Disability Services decision making and review process – Containment and Seclusion

Under the Disability Services Act 2006 (the Act), after an adult is referred to specialist disability services, the Chief Executive of the Department of Communities, Child Safety and Disability Services or delegate, is required to make the following decisions:

- on completion of an initial assessment, whether or not to proceed to a multidisciplinary assessment; and
- on completion of a multidisciplinary assessment, whether or not to proceed to a positive behaviour support plan.

The Chief Executive delegates in each region are the Director of Clinical Practice (DCP) and Manager Clinical Services (Manager). Either delegate is required to make these decisions under sections 156, 157 and 158 of the Act.

Decision whether or not to proceed to a multidisciplinary assessment

Following a referral by the relevant service provider, the DCP or Manager within regional disability services is responsible for the decision to proceed/not proceed with a multidisciplinary assessment for adults where containment or seclusion is in use or proposed.

In deciding whether to conduct a multidisciplinary assessment, the DCP or Manager will consult with, and consider the views of a range of people, including the adult, the adult’s guardian or informal decision-maker. The DCP or Manager will also consult with each relevant service provider and any other person who is integral to the decision (for example, a family member who is part of the adult’s support network; a key health care provider or an advocate for the adult).

Decision to proceed

The DCP or Manager may decide to proceed to a multidisciplinary assessment if satisfied that:

- The person is an adult (18 years or older) who:
  - has an intellectual or cognitive disability; and
  - is receiving services provided or funded by Disability Services, or services prescribed by regulation and funded under a NDIS participant plan.
- It may be necessary for the relevant service provider to contain or seclude the adult to safeguard the adult or others from harm.

Decision not to proceed

The decision by the DCP or Manager not to proceed to a multidisciplinary assessment can be internally reviewed under the Act (see ‘Review of a decision’ below).

When the Director of Clinical Practice or Manager Clinical Services decides not to proceed to a multidisciplinary assessment, they will provide a Decision Notice to the adult, guardian or informal decision-maker and relevant service provider. The Decision Notice documents the decision reached and the reasons for the decision.
The DCP or Manager Clinical Services will also suggest an appropriate or alternative response to the situation.

**Decision whether or not to proceed to a positive behaviour support plan**

Following completion of a multidisciplinary assessment, the DCP or Manager Clinical Services will make a decision to proceed/not to proceed with the development of a positive behaviour support plan for the adult.

**Decision to proceed**

The DCP or Manager must develop a Positive Behaviour Support Plan for the adult if, having regard to the findings, theories and recommendations of the persons who assessed the adult, they are satisfied that:

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

**Decision not to proceed**

A decision not to proceed with the development of a Positive Behaviour Support Plan can be internally reviewed under the Act (see ‘Review of a decision’ below).

The DCP or Manager must provide a Decision Notice to the adult, guardian or informal decision-maker and relevant service provider when there is a decision not to proceed with a positive behaviour support plan. The Decision Notice documents the decision reached and the reasons for the decision.

The DCP or Manager will also suggest an appropriate or alternative response to the situation.

**Review of a decision**

**Who can apply to have a decision reviewed?**

Under Division 6 of the Act, an interested person can request a review of the decision. An interested person means a person who was given a Decision Notice by the DCP or Manager from Disability Services. An interested person may be:

- the relevant service provider; or
- the adult; or
- a guardian or informal decision-maker for the adult who was consulted by the DCP or Manager when making the decision.

**Applying for a review of a decision**

An interested person may apply for a decision to be reviewed using the *Application for Review of a Decision (Form 6-1)*. This form is available from the Disability Services website: [http://www.communities.qld.gov.au/disability/key-projects/positive-behaviour-support](http://www.communities.qld.gov.au/disability/key-projects/positive-behaviour-support)
A request for a review of the decision must be made in this approved form within 28 days of receiving the Decision Notice. Disability Services may consider requests for extensions beyond the 28 days.

When completing the Application for Review of a Decision (Form 6-1), the interested person should:

- Clearly state the outcome being sought from the review.
- Provide enough information to enable Disability Services make a decision on the application.
- Outline the facts that need to be considered in the review.
- Provide copies of all documents relating to the decision being reviewed.

**Review process**

Within 28 days of receiving this application, Disability Services will review the original decision and will either:

- Confirm the original decision.
- Amend the original decision.
- Substitute another decision for the original decision.

The interested person will be advised in writing of the review decision, and the reasons for this decision.

**Who reviews the decision?**

If the original decision was made by a Manager, the decision will be reviewed by a DCP or a Manager in a different regional team.

If the original decision was made by a DCP, the decision will be reviewed by a DCP in a different regional team.

**Further Information**

For more information, refer to the “Positive Behaviour Support” page on the Disability Services website (http://www.communities.qld.gov.au/disability/key-projects/positive-behaviour-support) or contact the Centre of Excellence for Clinical Innovation and Behaviour Support on 1800 902 006.

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