

DISABILITY SERVICES DECISION MAKING AND REVIEW PROCESS – CONTAINMENT AND SECLUSION POSITIVE BEHAVIOUR SUPPORT & RESTRICTIVE PRACTICES

The Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships (the department) draws on its SOLID values (Strengths based, Open, Loyal, Innovative and Dedicated) to commit itself to supporting people with a disability to thrive.

As such, the department is committed to ensuring that adults with intellectual or cognitive disability are supported in appropriate ways which ensure personal safety while actively considering the adult's rights and needs. Furthermore, the department is committed to respecting, protecting and promoting human rights. Under the *Human Rights Act 2019*, the department, as a public entity, has an obligation to act and make decisions in a way that is compatible with human rights and, when making a decision, to give proper consideration to human rights.

Under the *Disability Services Act 2006* (the Act), after an adult is referred to the department, the Chief Executive of the department, or delegate, is required to make the following decisions:

- On completion of an initial assessment, whether to proceed to a multidisciplinary assessment.
- On completion of a multidisciplinary assessment, whether to proceed to a Positive Behaviour Support Plan.

The Chief Executive delegates are the Director, and Principal Clinicians – Positive behaviour Support and restrictive Practices (PBSRP). The delegate is required to make these decisions under sections 156, 157 and 158 of the Act.

Decision whether to proceed to a multidisciplinary assessment

Following a referral by the relevant service provider, the department's Principal Clinicians (PBSRP) are 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 Principal Clinician will consult with, and consider the views of a range of people, including the adult, the adult's guardian or informal decision maker. The Principal Clinician 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 Principal Clinician 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
 - is receiving services provided or funded by the department, 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 Principal Clinician **not** to proceed to a multidisciplinary assessment can be internally reviewed under the Act (see 'Review of a decision' below).

When the Principal Clinician 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.

Positive Behaviour Support & Restrictive Practices Factsheet: Disability Services decision making and review process – Containment and Seclusion

The Principal Clinician will also suggest an appropriate or alternative response to the situation.

Decision whether to proceed to a Positive Behaviour Support Plan

Following completion of a multidisciplinary assessment, the Principal Clinician 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 chief executive (or their delegate) 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
- the use of containment or seclusion is necessary to safeguard the adult and others from harm
- 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 chief executive (or their delegate) 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 notice will also contain information about 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 Principal Clinician from the department.

An interested person may be:

- the relevant service provider
- the adult
- a guardian or informal decision maker for the adult who was consulted by the Principal Clinician 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)*.

A request for a review of the decision must be made in this approved form within 28 days of receiving the Decision Notice. The department 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 the department to make a decision about the application
- outline the facts that need to be considered in the review
- provide copies of all documents relating to the decision being reviewed.

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Review process

Within 28 days of receiving this application, the department 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 Principal Clinician, the decision will be reviewed by the Director or a Principal Clinician in a different regional team.

Further Information

For more information, contact the Positive Behaviour Support and Restrictive Practice team on 1800 902 006 or enquiries_rp@dssatsip.qld.gov.au.

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