

# 5. Restrictive Practices Policy and Procedure

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## Policy

AQC is committed to ensuring that consumers who exhibit behaviours of concern are supported in ways that ensure a safe environment that recognises the person's rights and needs.

AQC continuously works towards elimination and reduction of the use of restrictive practices within its services. AQC is aware and understands that from time to time consumers may be exposed to restrictive practices in response to risk of serious harm to themselves or others due to challenging behaviour.

## Purpose

Any form of restrictive practice used to manage risk of serious harm to a consumer or others will meet best practice requirements that include the following:

- Of being the least restrictive option
- For the least possible time
- Used as a last resort
- Necessary to prevent harm to the consumer or others
- Should not be used as a punishment for the person
- Should not be used for worker convenience; and
- The benefits of the restricted practice must outweigh the possible negative effects of its use.

Restrictive practices will be reviewed regularly and be part of a positive behaviour support plan (PBSP) that has been developed by a person with expertise in the area of behaviour support and in consultation with the person, family, worker and any other relevant parties.

AQC commits to compliance with the [Disability Services QLD Restrictive Practice](#), Disability Services Act 2006 and the [National Standards for Disability Services](#).

## Scope

This policy applies to workers, contractors and management of AQC or any individuals acting for AQC.

## Procedure

**Restrictive practice means any practice or intervention that has the effect of restricting the rights or freedom of movement of a person with disability** under the [National Disability Insurance Scheme \(Restrictive Practices and Behaviour Support\) Rules 2018](#). Certain restrictive practices are subject to regulation. These include seclusion, chemical restraint, mechanical restraint, physical restraint and environmental restraint.

### Seclusion

Seclusion is the sole confinement of a person with disability in a room or a physical space at any hour of the day or night where voluntary exit is prevented, or not facilitated, or it is implied that voluntary exit is not permitted.

### Chemical restraint

Chemical restraint is the use of medication or chemical substance for the primary purpose of influencing a person's behaviour. It does not include the use of medication prescribed by a medical practitioner for the treatment of, or to enable treatment of, a diagnosed mental disorder, a physical illness or a physical condition.

### Mechanical restraint

Mechanical restraint is the use of a device to prevent, restrict, or subdue a person's movement for the primary purpose of influencing a person's behaviour but does not include the use of devices for therapeutic or non-behavioural purposes.

### Physical restraint

Physical restraint is the use or action of physical force to prevent, restrict or subdue movement of a person's body, or part of their body, for the primary purpose of influencing their behaviour. Physical restraint does not include the use of a hands-on technique in a reflexive way to guide or redirect a person away from potential harm/injury, consistent with what could reasonably be considered as the exercise of care towards a person.

### Environmental restraint

Environmental restraint restricts a person's free access to all parts of their environment, including items or activities.

### Guardian for Restrictive Practices

Restrictive practice	Approval required by
Containment or seclusion	QCAT
Mechanical, physical or chemical restraint	Guardian for restrictive practice (general) appointed by QCAT
Restricting access to an object	Guardian for restrictive practice (general) appointed by QCAT or an informal decision maker

<b>Restrictive practice</b>	<b>Approval required by</b>
Any form of restrictive practice plus containment and seclusion	QCAT

The following approvals are required when the adult only receives respite and/or community access services:

<b>Restrictive practices</b>	<b>Approval required by</b>
Containment or seclusion	Guardian for restrictive practice (respite) appointed by QCAT
Restricting access to an object	Guardian for restrictive practice (respite) appointed by QCAT or if no guardian appointed, an informal decision maker
Mechanical or physical restraint	Guardian for restrictive practice (respite) appointed by QCAT or if no guardian appointed, an informal decision maker
Chemical restraint - PRN (as and when needed) for an adult in respite	Guardian for restrictive practice (respite) appointed by QCAT
Chemical restraint - PRN (as and when needed) for an adult with community access	Guardian for restrictive practice (respite) appointed by QCAT
Chemical restraint - fixed doses for an adult in respite	Informal decision maker or guardian for restrictive practices (respite) appointed by QCAT
Chemical restraint - fixed doses for an adult with community access	Guardian for restrictive practice (respite) appointed by QCAT

1. The use of restrictive practices must be accompanied by a positive behaviour support plan that emphasises the development of positive, socially valued skills as well as strategies for reducing challenging behaviour. The objective of this plan is to eliminate as much as possible the need for the restrictive practice.
2. AQC recognises that from time to time an incident may occur where the use of an unplanned restrictive practice may occur (i.e. not detailed in a positive behaviour support plan), in response to an incident that involves a risk of serious harm either to the consumer or another person.
3. This action may be taken under a worker's duty of care to the consumer, self or another person. Any worker who uses a restrictive practice that has not been previously placed on a behaviour support plan is required to report its use within 24 hours using an incident form.

