

PHYSICAL RESTRAINT 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.

This Fact Sheet provides practitioners, service providers and disability support workers with information about the authorisation and use of physical restraint as applied to adults (18 years or older) who:

- have an intellectual or cognitive disability
- are receiving services provided by the department, or services prescribed by regulation and funded under a NDIS participant plan
- behave in a way that causes physical harm or a serious risk of physical harm to themselves or others.

The purpose of Part 6 of the *Disability Services Act 2006* is to protect the rights of adults with an intellectual or cognitive disability by:

- promoting principles to guide service providers supporting adults with behaviour that causes harm to themselves or others;
- regulating the use of restrictive practices.

What is physical restraint?

Physical restraint of an adult with an intellectual or cognitive disability means *the use, for the primary purpose of controlling the adult's behaviour, of any part of another person's body to restrict the free movement of the adult in response to the adult's behaviour that causes harm to the adult or others.*

An example of physical restraint

Janice is 18 years of age and is supported by staff from an accommodation service to live in her own apartment. Three mornings per week she works at a plant nursery where she is supported by a community access service provider. Janice has been assessed as lacking capacity to make many decisions for herself, and her parents make these for her.

At work and at home Janice has started to pinch her support workers and has broken their skin with her nails. This was something she had done in the past at school with teachers and fellow students, and occasionally at home with her sister. The advice from her parents has been to hold her hand to prevent Janice from pinching, say "no", and then guide her hand back to the task she is doing. This is the action Janice's support staff have been using.

When considering holding her hand to prevent Janice from pinching, both the accommodation and community access service providers must give a statement in the approved form to Janice, her family members and others in her support network about holding her hand.

The statement must include why the service provider is considering holding Janice's hand; how Janice, her family or others in her support network can be involved and express their views in relation to this practice; who decides whether this practice can be used; and how Janice, her family or others in her support network can make a complaint about, or seek a review of, this practice. The statement must be explained in a way that Janice is most likely to understand and is appropriate to her age, culture, disability and communication skills.

Both services must seek a short-term approval from the Chief Executive of the department (or their delegate) to hold Janice's hand to stop her hurting others. The short-term approval gives Janice's service providers time to assess her longer-term needs, arrange for assessments to be undertaken, and develop the Positive Behaviour Support Plan.

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As the service who provides Janice with the most support, the accommodation service provider must apply to the Queensland Civil and Administrative Tribunal (QCAT) for a guardian for restrictive practice (general) matter to be appointed for Janice. Janice's parents may want to be Janice's guardian for restrictive practices or they may choose not to be. If no one wants to be Janice's guardian for restrictive practice (general), QCAT will appoint the Public Guardian as the guardian for restrictive practices (general) for Janice.

The accommodation service provider must find an appropriately qualified person to do an assessment to obtain information about Janice and work out why she is pinching people. Both service providers must talk with Janice, her family, guardian for restrictive practice and others in her support network to work out what other changes may make life better for Janice. If holding Janice's hand is the best way to keep people from being hurt, a Positive Behaviour Support Plan must be written and sent to the guardian for restrictive practice (general) matter for authorisation/approval. The plan needs to include details of both service providers. Both service providers must have this authorisation to continue to hold Janice's hand to stop her pinching and guide her back to the task.

Holding an adult to punish them will not be authorised as it violates the adult's human rights and is therefore unlawful. The use of physical restraint can only be considered if it may prevent either the adult, or other people from physical harm.

Other examples of physical restraint are:

- holding an adult's arms down to their sides to stop them from moving
- taking an adult's hand and leading them in a direction they do not want to go
- guiding an adult in a direction using your body to block the adult from moving in a different direction (you do not necessarily have to make physical contact with the adult to be using a physical restraint)
- actions used to protect yourself or others from the behaviour of the adult by holding any part of the adult's body
- using any part of your body to block or redirect the movement of the adult (including using blocking techniques to deflect a strike).

What is not considered to be restraint

In accordance with the Act, interventions require authorisation when they are used to respond to the behaviour of an adult with an intellectual or cognitive disability that causes harm or a serious risk of harm to the adult or others. Practices used to assist the adult with daily living or therapeutic activities, or to keep the adult safe where the adult is unable to perform a task safely are not considered to be restrictive practices.

An example of a practice to assist the adult with daily living or therapeutic activities is where a staff member may use hand over hand modelling in order to support a client to complete a task such as dressing, eating or cleaning their teeth. This might be as part of a planned approach to teach a new skill and the staff member might be holding the person's hand or arm. This is not a restrictive practice.

When should restrictive practices be considered?

Physical restraint, as a form of restrictive practice, may be considered for use by relevant service providers in the following circumstances:

- as part of a Positive Behaviour Support Plan that promotes positive outcomes for the adult and supports the reduction or elimination of restrictive practices
- as the least restrictive way to prevent the adult's behaviour causing harm to themselves or others
- as a time-limited response where there is a need to safeguard the adult and others from significant harm.

Considerations for the use of physical restraint

A number of factors must be considered with regard to the use of physical restraint in relation to an adult with an intellectual or cognitive disability:

- The relevant service provider must give a statement in the approved form about the use of restrictive practices to the adult, their family members and others in the adult's support network.

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- A Positive Behaviour Support Plan must be developed and detail the use of physical restraint in the context of a proactive framework.
- The positive effects of using physical restraint must outweigh the possible negative effects on the adult and the risk involved if the restrictive practice is not used has been considered.
- Less restrictive ways to respond to the behaviour must have been considered and found to be inappropriate or ineffective.
- Physical restraint must be considered a short-term response only.
- An appropriately qualified person has been involved in undertaking a comprehensive assessment.
- Support staff and others have been trained in the use of the practice and assessed as competent.
- Systems have been put in place to allow the ongoing monitoring and review of the use of the practice.
- The practice is reviewed within established timeframes.
- The adult with disability, their family and relevant others must be involved and consulted at all stages of the process, including assessment, plan design, implementation and review.
- The adult's unique attributes must be considered, including their communication support needs as well as their cultural, linguistic and social background.
- Authorisation (approval) has been obtained from the relevant decision maker prior to implementation.

Physical restraint must not be used in certain circumstances, including:

- when a relevant professional has assessed that physical restraint should not be used for any reason
- when the use of physical restraint relies upon causing pain to force compliance
- when the use of physical restraint is a form of punishment or for organisational convenience.

Who can authorise the use of physical restraint?

Where services provided or funded under a NDIS participant plan, or by the department, or services prescribed by regulation considers the use of physical restraint is required in response to an adult's behaviour that causes harm, authorisation **must** be sought. The *Disability Services Act 2006* specifies the authorisation requirements for each type of restrictive practice and who can authorise the use of the practice.

Where physical restraint is used in combination with containment or seclusion, the authorisation requirements for containment and seclusion apply. For further information, refer to the Fact Sheet, [Authorising Restrictive Practices](#).

If the service provider is using or proposing to use physical restraint only, or in combination with mechanical or chemical restraint, then the use of physical restraint as written in the person's Positive Behaviour Support Plan can only be authorised by a guardian for a restrictive practice (general) matter appointed by QCAT.

For a respite or community access service, consent to use physical restraint as written in the person's plan is required from a guardian for a restrictive practice (respite) matter if appointed or otherwise a relevant decision maker for the adult.

Further Information

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

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