

16 May 2025



Robyn Rosengrave

Executive Director, Behaviour

Department of Education

Delivered via email: robyn.rosengrave@qed.qld.gov.au

Dear Ms Rosengrave,

Restrictive Practices Procedure Review

Thank you for the opportunity to provide feedback on the Department of Education's Restrictive Practices Procedure Review.

Queensland Advocacy for Inclusion (QAI) is a Disabled Peoples Organisation. We are an independent, community-based advocacy organisation and community legal service that provides individual and systems advocacy for people with disability. Our purpose is to advocate for the protection and advancement of the needs, rights, and lives of people with disability in Queensland. QAI's Management Committee is comprised of a majority of persons with disability, whose wisdom and lived experience guides our work and values.

Restrictive Practices are disproportionately applied to people with disability, implicating the human rights of an already highly disempowered group in our society. Restrictive Practices are used as a form of behaviour control, applied to individuals considered to be exhibiting 'behaviours of concern.' There are numerous issues with this, not least the assumption that the problem lies with the individual rather than factors within their environment and that the solution is to restrict personal freedoms rather than implementing structural or environmental changes.

Since 2020, QAI has been funded by the Department of Education to deliver independent disability advocacy services to children and young people with disability enrolled in Queensland state schools. We have advocated for children who have been locked in school cupboards, separated from their peers or physically manhandled, all with little regulation and all without independent oversight.

We are generally pleased to see clearer guidance regarding the use of Restrictive Practices in Queensland state schools provided in the consultation documents. The decision-making trees

are helpful and the language used is generally very clear and comprehensible. We particularly welcome the inclusion of a student's perspective in Restrictive Practice Focused Reviews.

However, we remain concerned about the overall lack of oversight and accountability of the use of Restrictive Practices in Queensland State Schools. QAI's advocates for uniform regulation of the use of Restrictive Practices on people with disability and the implementation of a Senior Practitioner model of authorisation for Restrictive Practices used in any setting, including educational settings, as recommended by the Queensland Public Advocate¹ and the Disability Royal Commission.²

In QAI's view, any procedure concerning the use of Restrictive Practices should contain the following elements:

- Measures that aim to eliminate, not just reduce, the use of Restrictive Practices.
- Authorisation processes that are applicable to all people with disability, not just people with certain diagnoses.
- Explicit statements that Restrictive Practices should only be used as a last resort, in response to a *serious* risk of harm to a person with disability or others.
- Requirements that steps are always taken to understand the person and the various factors causing the behaviour of concern.
- Robust authorisation processes that ensure decision-makers are sufficiently qualified, skilled and experienced and who work alongside people with lived experience of disability and Restrictive Practices.
- Requirements that Restrictive Practices are only ever implemented by sufficiently qualified, skilled and trained staff.
- Transparency and accountability regarding decision-making processes, including the provision of accessible information that outlines a person's rights, such as review and appeal rights and all decisions having the potential for merits review at the Queensland Civil and Administrative Tribunal (QCAT).
- Penalties for people who use Restrictive Practices in a way that is not compliant with relevant policies or authorisation procedures.

¹ Proposal for the future regulation (and reduction in the use) of restrictive practices in Queensland – Discussion Paper (March 2025), Queensland Public Advocate

² Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability: Final Report - Volume 6: Enabling autonomy and access, Recommendation 6.35

- A human rights framework that is not tokenistic but instead embeds human rights considerations throughout decision-making and authorisation processes.
- Explicit prohibition of the use of certain Restrictive Practices as per Recommendation 6.36 of the Disability Royal Commission. This includes the clear prohibition of containment and seclusion of children under the age of 18.
- Publicly available data on the use of Restrictive Practices, including data that shows trends towards the reduction in the use of Restrictive Practices.

