

Disability Connect Queensland

POLICY and PROCEDURE

Title: Locking of gates, doors and windows

Policy Statement

The Department of Communities, Disability Services and Seniors (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.

Some adults with intellectual or cognitive disability may not possess the road safety skills, or other personal safety skills, needed to safely access the community without supervision.

The *Disability Services Act 2006* (the Act) provides that in certain circumstances, a relevant service provider can lock gates, doors or windows at premises where disability services are provided to adults with intellectual or cognitive disability, providing that the only reason the gates, doors or windows are locked is to prevent physical harm being caused to an adult with a skills deficit.

General Principles

Relevant service providers must ensure that the use of a locked gates, doors or windows strategy:

- gives proper consideration to the human rights of the person
- safeguards the person and others from harm
- is the least restrictive approach, and
- forms part of a broader strategy to assist the person to maximise their capacity and increase the opportunity for positive outcomes.

Human Rights Principles

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. When making a decision about the locking of gates, doors and windows, decision-makers must comply with that obligation.

The relevant human rights that may be engaged include:

- right to recognition and equality before the law¹
- freedom of movement²
- right to liberty and security of the person³ and right to humane treatment when deprived of liberty.⁴

In supporting adults with intellectual or cognitive disability whose physical safety is at risk without appropriate supervision, service providers must adhere to the following principles:

- People with disability have the same human rights as other people. Public entities must comply with the *Human Rights Act 2019*.
- Any action taken that restricts the adult's rights or lifestyle must be necessary, for a legitimate purpose, and must only intrude in the adult's life to the least extent possible.
- Disability services must be designed and implemented so that they appropriately:

- focus on developing the individual and on enhancing the individual's opportunity to establish and maintain a quality life
- support the development and maintenance of skills to increase independence
- are tailored to meet the individual needs and goals of people with disability
- meet the needs of people who may experience additional barriers because they are an Aboriginal or Torres Strait Islander person, or from culturally or linguistically diverse backgrounds
- promote recognition of the competency, positive image and self-esteem of people with disability
- promote the inclusion of people with disability in the life of the community and the development and maintenance of natural networks and relationships
- use person-centred planning processes and encourage and support people with disability to participate in the planning and operation of the services they receive on a continual basis
- take into account differing communication styles, especially of those persons with complex communication needs, and
- ensure the conditions of everyday life of people with disability are the same as, or as close as possible to, the conditions of everyday life valued by the general community.

Application

This policy and procedure applies to the practice of locking gates, doors or windows to prevent physical harm being caused to an adult (a person 18 years or older), where the adult:

- has an intellectual or cognitive disability, and
- is receiving disability services from a relevant service provider as defined under Section 216(3) of the Act, and
- has been assessed as having a skills deficit as defined under Section 217 of the Act, and
- the only reason the gates, doors or windows are locked is to prevent physical harm being caused to the adult.

This policy and procedure does not apply to:

- private agencies or other services that are not provided or funded by the department, or prescribed by regulation, or funded under an NDIS participant plan
- adults supported by their family or in other informal support arrangements not provided or funded by the department or via their NDIS participant plan.

Relevant service providers must ensure that the use of locked gates, doors or windows strategy in relation to an adult with a skills deficit:

- gives proper consideration to the human rights of the person
- safeguards the person and others from harm and
- maximises the opportunity for positive outcomes.

Objectives

The purpose of this policy and procedure is to ensure that relevant service providers:

- are informed of the legislative requirements for the practice of locking gates, doors or windows
- consider all of the adult's rights and, in particular, balance the adult's right to freedom of movement with their right to safety and
- ensure reasonable steps are taken to reduce and eliminate the need to lock gates, doors or windows, over time.

