

COMPLIANCE WITH REQUIREMENT TO NOTIFY APPROVAL OR CONSENT TO USE RESTRICTIVE PRACTICES IN QUEENSLAND 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 dedicated 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.

The NDIS Quality and Safeguards Commission (NDIS Commission) commenced in Queensland on 1 July 2019 and service providers must report on the **use** of restrictive practices to the NDIS Commission. The Queensland Government remains responsible for **authorising** the use of restrictive practices for adults with an intellectual or cognitive disability in Queensland.

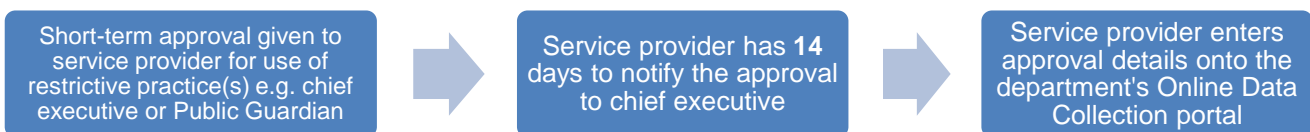
Short term approval for the use of restrictive practices may be provided by the Public Guardian where the restrictive practice includes the use of containment or seclusion; or by a delegate of the chief executive for the use of the restrictive practices of restricting access, chemical restraint, physical restraint and mechanical restraint, where containment or seclusion is not used.

Longer term use of a restrictive practice requires approval or consent to be provided. The Queensland Civil and Administrative Tribunal (QCAT) approves the use of restrictive practices that include containment or seclusion. A guardian for restrictive practice (appointed by QCAT) or a relevant decision maker can provide consent for use of other restrictive practices (that do not include containment or seclusion), following the development of a Positive Behaviour Support Plan.

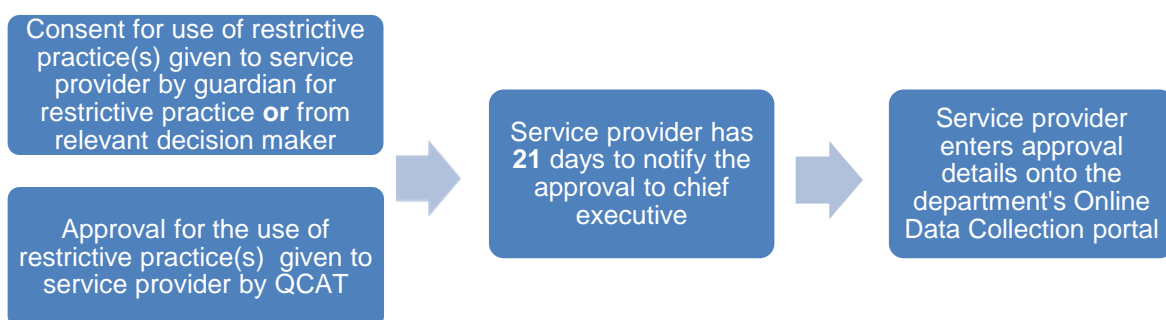
Notification of approval or consent

Service providers must notify the chief executive of any approval (or consent) to use restrictive practices through the departmental Online Data Collection (ODC) portal (<http://odc.disability.qld.gov.au>). The process and legislated timeframes for this to occur are:

When short-term approval is given



When consent is provided by a guardian for restrictive practice, or by a relevant decision maker; or approval provided by QCAT



Positive Behaviour Support & Restrictive Practices Factsheet: Compliance with requirement to notify approval or consent to use restrictive practices in Queensland

Why do approvals and consents need to be reported?

Section 195 of the DSA and Section 7 of the *Disability Services Regulation 2017* outline the requirements and responsibilities of service providers to notify the chief executive of any approvals given for the use of restrictive practices.

The restrictive practices reporting process is one element of a framework designed to protect and safeguard the rights of people with an intellectual or cognitive disability. Non-compliance with the restrictive practices authorising and reporting regime may result in the use of restrictive practices without external oversight and where this may not be the least restrictive way to respond to the adult's behaviour. This can lead to further risk of harm to the adult or to others.

Supporting compliance

The department has a responsibility to monitor compliance by service providers in notifying approval and consent for restrictive practices and is committed to supporting service providers to meet their reporting requirements.

The initial compliance approach will be one of collaboration, education and support.

Where the department identifies that a service provider has not reported:

- a short-term approval from the Public Guardian
- a short-term approval from a delegate of the Chief Executive
- an approval from QCAT

via ODC within the legislated timeframe, the service provider will be contacted and reminded of their legislated responsibilities and offered assistance and support to facilitate compliance. Should compliance not be achieved following this support, the matter may be referred to the department's Safeguards Team for potential investigation and/or referred to the NDIS Quality and Safeguards Commission.

The above process will also be followed if the department becomes aware of service providers who have received consent for the use of restrictive practices from a guardian for restrictive practice or from a relevant decision maker but have not reported that consent through ODC.

Information and support

[Resources](#), including guides and factsheets, are available on the ODC portal to assist service providers to record approvals and consents.

For support with authorisations and the authorisation process (including recording authorisations in ODC) please contact the Positive Behaviour Support & Restrictive Practices team in your region (<https://www.dsdsatsip.qld.gov.au/our-work/disability-services/disability-connect-queensland/positive-behaviour-support-restrictive-practices/contact-information>) or by either telephoning 1800 902 006 or emailing enquiries_dsa_rp@dsdsatsip.qld.gov.au.

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Christopher Booker
Director, Positive Behaviour Support & Restrictive Practices