

Department of Families, Seniors, Disability Services and Child Safety

Decision Making and Review Process

Containment and Seclusion

The Department of Families, Seniors, Disability Services and Child Safety (the department) is committed to ensuring that adults with intellectual or cognitive disability are supported in appropriate ways that ensure personal safety while actively considering the adult's rights and needs.

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, 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 their 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 develop a Positive Behaviour Support Plan (PBSP).

The Chief Executive delegates are the director, and principal clinicians – Behaviour Support and Practice Quality (BSPQ). The delegate is required to make these decisions under sections 156 and 158 of the Act.

Decision whether to proceed to a multidisciplinary assessment

Following a referral by the relevant service provider in accordance with section 155 of the Act, the department's principal clinicians, or director (BSPQ) are responsible for the decision to proceed or 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 decision maker must consult with, and consider the views of a range of people, including the adult, the adult's guardian, or informal decision maker. The decision maker 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 decision maker 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 NDIS supports or services.
- 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 **not** to proceed to a multidisciplinary assessment can be internally reviewed under the Act (see 'Review of a decision' below).

If the decision maker 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 decision maker may also make recommendations about appropriate or alternative responses to the situation.

Decision whether to proceed to a Positive Behaviour Support Plan

Following completion of a multidisciplinary assessment, the decision maker 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 or 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 may also make recommendations about appropriate or alternative responses 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 decision maker 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 decision maker 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:

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- 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.

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 notified 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 who has not been involved in the original decision. If the original decision was made by the director, the decision will be reviewed by another director or an executive director within Disability Services.

Further Information

For more information, contact the Behaviour Support and Practice Quality Unit on 1800 902 006 or at enquiries_rp@qld.gov.au.

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