## **Responsibilities**

### **Workers and Contractors**

Critical incidents involving consumers subject to intervention – restrictive practices by the Department of Communities, Child Safety and Disability Services, office of the Public Guardian must be reported to the Manager of AQC.

### **Manager Responsibilities**

1. The manager will respond and follow the Critical Incident Reporting Procedure listed below.
  - a. Level 1 Critical Incident
    - i. Immediate verbal advice to the General Manager of AQC and the completion of a Critical Incident report as soon as is practicable
  - b. Level 2 Critical Incident
    - i. Workers are to immediately report verbal advice to the Manager of AQC
    - ii. Submit a Critical Incident Report within 24 hours of the worker member becoming aware of the incident
    - iii. Ensure that follow up actions and activities are completed as required.
2. The Manager of AQC where appropriate, will provide advice of the critical incident to the NDIS Quality and Safeguards Commission or Worksafe Queensland as soon as practicable.
3. Where required, provide direction for any follow up actions.
4. Record restrictive practices onto a Incident Register that will be maintained by the Manager of AQC.

### **Board's Responsibilities**

1. Provide advice to Manager in relation to policy application and required actions
2. Initiate a quality assurance process to ensure Critical Incident reports and categories have been completed correctly
3. Initiate the appropriate closure of reports and follow up any required actions and activities
4. Monitor and action access requests and ensure requirements are reviewed periodically
5. Provide statistics and reports as required
6. Monitor Critical Incident reports and forward advice to other departments as requested

### **Short Term Approval – Critical Incidents**

In some cases, a short-term approval will be sought in response to unforeseen or reasonably unforeseeable events that have caused or have the potential to cause harm to the consumer or others. In these circumstances, even if a short-term approval is sought, critical incident reporting requirements must also be followed.

The process for a short-term approval is described in steps 1 – 2

1. Short term approval request and decision
2. Short term approval decision notice

A request for a short-term approval is only appropriate if it can be established that it is probable that a restrictive practice will be required in a planned or ongoing way due to circumstances including:

- A series of critical incidents where an unapproved restrictive practice is used
- A new consumer enters or will be entering AQC with a known history of behaviour that causes harm
- Approval/consent is in place to use physical restraint, chemical restraint, mechanical restraint or restricting access to objects but, due to a change of circumstance, containment or seclusion is required to prevent harm.

Where there has been a series of critical or potentially harmful incidents the Manager of AQC is responsible for conducting a timely incident review to determine the least restrictive, effective approach for preventing future harm. Relevant interested parties for the consumer will be involved in the review process.

Wherever possible, alternative methods will be tried that do not require the use of a restrictive practice. A short-term approval should not be sought unless probable ongoing need can be established. Where ongoing probable need is difficult to determine a short-term approval should be sought and the situation monitored to avoid unnecessary use of a restrictive practice.

### **Short Term Approvals**

The short-term approval provisions apply only to adults:

- With an intellectual or cognitive disability
- Who have impaired decision-making capacity about the use of restrictive practices who exhibit behaviour that causes harm
- Who are receiving disability services from AQC.

Situations in which a short-term approval may be used include where:

- An adult enters AQC and displays the behaviour that causes harm for the first time, including following a transfer from another service provider
- Previous behaviour that causes harm re-emerges or previously unharmed behaviour escalates to harmful levels
- An existing consumer of AQC begins behaving in an uncharacteristic manner
- A consumer's behaviour is no longer manageable using currently approved/consented restrictive practices.

Manager of AQC will seek a short-term approval while awaiting an approval for containment/seclusion from the Queensland Civil and Administrative Tribunal (QCAT) or while awaiting a QCAT appointment of a guardian for a restrictive practice matter.

AQC will provide the following information to ensure that the consumer, family members and others in the consumer's support network are aware why AQC is considering that any restrictive practice may 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 the avenues for complaint, review and redress are.

1. **A per Section 191 Disability Services Act 2006** - When considering using restrictive practices in relation to an adult with an intellectual or cognitive disability, AQC must give a statement in the approved form to the following persons about the use of restrictive practices generally:
  - a. The adult
  - b. A person with sufficient and continuing interest in the adult (an interested person).
2. The Statement of Consideration in Using Restrictive Practice Letter must state:
  - a. Why AQC is considering using restrictive practices in relation to the consumer
  - b. How the consumer and the interested person can be involved and express their views in relation to the use of restrictive practices
  - c. Who decides whether restrictive practices will be used in relation to the consumer
  - d. How the consumer and the interested parties can make a complaint about, or seek review of, the use of restrictive practices.
3. AQC must explain the statement to the adult:
  - a. In the language or way, the consumer is most likely to understand
  - b. In a way that has appropriate regard to the consumer's age, culture, and disability and communication ability.

