

# Disability Services

## PROCEDURE

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**Title:** Use of restrictive practices in general disability services

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### **Purpose**

This procedure deals with the use of restrictive practices under the full legislative scheme in Part 6 of the *Disability Services Act 2006* for general disability services.

In particular, the procedure applies to a relevant service provider providing general disability services who has already obtained short-term approval to use the restrictive practice in relation to an adult with an intellectual or cognitive disability.

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 procedure assists a relevant service provider to meet the requirement 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.

### **Process**

The following tasks describe the process for general disability services, who have already obtained a short term approval to use a restrictive practice, and must be followed by relevant service providers.

If a short term approval is yet to be obtained, refer to the following policy and procedure:

- Policy - Short term approval for the use of restrictive practices in disability services; and
- Procedure - Short term approval for the use of restrictive practices in disability services

1. Initial review
2. Application to Queensland Civil and Administrative Tribunal for appointment of a guardian
3. Assessment
4. Development of a positive behaviour support plan.
5. Approval or consent
6. Implementation
7. Reporting
8. Monitoring
9. Review
10. Changes to a positive behaviour support plan

## Principles to guide procedures

### One person — one positive behaviour support plan

Ideally adults will be receiving support from more than one service provider and it may be that these adults are subject to more than one restrictive practice in a variety of service provision contexts. Irrespective of the number of service providers or the number of restrictive practices, an adult must have a single positive behaviour support plan. This one plan per person approach supports best practice as it compels service providers and interested parties to collaborate in the development of the positive behaviour support plan, taking into account the range of service provision types and settings and the range of restrictive practices.

### Primary responsibility for assessment and planning

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 for that adult, including the identification of an appropriately qualified person. This arrangement may be varied where primary responsibility is difficult to ascertain, or by mutual agreement between service providers. For clarity, any variation should be communicated in writing between service providers.

In summary, collaboration between service providers is critical so the single positive behaviour support plan reflects the adult's different needs in different service provision types and settings.

## Plan complexity

The *Disability Services Act 2006* (the Act) outlines the minimum requirements for an assessment and positive behaviour support plan for different types of restrictive practices. To this effect the Department has developed and published on the Department's website a [model positive behaviour support plan](#) to inform plan development. The Act requires service providers to have regard to the model positive behaviour support plan.

Over and above these minimum requirements, the size and complexity of the assessment and positive behaviour support plan will vary according to the complexity of the individual's circumstances. The positive behaviour support plan needs to be able to be understood and implemented by relevant service provider/s and their staff.

### 1: Initial review of necessity for use

Where a restrictive practice is in use or proposed, the relevant service provider, in collaboration with other relevant service providers and interested parties, should review the behaviour that causes harm and the use of any restrictive practice in response to that behaviour.

Based on that review, the relevant service provider should determine whether the restrictive practice is still necessary and remains the least restrictive way of ensuring the safety of the adults and others.

For example, a restrictive practice may not be reasonable where:

- the use of a restrictive practice is disproportionate to the risk of harm to the adult or others; or
- a less restrictive way is available and there is a lack of evidence that this less restrictive way has been considered and has been proven to be unsuccessful.

If the use of the restrictive practice is not reasonable or necessary, the practice should be ceased immediately and other strategies considered, as appropriate.

## **2a: Application to the Queensland Civil and Administrative Tribunal (QCAT) for appointment of a guardian**

This step applies where the approval of chemical, mechanical or physical restraint, with or without restricted access is proposed, but does not apply to circumstances where these practices are used in combination with containment or seclusion.

### Types of application

For the use of chemical, mechanical or physical restraint: Consent will be required from a guardian for a restrictive practice (general) matter. At this stage, an interested party for the adult and/or the relevant service provider should make an initial application to the Queensland Civil and Administrative Tribunal (QCAT) for the appointment of a guardian for a restrictive practice (general) matter.

Making the application does not assume that the restrictive practice strategy will be supported by the guardian following a comprehensive assessment and subsequent development of a positive behaviour support plan. However, an application at this stage facilitates the timely consideration of the appointment of a guardian for a restrictive practice (general) matter by QCAT.

