

# Disability Services POLICY

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**Title:** Consultation and engagement with clients, their support network and others – the use of the Model Statement

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## **Policy Statement:**

The Department of Communities, Disability Services and Seniors (the Department) 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 that recognises the adult's rights and needs.

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.

This policy sets out the consultation and engagement to occur with the adult and members of their support network in relation to the use of restrictive practices and the requirement to give statement about use of restrictive practices – the Model statement.

## **Principles:**

- An adult should be consulted, in a way they are most likely to understand, about their behaviour, the supports to address their behaviour and the use of restrictive practices, and have these views considered by the relevant service provider and decision maker.
- An adult should be aware of why the use of restrictive practices is being considered, and how they can make their views known and exercise their rights.
- An adult's family and support network should have the opportunity to express their views about an adult's behaviour, the supports to address the adult's behaviour and the use of restrictive practices, and have these views considered by the relevant service provider and decision maker.
- During conversation and engagement, particular consideration should be given to the needs of Aboriginal and Torres Strait Islander peoples or people from other cultural or linguistic backgrounds in this consultation process. This may take the form of having appropriate regard for Aboriginal tradition, Island custom or other cultural beliefs, and supporting people to participate in the process.

## **Objectives:**

The objective of the policy is to ensure that relevant service providers under the restrictive practices framework consult with the adult and others according to the requirements in the *Disability Services Act 2006* and in a way that allows the adult and other people with an on-going role in the adult's life to express their views in relation to the adult's behaviour, the supports to address the adult's behaviour and the use of restrictive practices. This ensures that relevant service providers and decision makers have up to date and relevant information about an adult, and that the most appropriate and least restrictive strategies are put in place to address the adult's behaviour, reduce challenging behaviour and improve the adult's quality of life.

**Scope:**

The policy applies to relevant service providers and the Chief Executive and delegates under the restrictive practices framework and the *Disability Services Act 2006*.

**Statement about use of restrictive practices – the Model Statement**

The *Disability Services Act 2006* (the Act) has a requirement which provides that if a relevant service provider is considering using restrictive practices in relation to an adult with an intellectual or cognitive disability, then the relevant service provider must give a statement - the Model Statement - in the approved form to the following persons about the use of restrictive practices generally:

- the adult; and
- a person with sufficient and continuing interest in the adult (an interested person).

The Model Statement must detail:

- why the relevant service provider is considering using restrictive practices in relation to the adult;
- how the adult and the interested person can be involved and express their views in relation to the use of restrictive practices;
- who decides whether restrictive practices will be used in relation to the adult;
- how the adult and the interested person can make a complaint about, or seek review of, the use of restrictive practices; and
- that the Department, in accordance with the *Disability Services Regulation 2017*, will be collecting information regarding the use of restrictive practices in relation to the adult.

Also, the relevant service provider must explain the Model Statement to the adult:

- in the language or way the adult is most likely to understand; and
- in a way that has appropriate regard to the adult's age, culture, disability and communication ability.

The purpose of this provision is to ensure that the adult, family members and others in the adult's support network who have ongoing involvement in the adult's life are aware of why the relevant service provider is considering a restrictive practice might be necessary; how they can be involved in planning and decision making and express their views; who will make the decision whether or not to authorise the restrictive practice; and what are the review and redress avenues, should there be a complaint.

The Model Statement is available on the Department's website to be used by service providers to help them to meet this requirement.

**Consultation**

There are number of decision and processes where, under the Act, the Chief Executive must consult with a range of people before making a decision. These decisions and processes include:

- deciding to conduct a multidisciplinary assessment;
- deciding to develop a positive behaviour support plan (where containment and seclusion are proposed);
- development of the positive behaviour support plan (where containment and seclusion are proposed); and
- deciding whether a plan should be changed.

Similarly, there are a number of processes where the relevant service provider must consult with a range of people. These include:

- conducting an assessment of the adult;

- conducting a risk assessment of the adult (where a respite or community access services is the only provider); and
- development of a positive behaviour support plan; or
- development of a respite/community access plan.

The people who must be consulted, have their views considered and be given the opportunity to participate in the development of plans for the adult include;

- the adult;
- if the adult has a guardian or informal decision-maker - the guardian or informal decision-maker;
- each relevant service provider providing disability services involving the use of restrictive practice/s to the adult;
- if the adult is subject to a forensic order, treatment support order or treatment authority under the *Mental Health Act 2016* - the authorised psychiatrist responsible for treatment of the adult under that Act;
- if the adult is a forensic disability client - a senior practitioner responsible for the care and support of the adult under the *Forensic Disability Act 2011*; and
- any other person considered to be integral to the decision or process. For example, for chemical restraint the adult's treating doctor must be consulted.

Consultation and engagement with all the people who have an ongoing involvement in the adult's life 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.

### **Roles and Responsibilities:**

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

- All staff must comply with the *Disability Services Act 2006*, the *Disability Services Regulation 2017* and policies and procedures on the use of restrictive practices.
- Staff employed in Disability Services have particular responsibilities in relation to the statutory requirements of the *Disability Services Act 2006* restrictive practices framework.
- The Chief Executive, Department of Communities, Disability Services and Seniors, and delegates have a responsibility to ensure that appropriate processes are in place for Departmental staff to comply with the legislation, regulation, policies and procedures.

Service providers funded by the Department of Communities, Disability Services and Seniors and NDIS is those locations that have transitioned:

- Relevant service providers, including individuals acting for the service provider, must comply with the *Disability Services Act 2006* and the *Disability Services Regulation 2017*, including mandatory monthly reporting of all instances of use of all restrictive practices, keeping and implementing a procedure to ensure an individual acting for the relevant service provider has the skills and knowledge required to deliver a service involving the use of a restrictive practice appropriately.

*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 or their delegate, Department of Communities, Disability Services and Seniors, must 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 or their delegate, 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).

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