Scope

This policy and procedure applies if the only reason the relevant service provider has locked gates, doors or windows is to prevent physical harm being caused to an "adult with a skills deficit", within the meaning of that term under section 217 of the Act; that is: *an adult with an intellectual or cognitive disability who can not safely exit premises where disability services are provided to the adult without supervision, if the only reason the adult can not safely exit the premises without supervision is-*

- (a) *the adult lacks road safety skills or*
- (b) *the adult is vulnerable to abuse or exploitation by others or*
- (c) *the adult is unable to find his or her way back to the premises or*
- (d) *another reason prescribed under a regulation*

Locking gates, doors or windows includes:

- locking perimeter gates while the adult and staff are at the premises and/or
- closing of internal or external doors and/or windows while the adult and staff are inside the building in such a way that the adult with intellectual or cognitive disability cannot open the gate, door or window independently sufficient to exit through the gate, door or window.

It is not locking of gates, doors or windows where the relevant service provider is:

- taking security precautions such as locking doors and windows to deter intruders and to protect property, provided people are not prevented from leaving the building at any time
- locking a person's bedroom door from the outside when the person is absent from their room or the dwelling, for the purposes of protecting their personal property

Situations where locking of gates, doors or windows is not appropriate

The following are examples of where it is inappropriate to use the locking of gates, doors or windows policy and procedure:

- where the locking of gates, doors or windows is in response to behaviours of harm – this practice is considered a restrictive practice and subject to compliance with part 6 of the Act.
- where the locking of gates, doors or windows occurs in combination with a restrictive practice as specified in the Act, or the practice leads to the adult engaging in behaviours of harm, relevant service providers must ensure they comply with Part 6 of the Act.
- the locking of gates, doors or windows where the adult is inside the premises and staff are not, and the adult is unable to exit the premises – this practice may be a restrictive practice under the Act (with specific requirements that must be met) or may constitute unsafe practice (which would not be approved under any circumstances)

- Locking of gates, doors and windows must not be used in response to organisational factors, such as staffing requirements as this does not meet the criteria as set out in the procedure below.

Immunity from liability

Section 218 of the Act outlines those circumstances in which a relevant service provider is not civilly or criminally liable for locking gates, doors or windows.

Additionally, under section 219 of the Act, an individual acting for a relevant service provider is not civilly or criminally liable for locking gates, doors or windows if the individual acts in compliance with, or reasonably believes he or she is acting in compliance with, the relevant service provider's policy about the locking of gates, doors and windows.

Requirements of policy and procedures

In accordance with section 218 of the Act, a relevant service provider must keep and implement a policy that is consistent with this policy and procedure.

Documented Planning

Where it has been assessed that the adult does not currently have the skills (in accordance with section 217 of the Act) to manage their physical safety without supervision, outside of the premises where they are receiving disability services, and it has been determined that locking gates, doors or windows is the least restrictive way of ensuring the adult's physical safety, service providers must ensure a written plan is developed to support the person.

The minimum requirements that this plan must include are included in section 5 of the procedure (below).

Procedure

This procedure outlines the planning, implementation, monitoring and review requirements for the locking of gates, doors or windows.

Relevant service providers who lock gates, doors or windows at premises used to provide disability services to an adult with intellectual or cognitive disability must:

- ensure that it is necessary to prevent physical harm to an adult with a skills deficit who does not have the skills required to safely exit the premises and conduct themselves safely outside the premises without supervision
- establish that it is the least restrictive way of ensuring the adult's safety as is practicable in the circumstances
- minimise the impact on other people receiving a service at the premises
- have appropriate regard to cultural and linguistic diversity, including Aboriginal tradition and Torres Strait Island custom.

The following process must be followed when considering the need to lock gates, doors or windows:

1. Identification

The relevant service provider must confirm that the person for whom the strategy of locking gates, doors and windows is being considered:

- is an adult (18 years or older), and
- has intellectual or cognitive disability as defined under Section 144 the Act.

The relevant service provider must establish that the practice is not containment, seclusion, or restricting access as defined under the Act.