## **2b: Application for a QCAT hearing (for containment or seclusion only)**

This step only applies where the approval of containment or seclusion is proposed.

### Types of applications

For the use of containment or seclusion prescribed in the positive behaviour support plan, approval will be required from QCAT. At this stage, the Chief Executive or their delegate and the relevant service provider must make a joint application to QCAT.

As above, this application does not assume that the restrictive practice strategy will be supported by QCAT following a comprehensive assessment and development of a positive behaviour support plan. An application at this stage allows a date to be scheduled for QCAT to hear an application for the use of containment or seclusion.

Where containment or seclusion is being considered in combination with other restrictive practices, a single application to QCAT is required. QCAT will consider approval of all restrictive practices in the one hearing in accordance with the one positive behaviour support plan per person requirement.

## **3: Assessment**

When proceeding to an assessment, the relevant service provider should provide sufficient information in relation to the nature of:

- any restrictive practice currently employed;
- the adult's disability; and
- the adult's behaviour, including the harm it causes, the frequency and likelihood of future incidents.

For containment or seclusion: A multidisciplinary assessment must be conducted involving two or more appropriately qualified persons with qualifications or experience in different disciplines. If, in addition to containment or seclusion other restrictive practices are proposed, Disability Services must assess all of the proposed restrictive practices.

The Department also leads the development of the positive behaviour support plan. During transition to NDIS there are two parallel systems that support this statutory requirement, as follows:

- in locations pre NDIS transition, for clients subject to containment and seclusion, Disability Services clinicians will work with the relevant service provider in the development of

positive behaviour support plans and QCAT submissions.

- In locations that have transitioned to the NDIS for clients subject to containment and seclusion, residual Disability Services Positive Behaviour Support and Restrictive Practices clinicians will work with the relevant service provider in the development of positive behaviour support plans and QCAT submissions.

Noting – that for clients/participants that have transitioned to the NDIS the multi-disciplinary clinical assessment/s required during a functional assessment pre positive behaviour support plan development would be covered within a participant plan for example private practice speech language assessments or assessments by a private practice psychologist. The sourcing of the multidisciplinary assessments will be led by the person administering the plan for the adult or the Service Coordinator.

For other restrictive practices: The relevant service provider using an appropriately qualified person conducts the assessment. In identifying and agreeing on the appropriately qualified person, the relevant service provider should involve interested parties (such as any guardian, informal decision-maker or advocate) and other relevant service providers who provide support to the adult. If the only restrictive practice proposed is restricting access the assessment can be done by the relevant service provider.

**Table 1: Assessment requirements for General Disability Services**

<b>Restrictive practice</b>	<b>Assessment requirements</b>
Containment and seclusion	Multidisciplinary assessment
Physical, Mechanical and/or Chemical restraint (no containment or seclusion)	Assessment by an appropriately qualified person
Restricted access only	Assessment by a relevant service provider

Decision whether to conduct a multidisciplinary assessment

If a relevant service provider notifies the Chief Executive or their delegate that the relevant service provider wishes to contain or seclude the adult, the delegate of the Chief Executive must decide whether a multidisciplinary assessment of the adult will be conducted.

In deciding whether a multidisciplinary assessment for matters of containment or seclusion of the adult will be conducted, the delegate of the Chief Executive must consult with, and consider the views of, the following:

- the adult;
- the adult’s guardian or informal decision-maker;
- each relevant service provider; and
- if Disability Services is aware the adult is subject to a forensic order or involuntary treatment order under the *Mental Health Act 2016*—the authorised psychiatrist responsible for treatment of the adult under that Act; or
- if the Disability Services is aware 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 that Disability Services considers to be integral to the decision (for example, a key health care provider or an advocate for the adult).

See the Policy 'Consultation and engagement with clients and their support network'.

### Decision not to proceed

The decision by the delegate of the Chief Executive, not to proceed to a multidisciplinary assessment is a decision that can be internally reviewed under the Act.

Under the Act, notice of the decision not to proceed ('decision notice') must be provided to:

- the relevant service provider;
- the adult; and
- a guardian or informal decision-maker for the adult who was consulted in the decision.

Any of these interested persons may apply for an internal review of that decision.