Given that Restrictive Practices are disproportionately and predominantly used on people with disability in comparison to people without disability, this should be acknowledged in the Department's Restrictive Practices Procedure and related documents. For example, the *Restrictive Practice guidelines* would benefit from some explanation of the way in which behaviours relating to a person's disability can escalate in the absence of reasonable adjustments, supports or other environmental factors so that staff utilising these documents have a better understanding of the intervention points that exist to prior to a behaviour escalating to a point at which a Restrictive Practice is used. While we understand this issue is likely covered in specialist training modules, such as those organized by a Principal for staff who anticipate using a mechanical restraint on a student, this would nevertheless be a welcome addition to the Restrictive Practices guidelines. The examples of proactive intervention provided are useful but do not specifically relate to disability.

With regards to the consultation documents, QAI provides the following commentary for the Department's consideration:

Restrictive Practices Procedure

- The name of the procedure can remain, so long as the terminology 'Restrictive Practices' is well understood and already commonly used by teachers and other school employees.
- More information as to why clinical holding has been removed from this procedure and added to '*Managing student's health support needs at school*' procedure is needed. QAI does not support this if the outcome results in less oversight and accountability of the use of clinical holding. The Disability Royal Commission recommended that states and territories prohibit the use of clinical holding in education settings when it is used as a behaviour support strategy, used to enforce the compliance of a student in undertaking personal care that is non-urgent or used to punish a student.³ These actions constitute

³ Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability: Final Report - Volume 6: Enabling autonomy and access, Recommendation 6.36

Restrictive Practices that should never be used and should therefore remain within the Department's Restrictive Practices Procedure.

- QAI does not agree with the term 'protective action' as used in the Overview section. It would be sufficient to state the example provided and name it as something that is not considered a Restrictive Practice, rather than labelling it a 'protective action'. This terminology presumes an intent or reasoning behind an action that may not necessarily be true. The important aspect of the example is the ability of the student to move freely away at any time, rather than its classification as a 'protective action.'
- References to 'imminent risk of harm' should become 'imminent risk of *serious* harm', as recommended by the Disability Royal Commission in Recommendation 6.35(b).
- The condition that 'the restrictive practice used is respectful of the student's dignity' is deceptive, as generally speaking, a limitation of an individual's personal freedoms is an undignified experience. This could be reworded to state 'the restrictive practice used upholds the student's dignity to the greatest extent possible' or something to that affect.
- Regarding the responsibilities of Principals, when notifying parents of the student subject to Restrictive Practices, the Principal must notify the parent *as soon as possible* within the same school day. They should have relevant information as to the circumstances that resulted in the use of Restrictive Practices, including information as to why there were no other reasonable alternatives in the circumstances. The parent should then receive a written explanation of the incident and the assessment of human rights considerations completed by the relevant employee.
- The procedure should clearly state who can make a decision to use a Restrictive Practice.
- Greater clarity is needed as to whom a Principal can delegate certain tasks, including the completion of a Restrictive Practices Focused Review and confirming that follow-up actions arising from these reviews have been completed. The person being delegated authority to complete these tasks should have relevant training, skills and an appropriate level of responsibility within the school.
- The title 'All state school employees' is sufficient and clearly explains that the responsibilities outlined in that section apply to all employees, including Principals and non-teaching staff.
- Regarding the Process, more detail is required as to the kind of data that might indicate a student's behaviour presents an ongoing, significant risk to themselves or others. Detail as to what timeframe the relevant data should relate to, would also be beneficial.

- The specialist training suggested for state school employees working with a student whose behaviour presents an ongoing, significant risk should be given to all staff, not just those working with specific students. This is because the policy permits the use of physical and environmental restraints in emergency situations which may involve staff who have not received this specialist training.
- Guidance on the Department's timeline and plan to transition to this new procedure and framework would be welcome, including how its roll out will impact students who are currently being subject to Restrictive Practices, particularly students who are subject to chemical restraints which are prohibited in all circumstances in the new procedure.
- The procedure does not outline a process that should occur if Restrictive Practices are used in contravention of the Procedure, including if chemical restraint, seclusion or containment are used, other than requiring a Principal to notify their supervisor. There should be consequences for staff who use Restrictive Practices in a way that contravenes the Department's policy.