### **Confidentiality of information**

The Manager of AQC will facilitate the disclosure of information to the Public Guardian. AQC will seek written consent from the consumer/consumer guardian prior to the release of personal information.

The Public Guardian has the right to all information that:

- The adult would have been entitled to if the adult had capacity
- Is necessary for the Public Guardian to make an informed decision.

The consumer, or service, controlling the information must give the information to the Public Guardian. If this is refused the Public Guardian can apply to QCAT to order the person to provide the information. Where QCAT orders a consumer to provide the information, the consumer must comply with the order unless they have a reasonable excuse.

The Act facilitates the disclosure of information by health care professionals for the purpose of assessments and the development of plans. All parties have a legal obligation to maintain the

confidentiality of all personal information provided and released in line with care, support requirements and service delivery.

## **Records**

Under the Act, AQC must:

- Keep at the premises a copy of any short-term approval for consumers
- Keep at AQC or another location with service provision an up-to-date copy of restrictive policy and procedure on short term approval and ensure the policy and procedure is available for inspection by:
  - Workers, contractors, volunteers and executives of AQC or any individuals acting for AQC.
  - Guardian, informal decision maker or advocate for the consumer
- Community visitor under the GAA.

## **Definitions**

**Challenging behaviour** is defined as ‘culturally abnormal behaviour(s) of such intensity, frequency or duration that the physical safety of the person or others is placed in serious jeopardy, or behaviour which is likely to seriously limit or deny access to the use of ordinary community facilities.’

**Restrictive Intervention** is any intervention and/or practice that is used to restrict the rights or freedom of movement of a person with disability including:

**Seclusion** means the sole confinement of a person with disability in a room or physical space at any hour of the day or night where voluntary exit is prevented.

**Chemical restraint** means the use of medication or chemical substance for the primary purpose of controlling a person’s behaviour. It does not include the use of medication prescribed by a medical practitioner for the treatment of, or to enable treatment of, a diagnosed mental illness, a physical illness or physical condition.

**Mechanical restraint** means the use of a device to prevent, restrict or subdue a person’s movement or to control a person’s behaviour but does not include the use of devices for therapeutic purposes.

**Physical restraint** means the use or action of physical force to prevent, restrict or subdue movement of a person’s body, or part of their body, for the primary purpose of controlling a person’s behaviour. Physical restraint does not include physical assistance or support related to duty of care or in activities of daily living.

**Environmental restraint** restricts a person’s free access to all parts of their environment.

Examples of environmental restraints include, but are not limited to:

- Barriers that prevent access to a kitchen, locked refrigerators, restriction of access to personal items such as a TV in a person’s bedroom

- Locks that are designed and placed so that a person has difficulty in accessing or operating them and
- Restrictions to the person's capacity to engage in social activities through not providing the necessary supports that they require to do so.

**Psycho-social restraint** is the use of “power-control” strategies. Examples of psycho-social restraints include but are not limited to:

- Requiring a person to stay in one area of the house until told they can leave
- Directing a person to stay in an unlocked room, corner of an area or stay in a specific space until requested to leave (also known as “exclusionary time-out”)
- Directing a person to remain in a particular physical position, (e.g. laying down) until told to discontinue
- “Over-correction” responses (e.g. requiring a person who has spilled coffee to clean up not only the spilled coffee but the entire kitchen)
- Ignoring; and
- Withdrawing “privileges” or otherwise punishing, because of non-cooperation.

**Therapeutic Device** are used when people's ability to participate and be independent is reduced as a result of their disability. They are used to promote function and hygiene, reduce pain, the risk of injury and reduce the risk of distortion of body shape. Examples include but are not limited to:

- Postural support such as seating inserts in wheelchairs
- Chest and pelvic straps for postural support and/or safety in wheelchairs,
- Commodes and vehicle splints to minimise muscle contractures and reduce pain
- Splints for short term use to allow wound healing and tissue repair; and
- Night-time positioning to reduce the risk of body shape distortions.

A suitably qualified person needs to have prescribed the therapeutic device.

**Least restrictive alternative** refers to the right of a person to live in an environment which is the most supportive, and the least restrictive, of his/her freedom. In the context of the use of a restrictive practice it requires that providers engage in actions that:

1. Ensure the safety and wellbeing of the person and all others who share their environment; and
2. Having regard to (1) above, impose the minimum limits on the freedom of the person as is practicable in the circumstances.