To do this, they must complete the approved form 'Form 6-1 *Application for Review of a Decision*'.

The delegate of the Chief Executive should suggest an appropriate/alternative response to the situation, if they decide not to conduct a multidisciplinary assessment.

### Conducting an assessment

The Act sets out the minimum requirements for any assessment of the adult. All assessments must:

- make findings about the nature, intensity, frequency and duration of the behaviour/s of the adult that causes harm;
- develop theories about the factors that contribute to the adult's behaviour/s that causes harm; and
- make recommendations about appropriate strategies for:
  - meeting the adult's needs and improving their quality of life
  - reducing the intensity, frequency and duration of the behaviour that causes harm
  - managing the adult's behaviour that causes harm.

In conducting an assessment of the adult: the person undertaking the assessment should, where possible, consult with and consider the views of the following:

- the adult;
- the adult's family members;
- the adult's support network;
- the adult's guardian or informal decision-maker;
- each relevant service provider; and
- if Disability Services is aware the adult is subject to a forensic order or involuntary treatment order under the *Mental Health Act 2016*—the authorised psychiatrist responsible for treatment of the adult under that Act; or
- if the Disability Services is aware 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 that Disability Services considers to be integral to the decision (for example, a key health care provider or an advocate for the adult); and
- where chemical restraint is proposed, the adult's treating medical practitioner (the doctor prescribing the medication to be used for the primary purpose of managing behaviour).

Relevant service provider to provide support for the assessment

For matters of containment and seclusion the relevant service provider, and private practice clinicians for clients purchasing assessments via their NDIS Participant Plan, are required to support Disability Services to undertake the assessment by, as a minimum:

- remaining engaged through the assessment process;
- providing access to the adult;
- providing access to appropriate staff;
- providing access to the adult's support environment;
- facilitating access to the adult's family and significant others;
- ensuring access to written information and files;
- ensuring staff keep proper records regarding the assessment and positive behaviour support plan; and
- ensuring the adult is supported to access other health professionals (for example, general practitioner or psychiatrist) or allied health professionals (for example, speech and language pathologist), as required, to ensure a comprehensive assessment.

Where chemical restraint is proposed, the relevant service provider should also:

- ensure adequate information is provided to assist the treating medical practitioner;
- coordinate consultation with the treating medical practitioner to which relevant interested parties are invited;
- attend consultations;
- arrange for the interested parties to attend consultations; and
- request that the treating medical practitioner completes both:
  - a summary of recommendations regarding the use of chemical restraint for the adult; and
  - a '[Clarification of purpose of medication form](#)'

Particular consideration should be given to the needs of Aboriginal people, Torres Strait Islanders 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.

See the Policy 'Consultation and engagement with clients and their support network'

Contents of assessment and assessment report

An assessment report may include input and assessments from a range of sources including health and allied health professionals.

The assessment for restricting access may be less detailed than for other restrictive practices, particularly where access is restricted due to a single behaviour. The detail of the assessment will generally reflect the complexity of the adult's behaviour.

For containment or seclusion: The assessment must demonstrate that the containment or seclusion strategy can be employed in a way that the adult's needs are met. Specifically, that the adult is provided with:

- sufficient bedding and clothing;
- sufficient food and drink;
- access to adequate heating and cooling;
- access to toilet facilities;
- the adult's medication as prescribed by a doctor; and

- access to the adult's support aids (for example wheelchair, assistive communication devices).

#### Copy at the premises

The relevant service provider should keep a copy of the assessment information in the client file at the *premises* where the service involving the use of restrictive practice is delivered.

#### **4: Development of a positive behaviour support plan**

##### Decision to proceed or not to proceed with the development of a positive behaviour support plan

The development of a positive behaviour support plan, based on the findings, theories and recommendations of the assessment of the adult, will only proceed if the decision maker is satisfied:

- the adult's behaviour has previously resulted in harm to the adult or others;
- the use of the restrictive practice is necessary to safeguard the adult and others from harm; and
- the use of the restrictive practice is the least restrictive way of ensuring the safety of the adult and others.

For plans involving the use of containment or seclusion the decision not to proceed with the development of a positive behaviour support plan is made by the delegate of the Chief Executive.

