

# Restrictive Practices



## What are restrictive practices and when are they used?

Restrictive practices are methods used to respond to the behaviour of a person with an intellectual or cognitive disability that causes harm, or a serious risk of harm, to the person or others. For example, holding an adult's hands to stop them from hitting themselves is a restrictive practice.

Restrictive practices are regulated in different ways, depending on who they are used by and the context in which they are used. This Fact Sheet focusses on the use of restrictive practices on adults by disability service providers, as regulated by the *Disability Services Act 2006* (Qld) and the *Guardianship and Administration Act 2000* (Qld).

## What is a positive behaviour support plan?

A positive behaviour support plan (**PBSP**) is a plan, developed for and with an adult with intellectual or cognitive disability, that describes the strategies that are to be used to meet the adult's needs, support their development of skills, maximise their opportunities and reduce the intensity, frequency and duration of behaviours that may lead to the use of restrictive practices. A PBSP must describe behaviours of concern, including the triggers for the behaviour, outline positive strategies to be used before restrictive practices are applied and outline safeguards to be applied to protect the adult. The objective of the PBSP is to reduce, to the greatest extent, the need for the use of restrictive practices.

## What types of restrictive practices are there?

The types of restrictive practices are as follows:

1. Containment
2. Seclusion
3. Chemical restraint
4. Physical restraint
5. Mechanical restraint
6. Restricting access to objects.



Below, these restrictive practices are considered within three separate categories, grouped according to the consent and approval requirements.

# Category 1

## Containment

Containment is where an adult is prevented from physically leaving the place that they live and receive support services to prevent them from harming themselves or others. This may include locking doors, windows or gates.

## Seclusion

Seclusion is where an adult is prevented from physically leaving a room or area where they live and receive support services. Like containment, this may include locking doors, windows or gates. However, unlike containment, seclusion involves placing the adult on their own at any time to prevent them causing harm to others, for example, where an adult is in shared living and becomes violent towards another resident.

## Is consent required?

Yes. The use of seclusion or containment is approved by the Queensland Civil and Administrative Tribunal (**QCAT**). Before seclusion or containment can be used the adult must be assessed by at least two or more individuals with appropriate qualifications or experience. QCAT will then make an order outlining matters such as the duration of the order and the circumstances in which the practices may be used. Short term approval may be provided by the Public Guardian if there is an immediate and serious risk of harm to the adult or others around them.

## Short-term approval

The Public Guardian may provide consent for the use of seclusion or containment only if there is an immediate and serious risk of harm to the adult or others, the adult's behaviour has previously resulted in harm to themselves or others, and there is no less restrictive way of ensuring the safety of the adult or others. Short-term approvals are only available for a maximum period of six months but can be extended in exceptional circumstances.

The service provider must provide notice of the short-term approval to the chief executive of the Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships within 14 days of the approval.

## Category 2

### **Chemical restraint**

Chemical restraint is where medication is used to control the adult's behaviour, for example, by giving them medication to calm them down when they become very angry and are likely to hurt themselves or others. This does not include using medication for treating a diagnosed mental illness or physical condition.

### **Physical restraint**

Physical restraint is where a person uses any part of their body to restrict the free movement of the adult, for example, by holding the adult's hand to prevent them from hitting themselves.

### **Mechanical restraint**

Mechanical restraint is the use of a device to either restrict the free movement of an adult or to prevent them from hurting themselves. For example, using bed rails or guards to prevent the adult from injuring themselves while they are asleep.

### **Is consent required?**

Yes. Before chemical, physical or mechanical restraint is used, QCAT must appoint a guardian for restrictive practices who must give consent.

## Category 3

### **Restricting access to an object**

Restricting access to an object involves where an adult's access to certain goods such as matches and kitchenware is limited to prevent the adult from hurting themselves or others. For example, by removing the objects from the premises or locking them away.

### **Is consent required?**

Yes. Consent is required by either the QCAT appointed guardian for restrictive practices or, in some circumstances, by an informal decision-maker.

## **Can a restrictive practice order be reviewed?**

Yes. QCAT must not appoint a guardian for restrictive practices for more than two (2) years and an adult's positive behaviour support plan will ordinarily be reviewed once every year. QCAT can also review the appointment of a guardian for restrictive practices at any time on its own initiative or on an application by an 'interested person' for the adult. This includes family members, friends, carers and support services providers.

## **Is the use of restrictive practices compatible with human rights?**

Restrictive practices constitute a serious infringement of the liberty of the person subjected to them. Without authorisation, restrictive practices would constitute an assault or other criminal offence against the person. Even when authorised, the use of restrictive practices is considered contentious and there has been a focus at a state, national and international level for the reduction and elimination of the use of restrictive practices. They are required to be used only in circumstances where it is shown that a less restrictive response is not sufficient to protect the person and/or others from harm.

The use of restrictive practices engages the human rights of the person subject to them. In particular, the following human rights are relevant:

- The right to recognition and equality before the law;
- The right to protection from torture and cruel and inhuman and degrading treatment;
- The right to freedom of movement;
- The right to liberty and security of person; and
- The right to humane treatment when deprived of liberty.

Any limitation of the human rights of a person with disability subjected to restrictive practices must be considered in the context of the human rights of other persons.

Please see the Human Rights Act factsheet for further information.