**Informed consent** means a person:

- Is provided with appropriate and adequate information
- Is capable of understanding the nature of the information and the consequences of a decision made in relation to this information and
- Can freely decide for him or herself without unfair pressure or influence from others.

**Substantive equality** recognises that:

- Rights, entitlements, opportunities and access are not necessarily distributed equally throughout society
- Equal or the same application of rules to unequal groups can have unequal results
- Where service delivery agencies cater to the dominant, majority group, then people who are not part of the majority group and who have different needs may miss out on essential services.
- Hence, it may be necessary to provide different service types and approaches to people with disability and their families who are members of minority groups.

**Positive Behaviour Support (PBS)** is an evidence-based model and applied science that has evolved from applied behavioural analysis and person-centred, values-based approaches.

The key identified components of PBS are: assessment-based interventions; reduction of punishment approaches; inclusion of all relevant stakeholders; a long-term focus; prevention through education, skill building, environmental redesign, enhanced opportunities for choice, worker development, resource allocation, provision of incentives, systems change; improved quality of life involving robust and significant person-centred outcomes for the individual, their families and other stakeholders; ecological and social validity and contextual fit.

**Duty of Care** refers to the circumstance where a risk to the person exists due to the person's potential or predictable actions (eg a lack of road skills and impulsivity can predictably imply risk when around traffic) as well as unpredictable occurrences. Duty of Care therefore requires a planned response to manage the identified "risk" for a person's potential or predictable actions.

**Prohibited Practices** are those *restricted* practices that are not authorised. Some practices will never be authorised as they are considered abusive, unlawful or unethical. Some examples may be electric shock, verbal abuse, and physical punishment.

## **Positive Behaviour Support Procedure**

Staff are an integral part of the positive behaviour support for each client therefore you are required, as part of your role and duty of care for each consumer, to actively report Behaviours of Concern and participate in finding appropriate solutions for the particular behaviour. This will be a collective approach and may involve input from various people in the client's life. It is important we all work together to strive for a positive, least disruptive solution when a behaviour of concern

arises, to support each person's right to live as ordinary life as possible and minimise disruption to those around them.

**Terms of Positive Behaviour Support Plan Procedure:**

1. All staff to read the Positive Behaviour Support Plan (PBSP) *prior* to commencing support for each client to ensure you are kept up to date with any changes or improvements.
2. If an incident occurs regarding a client, complete an Incident Report Form
3. Complete a Behaviour Charting Form (Located on the forms webpage with the Incident Report Form)
4. Engage a Behaviour Practitioner to complete a separate Positive Behaviour Support Plan for each client. The above documentation to be given to your coordinator
5. The above documentation to be reviewed by the Client Relationship Manager who will recommend changes as needed.
6. Clients GP or Allied Health Professional (if appropriate) to review plan and make changes as needed
7. An updated copy of the Positive Behaviour Support Plan is to be placed on the Clients file.
8. Plan to be reviewed at least annually or sooner if changes are to be made. Staff to review Positive Behaviour Support Plans (PBSP) *prior* to commencing supports for each client to ensure you are kept up to date with any changes or improvements.
9. Read and follow the attached Policy and Procedure for Restrictive Practice

**Serious Incident**

A serious incident means one or more of the following:

- The death of a person with a disability
- Serious physical injury or psychological harm suffered by a person with disability
- Abuse including physical, emotional, sexual, psychological, financial and neglect of a person with disability
- The person is judged as posing a serious risk to the health, safety or welfare of themselves or others
- Exploitation or unjustified restrictive practices used with a person with disability; and/or
- An assault on worker or a visitor to the service by a person with disability.

## Related documents

- Incident Report Form
- Person-Centred Supports Policy and Participant Service Charter of Rights
- Violence, Abuse, Neglect, Exploitation and Discrimination Policy and Procedure
- Support Planning Policy and Procedure
- Statement of Consideration in using Restrictive Practice Letter
- Risk Management Policy and Procedure
- Reportable Incident, Accident and Emergency Policy and Procedure

## References

- [Disability Services Act 2006 \(QLD\)](#)
- [Guardianship and Administration Act 2000 \(GAA\) QLD](#)
- [National Disability Insurance Scheme \(Restrictive Practices and Behaviour Support\) Rules 2018](#)
- [National Disability Insurance Scheme \(Incident Management and Reportable Incidents\) Rules 2018](#)
- [National Disability Insurance Scheme—Risk Management Rules 2013](#)
- [Privacy Act 1988](#)
- [Australian Privacy Principles \(APPs\)](#)
- [NDIS Quality and Safeguards Commission](#)
- [United Nations Convention on the Rights of Persons with Disabilities \(CRPD\)](#)