Where there are divergent views about proceeding to the development of a positive behaviour support plan the delegate of the Chief Executive, with the involvement of the relevant service provider, must try and resolve the differences.

Under the Act, notice of the decision to not proceed (the 'decision notice') must be provided to the following (referred to as an 'interested person'):

- the relevant service provider;
- the adult; and
- a guardian or informal decision-maker for the adult who was consulted in the decision.

An interested person can request a review of the decision by completing the approved form '*Form 6-1: Application for review of a decision.*'

For other restrictive practices (excluding in combination with containment or seclusion) the decision not to proceed should be recorded and supported by the recommendations of the appropriately qualified person for the relevant service provider. The relevant service provider should ensure that the person is supported appropriately and safely through less restrictive methods.

Before proceeding with the development of a positive behaviour support plan for the adult, the delegate of the Chief Executive (for containment and seclusion) or the relevant service provider (for matters other than containment and seclusion) must:

- for containment or seclusion: ensure the adult has had a multidisciplinary assessment; or
- for other restrictive practices: ensure the adult has had an assessment; and
- consider the recommendations about appropriate strategies for:
  - meeting the adult's needs and improving the adult's capabilities and quality of life;
  - reducing the intensity, frequency and duration of the adult's behaviour that causes harm to the adult or others; and
  - manage the adult's behaviour that causes harm to the adult or others to minimise the risk of harm.

### Development of the positive behaviour support plan

For plans involving the use of containment and/or seclusion the delegate of the Chief Executive is responsible for developing a positive behaviour support plan for the adult.

For services involving the use of other restrictive practices (excluding in combination with containment or seclusion) the relevant service provider, using an appropriately qualified person, must develop a positive behaviour support plan.

Where there is a difference of opinion between any of the appropriately qualified persons who assessed the adult, the delegate of the Chief Executive must ensure that this difference was taken into account when developing the positive behaviour support plan.

#### *Model positive behaviour support plan*

In developing the positive behaviour support plan, the delegate of the Chief Executive, or the relevant service provider, must have regard to a model positive behaviour support plan. The model plan example is a plan prepared by the Chief Executive of the Department and published on the Department's website.

This requirement ensures that the development of positive behaviour support plans is guided by an evidenced based best practice, ensures that the plan is able to be implemented and is focused on achieving the best outcomes for the adult.

#### *Contents of the positive behaviour support plan*

The overall aim of the positive behaviour support plan is to reduce and, wherever possible, eliminate the use of restrictive practices and improve the quality of life for the adult. The importance of a positive behaviour support plan is that it provides a planned and multi-elemental approach to supporting the individual. Where possible, the plan should be written in plain English and in a way that can be easily understood and implemented by service providers and their staff.

At a minimum, under the Act, the positive behaviour support plan must include each of the following:

- in relation to previous behaviour of the adult that has caused harm to the adult or others, a description of—
  - (i) the intensity, frequency and duration of the behaviour
  - (ii) the consequences of the behaviour
  - (iii) the early warning signs and triggers for the behaviour, if known
- the positive strategies that must be attempted before using a restrictive practice, including the community access arrangements in place for the adult
- for each restrictive practice proposed to be used in relation to the adult—
  - (i) the circumstances in which the restrictive practice is to be used
  - (ii) a demonstration of why use of the restrictive practice is the least restrictive way of ensuring the safety of the adult or others
  - (iii) the procedure for using the restrictive practice, including observations, recordings and monitoring, that must happen while the restrictive practice is being used
  - (iv) any other measures that must happen while the restrictive practice is being used that are necessary to ensure:

- a. the adult's proper care and treatment
  - b. the adult is safeguarded from abuse, neglect and exploitation
- (v) a description of the anticipated positive and negative effects on the adult of using the restrictive practice
- (vi) the intervals at which use of the restrictive practice will be reviewed by the relevant service provider delivering a service involving the use of the restrictive practice
- for seclusion—the maximum period for which seclusion may be used at any one time and the maximum frequency of the seclusion
- for chemical restraint—
  - (i) the name of the medication to be used and any available information about the medication, including, for example, information about possible side effects
  - (ii) the dose, route and frequency of administration, including, for medication to be administered 'as and when needed', the circumstances in which the medication may be administered, as prescribed by the adult's treating doctor
  - (iii) if the adult's medication has previously been reviewed by the adult's treating doctor— the date of the most recent medication review
  - (iv) the name of the adult's treating doctor
  - (v) for mechanical or physical restraint—the maximum period for which the restraint may be used at any one time.