Mechanical Restraint Transition Process

- More clarity as to why the procedure for mechanical restraints is termed 'Mechanical Restraint *Transition Process*' is needed. If the reason is because the process involves supporting the transition away from the use of the mechanical restraint as quickly as is practicable, this should equally apply to all Restrictive Practices used in the school setting.
- While the procedure outlines the information required for a Mechanical Restraint Transition Process including specific documentation from a departmental health professional, consultation with external stakeholders who are familiar with the student will often be beneficial. For example, the student may have a positive behaviour support practitioner outside of the school system who would be well-placed to provide information and recommendations. We consider that consulting with relevant external stakeholders should therefore be added to the Mechanical Restraint Transition Process.
- With regards to the 'Proactive Planning' section of the Mechanical Restraint Transition Process, QAI recommends requiring state school staff to have completed a functional behaviour assessment within the last 12 months; not just 'recently' completed a functional behaviour assessment. Similarly, with regards to the Individual Behaviour Support Plan (IBSP), the template should define what is meant by 'current'.
- Ultimately, the use of mechanical restraints should not be permitted in education settings, as per Recommendation 6.36 of the Disability Royal Commission.

Restrictive Practices Focused Review

- Greater clarity regarding who can facilitate a Restrictive Practices Focused Review is needed, specifically in relation to their level of responsibility, skills and training in the use of Restrictive Practices. The *Restrictive Practices Procedure* states that ‘the person facilitating a Restrictive Practices Focused Review should not have been directly involved in the incident being reviewed’ whereas the *Restrictive Practices Focused Review Template* states that it is to be facilitated by the Principal and the *Restrictive Practices Focused Review – Information to support schools* document states it is to be completed by the Principal or Deputy Principal unless they were both involved, in which case an external regional representative should facilitate the review.
- It is unclear why Restrictive Practice Focused Reviews are not mandated following the use of a mechanical restraint. QAI recommends that Restrictive Practices Focused Reviews be mandated following the use of all Restrictive Practices including mechanical restraints, not just physical or environmental restraints. This is particularly important given that the use of mechanical restraints was recommended to be prohibited in all circumstances in educational settings by the Disability Royal Commission.
- QAI welcomes the addition of the student perspective and in particular, a section that specifically asks how changes will be communicated back to the student and their parent/guardian. However, with regards to the collection of the student’s perspective of the incident, more clarity is needed as to who will obtain this information and who is the most appropriate person to do so. For example, if the person who is obtaining this information was also involved in the incident, their interaction with the student and their recount of the student’s perspective is likely to be biased. While the *Restrictive Practices Focused Review – Information to support schools* document states that the person facilitating the review will obtain the student’s perspective and that this person will not have been directly involved with the incident, in QAI’s experience, this does not always happen. Furthermore, the template should ask what kind of support the student received to engage with this process.
- With regards to the *Restrictive Practices Focused Review – Information to support schools* document, it states ‘where appropriate, the school leadership team may also invite the student’s parents/guardians to contribute to the review.’ QAI strongly recommends that parents and guardians always be invited to contribute to and participate in the review.
- The *Restrictive Practices Focused Review – Information to support schools* document should explicitly ask relevant staff to identify strategies they will put in place to reduce the likelihood of the Restrictive Practice being used again, as well as ask what would be required to happen in order for the Restrictive Practice to never be used again.

Thank you for the opportunity to provide feedback on the Department's Restrictive Practices Procedure Review. We would be happy to provide additional information if this would be helpful.

Yours faithfully,

A handwritten signature in dark ink, appearing to read 'Matilda Alexander', written in a cursive style.

Matilda Alexander

Chief Executive Officer