

# Disability Services POLICY

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**Title:** Locking of gates, doors and windows as the least restrictive way of supporting an adult with an intellectual or cognitive disability safely

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**Policy Statement:**

The Department of Communities, Disability Services and Seniors (the Department) is committed to ensuring that adults with an intellectual or cognitive disability are supported in appropriate ways which ensure personal safety while actively considering the adult's rights and needs.

Some adults with an intellectual or cognitive disability may not possess the road safety skills, or other personal safety skills, needed to safely access the community without supervision.

The *Disability Services Act 2006* (the Act) provides that in certain circumstances, a relevant service provider can lock gates, doors or windows at premises where disability services are provided to adults with an intellectual or cognitive disability, providing that the only reason the gates, doors or windows are locked is to prevent physical harm being caused to an adult with an assessed skills deficit.

**Principles:**

In supporting adults with an intellectual or cognitive disability whose physical safety is at risk without appropriate supervision, service providers must adhere to the following principles:

- People with a disability have the same human rights as other people.
- Any action taken to benefit a person intrudes on their rights and lifestyle to the least extent possible, i.e. the least restrictive alternative applies.
- Disability services are designed and implemented so that they:
  - focus on developing the individual and on enhancing the individual's opportunity to establish a quality life;
  - are tailored to meet the individual needs and goals of people with a disability;
  - meet the needs of people who may experience additional barriers because they are an Aboriginal person or Torres Strait Islander or from culturally or linguistically diverse backgrounds;
  - promote recognition of the competency, positive image and self-esteem of people with a disability;
  - promote the inclusion of people with a disability in the life of the community and the development of natural networks and relationships;
  - use person-centred planning processes and encourage and support people with a disability to participate continually in the planning and operation of the services they receive;
  - take into account the differing communication styles, especially of those persons with complex communication needs; and

- ensure the conditions of everyday life of people with a disability are the same as, or as close as possible to, the conditions of everyday life valued by the general community.

### Objectives:

This policy applies to Department of Communities, Disability Services and Seniors provided or funded services 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, where gates, doors or windows are locked to prevent physical harm being caused to an adult with an assessed skills deficit.

This policy aims to ensure that these relevant service providers:

- are informed of the legislative requirements for locking the gates, doors or windows;
- consider all of the adult's rights and, in particular, balance the adult's right to freedom of movement with their right to safety; and
- ensure reasonable steps are taken to reduce the need to lock the gates, doors or windows, over time.

### Scope:

This policy applies if the only reason the relevant service provider has locked the gates, doors or windows is to prevent physical harm being caused to an adult with an assessed skills deficit.

An adult with a skills deficit is defined under the Act to mean “an adult with an intellectual or cognitive disability who cannot safely exit the premises where disability services are being provided to the adult without supervision, if the only reason the adult cannot safely exit the premises without supervision is:

- the adult lacks road safety skills;
- the adult is vulnerable to abuse or exploitation by others;
- the adult is unable to safely find their way back to the premises, or
- another reason prescribed under a regulation.

Locking gates, doors or windows includes:

- locking perimeter gates while the adult and staff are at the premises; and/or
- closing of internal or external doors and/or windows while the adult and staff are inside the building; in such a way that the adult with an intellectual or cognitive disability cannot open the gate, door or window independently sufficient to exit through the gate, door or window.

This policy does not apply to:

- situations where the locking of gates, doors or windows constitutes containment or seclusion as defined in the Act; or
- situations where locking the gates, doors or windows constitutes restricting access as defined in the Act.

The locking of gates, doors or windows is not a restrictive practice under the Act. However, where the locking of gates, doors or windows occurs in combination with a restrictive practice as specified in the Act, relevant service providers must ensure that they comply with the policy and procedures relating to the use of restrictive practices.

The policy does not apply to:

- taking security precautions such as locking doors and windows to deter intruders and to protect property, provided people are not prevented from leaving the building at any time;
- circumstances where a person's bedroom door is locked from the outside when they are absent from their room or the dwelling, for the purposes of protecting their personal property;
- circumstances where the gates, doors or windows are locked to address issues that are not related to the physical safety of the adult; or
- the locking of gates, doors or windows where the adult is inside the premises and staff are not, and the adult is unable to exit the premises – this practice may be a restrictive practice under the Act (with specific requirements that must be met) or may constitute unsafe practice (which would not be approved under any circumstances).

This policy does not apply to private agencies or other services that are not provided or funded by the department, or prescribed by regulation, or funded under a NDIS participant plan, nor do they apply to adults supported by their family or in other informal support arrangements not provided or funded by the department or via their NDIS participant plan.

For further information on determining the applicability of this policy to a situation please refer to the other relevant documents listed below.

This policy should be read in conjunction with the Procedure - Locking of gates, doors and windows as the least restrictive way of supporting an adult with an intellectual or cognitive disability safely.

### **Conditions for locking gates, doors or windows**

Section 218 of the Act provides that a relevant service provider is not civilly or criminally liable for locking gates, doors or windows if:

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

Additionally, under section 219 of the Act, an individual acting for a relevant service provider is not civilly or criminally liable for locking gates, doors or windows if the individual acts in compliance with, or reasonably believes he or she is acting in compliance with, the relevant service provider's policy about the locking of gates, doors and windows.

### **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 way 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—

- (a) necessary to prevent physical harm to an adult with an assessed skills deficit; and
- (b) 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 should 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 of 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:**

- Relevant service providers have a responsibility to:
- ensure compliance with the policy by service staff;
- decide whether locking gates, doors or windows is the necessary and the least restrictive way of ensuring the adult's safety as is practicable in the circumstances; and
- keep and implement a policy and procedure about the locking of gates, doors and windows that is consistent with the department's policy about the locking of gates, doors and windows – this includes preparing the policy and keeping it up-to-date, implementing and complying with the procedures and other matters stated in the policy, and keeping a copy of the up-to-date policy at the service provider's premises.

Staff of relevant service providers - All service staff have the responsibility to:

- be familiar with and comply with the legislative provisions and policies and procedures on the use of locked gates, doors and windows as described in the *Disability Services Act 2006*; and
- uphold and apply this policy.

### **Authority:**

*Disability Services Act 2006*

**Delegations:**

There are no delegations under this policy.

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**Date of approval:** 27 September 2018

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**Office:** Centre of Excellence for Clinical Innovation and Behaviour Support

**Help Contact:** 1800 902 006

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