#### *Copy at the premises*

Under the Act, the relevant service provider must ensure that a copy of the positive behaviour support plan is kept at the premises where the restrictive practice is used.

Where there is also a forensic order, treatment support order or treatment authority for the adult made under the *Mental Health Act 2016*

Under the Act, if the delegate of the Chief Executive or relevant service provider is aware the adult is subject to a forensic order, treatment support order or treatment authority, the relevant service provider, must if requested by the Chief Psychiatrist or Director of Forensic Disability, provide the Director with a copy of the positive behaviour support plan.

### **5: Approval or consent**

#### Range of approvals or consents

Who approves or consents to the use of a restrictive practice depends on the type of restrictive practice proposed, see [restrictive practices requirements](#).

#### Relevant service provider support in gaining approval or consent

For containment and/or seclusion the relevant service provider, with the delegate of the Chief Executive, is responsible for providing sufficient information to QCAT to facilitate the decision to approve the use of the restrictive practice in the context of the positive behaviour support plan.

For other restrictive practices, the relevant service provider is responsible for providing sufficient information to the relevant decision-maker to facilitate the decision to consent the use of the restrictive practice in the context of the positive behaviour support plan.

To support their decision the relevant decision-maker should be provided with:

- the multidisciplinary assessment or the assessment report;
- the positive behaviour support plan;
- the review process and procedures;
- other reports or documents as requested by QCAT; and
- the terms of any forensic order, treatment support order or treatment authority under the Mental Health Act 2016 (if the relevant service provider is aware of the order).

If the relevant service provider provides this information in accordance with the Act, the Act provides that they are legally protected in giving this information.

For containment or seclusion: Where the authorised psychiatrist responsible for treatment of the adult under the Mental Health Act 2016 or senior practitioner responsible for the care and support of the adult under the Forensic Disability Act 2011 was consulted at the assessment stage but does not agree with the use of the restrictive practice, the delegate of the Chief Executive must notify QCAT about the views of the authorised psychiatrist. QCAT must then consider the views of the authorised psychiatrist or senior practitioner when making a decision.

For chemical, mechanical or physical restraint: Where the authorised psychiatrist responsible for treatment of the adult under the Mental Health Act 2016 or senior practitioner responsible for the care and support of the adult under the Forensic Disability Act 2011 was consulted at the assessment stage but does not agree with the use of the restrictive practice, the relevant service provider must notify the adult's guardian for restrictive practice (general) matters about the views of the authorised psychiatrist or senior practitioner on the use of the restrictive practice. The guardian for restrictive practice (general) matter must then consider the views of the authorised psychiatrist or senior practitioner when making a decision.

#### Period of approval or consent

An approval for containment or seclusion made by QCAT must be no more than 12 months.

QCAT can appoint a guardian for restrictive practice matter for no more than two years. This means that at least every two years or when the appointment ends, whichever is sooner, QCAT will formally review the decisions of the guardian for restrictive practice matters.

Under the Act, a QCAT approval ends if the adult dies or if the adult stops receiving disability services from the relevant service provider. In this event the relevant service provider must notify QCAT in writing.

#### Notification

A relevant service provider is required to notify the Chief Executive of the Department of Communities, Disability Services and Seniors in the approved form, the 'Form 6.4', and within the required period (see below), when an approval to use a restrictive practice at a service outlet is given.

The relevant service provider must also give notice in the approved form within the required period (see below), the 'Form 6.5' when the approvals stop having effect, cessation.

The approved forms are:

- Form 6-4 "Notification of Approval or Consent to the use of Restrictive Practices"; and
- Form 6-5 "Notification of a Change to a Restrictive Practice Approval (includes cessation)".

