary to prevent physical harm to an adult with an assessed skills deficit; and
- the least restrictive way of ensuring the adult's safety as is practicable in the circumstances.

Also, the policy must ensure appropriate regard is had to linguistic and cultural diversity and Aboriginal tradition and Island custom.

This policy and related procedure includes these requirements, and also has additional detail about how to minimise the impact on other persons receiving disability services at the premises.

Documented Planning

Where it has been assessed and established that the adult does not currently have the skills to manage their physical safety outside of the premises where they are receiving disability services without supervision, and it has been determined that locking gates, doors or windows is the least restrictive way of ensuring the adult's physical safety, then service providers must ensure a written plan is developed to support the person.

As a minimum this plan must include:

- evidence that locking the gates, doors or windows is necessary and the least restrictive way of ensuring the adult's safety as is practicable in the circumstances;
- clear guidelines to staff on the circumstances and manner in which the gates, doors or windows may be locked;
- strategies for minimising the impact of the practice on others receiving services at the premises;
- strategies for reducing the use the practice;
- evidence of the consideration of fire and other safety issues;
- evidence of the consideration of the adult's cultural background, including Aboriginal tradition, Torres Strait Island custom or other linguistic or cultural backgrounds; and
- appropriate monitoring and review mechanisms.

Roles and Responsibilities:

Staff of the Department of Communities, Disability Services and Seniors:

- All staff must comply with the *Disability Services Act 2006* and policies and procedures on the use of restrictive practices
- Staff employed in the department have particular responsibilities in relation to statutory requirements of the *Disability Services Act 2006*.
- The Chief Executive, and their delegates, Department of Communities, Disability Services and Seniors, have a responsibility to ensure that appropriate processes are in place for Department staff to comply with the legislation, regulation, policies and procedures.

Service providers funded by the Department of Communities, Disability Services and Seniors or services prescribed by regulation and funded under a NDIS participant plan:

- Relevant service providers, including individuals acting for the service provider, must comply with the *Disability Services Act 2006*. A relevant service provider must also keeping and implement a procedure to ensure an individual acting for the relevant service provider has the:
 - sufficient knowledge of the requirements for lawful use of the restrictive practice and the skills; and
 - knowledge required to use the restrictive practice as prescribed in the approved positive behaviour support plan.

Note: If there is any inconsistency between this policy (and related procedures) and the *Disability Services Act 2006* or *Guardianship and Administration Act 2000*, the provision in the *Disability Services Act 2006* or *Guardianship and Administration Act 2000* applies to the extent of the inconsistency.

Authority:

Disability Services Act 2006

Disability Services Regulation 2017

Guardianship and Administration Act 2000

Delegations:

Under the *Disability Services Act 2006*, the Chief Executive, Department of Communities, Disability Services and Seniors, must in conjunction with the relevant service provider and private practice clinicians in locations where transition to NDIS has occurred, develop a positive

behaviour support plan, where containment or seclusion is proposed (other than when the only disability service the adult is receiving is a respite and/or community access services).

The Chief Executive, Department of Communities, Disability Services and Seniors, must also make certain administrative decisions under the Act:

- whether to conduct a multidisciplinary assessment (where containment or seclusion is proposed);
- whether to develop a positive behaviour support plan (where containment or seclusion is proposed);
- short-term approvals (where restrictive practices other than containment or seclusion are proposed);
- whether a positive behaviour support plan should be changed; and
- the preparation and publishing of the model behaviour support plan.

These powers are delegated to the Director Clinical Practice or Principal Clinician (in locations that have transitioned to the NDIS) by the Chief Executive.

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Currently under review