A relevant service provider is also required to notify the Public Guardian within the required period when an approval to use a restrictive practice at a visitable site (as defined under section 39 of the *Public Guardian Act 2014*) is given. This notice must state:

- The name and address of the visitable site; and
- That a restrictive practice approval has been given in relation to that site.

The relevant service provider must give notice within the required period to the Public Guardian if all restrictive practice approvals relating to the visitable site stop having effect.

The required period is:

- 14 days after a short term approval is given
- 21 days after any other restrictive practice approval is given (containment or seclusion approval; or consent to use of a restrictive practice given by a guardian for a restrictive practice matter or an informal decision-maker)

## 6: Implementation

### Responsibility for implementation

For containment or seclusion: The relevant service provider is responsible for ensuring the appropriate implementation of the positive behaviour support plan.

Under the Act, a relevant service provider may contain or seclude an adult with intellectual or cognitive disability if:

- the containment or seclusion is necessary to prevent the adult's behaviour causing harm to the adult or others;
- it is the least restrictive way of ensuring the safety of the adult or others;
- the use of containment or seclusion complies with the approval given by QCAT;
- containment or seclusion is used in accordance with the positive behaviour support plan—this includes carrying out of prescribed positive and proactive strategies for enhancing the adult's quality of life as well as a focus on reducing the occurrence of the behaviour that causes harm; and
- when using containment or seclusion, the relevant service provider ensures the adult's needs are met:
  - sufficient bedding and clothing;
  - sufficient food and drink;
  - access to adequate heating and cooling;
  - access to toilet facilities;
  - the adult's medication as prescribed by a doctor; and
  - access to the adult's support aids (for example wheelchair, assistive communication devices).

For other restrictive practices: The relevant service provider, using an appropriately qualified person, is responsible for ensuring the appropriate implementation of the positive behaviour support plan.

Under the Act, a relevant service provider may use chemical, mechanical or physical restraint or restricting access if:

- the restrictive practice is necessary to prevent the adult's behaviour causing harm to the adult or others;

- the restrictive practice is the least restrictive way of ensuring the safety of the adult or others; and
- the use of the restrictive practice complies with the consent of the relevant decision-maker and complies with the positive behaviour support plan— this includes carrying out of prescribed positive and proactive strategies for enhancing the adult's quality of life as well as a focus on reducing the occurrence of the behaviour that causes harm.

For restricting access: The relevant service provider must implement procedures that minimise the impact on other persons living at the premises.

### Staff skills and knowledge

The relevant service provider must ensure that any individual who implements the restrictive practice strategy prescribed in the positive behaviour support plan has:

- sufficient knowledge of the requirements for the lawful use of the restrictive practice; and
- the skills and knowledge required to deliver the service involving the use of the restrictive practice.

The relevant service provider should make appropriate staff deployment arrangements to support adults whose behaviour causes harm and where restrictive practices are used. The use of casual staff in such circumstances, where considered appropriate, will require arrangements for the provision of the appropriate skills and knowledge to these casual staff.

To this end the relevant service provider should ensure that:

- all relevant staff are made available for training or coaching relevant to an adult's positive behaviour support plan;
- all interventions, as outlined in the plan, are implemented according to the specific instructions detailed in the plan;
- detailed records are kept of the application of the positive strategies outlined in the plans;
- detailed records are kept of every instance of use of a restrictive practice; and
- formal monitoring activities are followed and input sought from other relevant stakeholders as appropriate.

The relevant service provider should ensure that they support the implementation of the strategies as outlined in the implementation plan, including:

- training or coaching plan implementers;
- providing tools by which detailed records are kept of the application of the positive strategies outlined in the plans;
- providing tools for keeping detailed records of every instance of use of a restrictive practice; and
- engaging in formal monitoring activities and seeking the input from other relevant stakeholders as appropriate.

## **7: Reporting**

Under the *Disability Services Act 2006* and the *Disability Services Regulation 2017*, a relevant service provider must report in the form approved by the Chief Executive of the Department to the Chief Executive on every instance of use of a restrictive practice.

The approved form is via Online Data Collection (ODC) system.

The lodgement of the Form 6-4 generates the creation of a restrictive practices client profile in the ODC system. Service providers must use this system to give the Chief Executive information as prescribed in the regulation including:

- Full details about the adult;
- Full details of the service provider;
- The type of restrictive practice and details of when it was used including any unplanned or unauthorised use;
- The days on which the restrictive practice was used, the times when the restrictive practice started and ended on each of the days and the frequency of the use;
- Details of the restrictive practice e.g. exact name of medication for chemical restraint; and
- The type of approval, who gave the approval or consent and the start and end of the approval.

The regulated reporting of every instance of use of all restrictive practices must be completed by the second Friday of the calendar month immediately after the calendar month in which the restrictive practice was used; and at other times if the Chief Executive, by written notice, requires the relevant service provider to do so.

The relevant service provider must notify the Chief Executive, within 14 days, when any of the above information changes.

## **8: Monitoring**

### Monitoring tools

Monitoring tools should be developed to specifically address the adult's needs and positive behaviour support plan. Disability Services for matters of containment and seclusion or an appropriately qualified person for matters other than containment and seclusion should provide the relevant service provider with the appropriate tools to monitor:

- the implementation of the positive elements of the positive behaviour support plan;
- the effectiveness of the positive strategies in reducing the incidence of the target behaviour and improving the adult's quality of life;
- the use of each restrictive practice;
- the effectiveness of each restrictive practice in reducing harm;
- the effectiveness of the strategies in monitoring the restrictive practices to prevent abuse, neglect or exploitation; and
- for restricting access, to minimise the impact on other persons at the premises.

The relevant service provider should ensure that all monitoring tools are:

- used to provide feedback to staff on the implementation of the positive behaviour support plan;
- used to inform reviews of the implementation of the positive behaviour support plan;
- employed as directed by Disability Services (for containment or seclusion); and
- used to prompt referrals to Disability Services for changes in the positive behaviour support plan (for containment or seclusion).

### Ongoing support to the relevant service provider

For containment or seclusion: Disability Services should decide with the relevant service provider the nature of the ongoing relationship between Disability Services and the adult who is subjected to containment and seclusion.

For matters other than containment and seclusion: The relevant service provider should decide the nature of the ongoing relationship between the appropriately qualified person and the adult who is subjected to the restrictive practice.

Both these decisions may consider factors such as:

- the complexity of the issues contributing to the need for the restrictive practice;
- the confidence in the hypotheses formulated to explain the occurrence of the behaviour;
- the confidence of the relevant service provider and their staff in implementing the positive behaviour support plan and in monitoring and evaluating the effectiveness of the positive behaviour support plan; and
- the conditions of a QCAT order approving the use of containment or seclusion.

### **9: Review of a positive behaviour support plan**

For a restrictive practice used under a containment or seclusion approval, use of the restrictive practice must be reviewed when required by the Chief Executive, and at least once during the period of the approval.

The responsibility for scheduling the review may be negotiated between the guardian for a restrictive practice (general) matter (if appointed) and the informal decision-maker, the adult and the relevant service provider.

#### Review by the Queensland Civil and Administrative Tribunal

At any time during the period of a containment or seclusion approval, or the guardian's appointment, the following people may apply to QCAT for an earlier review:

- the adult;
- an interested person for the adult;
- a relevant service provider;
- the Chief Executive of the Department of Communities, Disability Services and Seniors
- the Chief Psychiatrist (if the adult is subject to forensic order, treatment support order or treatment authority made under the *Mental Health Act 2016*);
- the Director of Forensic Disability (if the adult is forensic disability client under the *Forensic Disability Act 2011*); or
- the Public Guardian.

QCAT may also initiate an earlier review on their own initiative.

#### Review responsibilities

It is the responsibility of the relevant service provider to ensure that the information gathered through the monitoring tools is reviewed at the intervals outlined in the positive behaviour support plan to:

- determine whether the hypotheses underpinning the behaviour support plan continues to be valid;
- establish whether the restrictive practice is achieving the goal of reducing the risk of harm associated with the behaviours; and
- determine whether the strategies are proving effective in reducing the use of the restrictive practices.

Other stakeholders are to be involved in these reviews as appropriate.

For plans involving containment or seclusion it is the responsibility of the relevant service provider, with the involvement of Disability Services **or** for matters other than containment and seclusion it is the responsibility of the relevant service provider, using an appropriately qualified person, to ensure that:

- the positive behaviour support plan clearly outlines review intervals;
- performance measures are provided against which achievements can be measured;
- relevant service providers are trained in reviewing the information gathered; and
- support is provided to the reviews.

## **10: Changes to the positive behaviour support plan following implementation**

### Reasons for changing a positive behaviour support plan

After approval or consent, changes may be required to the positive behaviour support plan because of a range of factors including:

- change in a relevant service provider;
- changes in the adult's behaviour that causes harm;
- notification by the Chief Psychiatrist that a forensic order, treatment support order or treatment authority has been made for the adult, under the *Mental Health Act 2016*;
- notification by the Director of Forensic Disability that an adult is a forensic disability client under the *Forensic Disability Act 2011*; or
- identification that the behaviour that causes harm is not reducing as a result of the current strategies in place.

A change to the plan may be identified by the relevant service provider, Disability Services, an appropriately qualified person, or other party such as the treating medical practitioner. A change to a plan can also arise through an approval or consent requiring review or expiring.

### Who can approve or consent to a change

For containment or seclusion: Under the Act, where QCAT has approved the restrictive practice, the relevant service provider must first apply to the delegate of the Chief Executive if they want to change the positive behaviour support plan.

The delegate of the Chief Executive must decide whether a change to the positive behaviour support plan should be made if:

- a relevant service provider asks in writing to make a change to the plan; or
- Disability Services becomes aware that the adult is subject to a forensic order, treatment support order or treatment authority for the adult made under the *Mental Health Act 2016*.

Where Disability Services decides a change to the plan should be made, they must then decide whether a change requires an application to QCAT for review of the containment or seclusion approval. A change requires an application to QCAT if:

- the change is inconsistent with the terms of a previously granted containment or seclusion approval from QCAT; or
- where the previous approval is about to expire.

For chemical, mechanical or physical restraint: Under the Act, any change to the positive behaviour support plan must be consented to by the guardian for restrictive practice (general) matter.

For restricting access only: Under the Act, any change to the positive behaviour support plan must be consented to by a guardian for restrictive practice matter or, if such a guardian does not exist, an informal decision-maker.

Throughout these processes the author of the plan should support the relevant service provider by:

- retaining supervision of the positive behaviour support plan reviewing, its implementation and identifying changes required;
- providing that advice to the service provider; and
- supporting the implementation of the new plan.

Where a request for change to the plan is not supported or approved, or consent obtained, the positive behaviour support plan will remain in place in its unchanged form.

#### Record keeping

Under the Act, the relevant service provider must keep at the premises where disability services are provided to the adult a copy of the positive behaviour support plan for the adult, and any short term approval for the adult, for inspection by:

- staff of the relevant service provider;
- a guardian, informal decision-maker or advocate for the adult;
- a community visitor under the *Guardianship and Administration Act 2000*; or
- a Human Services Quality Framework auditing body or representative.

#### Sharing information and confidentiality

The Act facilitates the disclosure of information by health care professionals for the purpose of assessments and development of plans.

A relevant service provider may request confidential information from a health professional, the Chief Executive of Department of Health, or a health service chief executive where the information is relevant to:

- the assessment of the adult; or
- the making of a decision about whether to assess the development or changing of a positive behaviour support plan for the adult.

Under the Act, the health professional, Chief Executive of the Department of Health, or a health service chief executive is protected for providing this information in accordance with the Act.

If the relevant service provider gains confidential information, it must maintain confidentiality. Under the Act, it must not disclose confidential information unless it is in accordance with what is allowed under the Act. The relevant service provider may disclose the information to someone else:

- as required or authorised under the Act;
- to discharge a function under another law;
- for a proceeding in court or tribunal;
- if authorised in writing by the adult to whom the information relates; or
- to protect a person with disability from abuse, neglect or exploitation.

It is an offence under the *Disability Services Act 2006* to disclose the information to anyone other than as allowed under the Act.

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

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Director-General