2. Assessment

The relevant service provider must establish that:

- the adult cannot safely exit premises where disability services are provided to the adult without supervision and
- the **only reason** the adult cannot safely exit the premises without supervision is:
 - the adult lacks road safety skills or
 - the adult is vulnerable to abuse or exploitation by others or
 - the adult is unable to find their way back to the premises or
 - another reason prescribed under a regulation.

The adult's safety skills should be assessed formally by an appropriately qualified person; however, if a qualified person is not readily available, the relevant service provider will conduct its own assessment.

The assessment of the adult with an intellectual or cognitive disability must be done in consultation with:

- the adult
- if the adult has an guardian or informal decision-maker – the guardian or informal decision-maker and

- any other person considered to be integral (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).

If an appropriate person has not undertaken the assessment, the relevant service provider must document this on the assessment.

Where it is determined that the adult does not currently have the skills to exit the premises safely without supervision, service providers must then determine whether or not locking the gates, doors or windows is necessary and the least restrictive way of ensuring the adult's physical safety.

3. Establishing the necessity of the practice to ensure safety

Where it is determined that the adult requires supervision to exit the premises, the relevant service provider must establish that it is necessary to prevent their exit from the premises without supervision in order to prevent physical harm to the adult with a skills deficit. That is, the service provider must be satisfied that the **only reason** the gates, doors or windows are locked is to prevent physical harm being caused to an adult with a skills deficit. This must be balanced with the obligation to ensure that the person's freedom of movement is not unnecessarily restricted and that dignity of risk is considered.

To establish this, the relevant service provider must consider:

- the likelihood the adult with an intellectual or cognitive disability would leave the premises by themselves or would not be able to do so without the notice of individuals able to provide supervision to ensure the adult's physical safety and
- The seriousness of the potential harm that may occur to the adult if the adult left the premises without supervision. The assessment of the seriousness of the potential harm that may occur must inform the service provider's response.

4. Least Restrictive Alternative

The next step is to determine whether the practice is the least restrictive way of ensuring the person's safety.

The relevant service provider must consider:

- why the person is leaving or trying to leave
- any other approaches that have been tried
- the views and wishes of the relevant adult with an intellectual or cognitive disability and those consulted during the assessment process
- whether there are other resources that may be brought to bear on the issue
- if locking of gates, doors or windows is to occur –
 - what is the shortest possible time that the locking could occur for
 - what is the least restrictive way of locking e.g. limiting access to part of the premises rather than locking all gates, doors or windows at the premises, and
- the use of alternative strategies including special equipment and/or modifications to the premises that may be used instead of or supplementary to the locking of gates, doors or windows.

The assessment process will involve the adult and their support network, including the guardian or informal decision maker.

The process must be documented to ensure that meaningful review of the decision-making process can be undertaken.

5. Development of plan

The relevant service provider must develop a written plan for the adult with an intellectual or cognitive disability if, having regard to the findings of the assessment, the relevant service provider is satisfied:

- the relevant adult is at risk of physical harm due to the adult's assessed skills deficit
- it is necessary for the relevant service provider to lock gates, doors or windows to ensure an adult with an assessed skills deficit does not leave their home unsupported
- the locking of gates, doors or windows is the least restrictive way of ensuring the safety of the adult.

Particular consideration must be given to the needs of Aboriginal persons, Torres Strait Islander persons or people from culturally or linguistically diverse backgrounds in the consultation and planning process. This may take the form of having appropriate regard to Aboriginal tradition, Island custom, other linguistic needs or cultural beliefs and supporting people to participate in the process and/or providing access to interpreters.

The minimum required content of the plan is:

- why the practice of locking gates, doors or windows is necessary, and is the least restrictive way of ensuring the physical safety of the adult with a skills deficit as is practicable in the circumstances
- the date the assessment took place
- the circumstances and manner in which the locking of gates, doors and windows may be used
- the procedure for locking the gates, doors and windows
- the ongoing recording of data about the frequency and duration that the gates, doors and windows are locked in response to an adult's skills deficit
- strategies for developing the adult's safety skills to the maximum extent possible in order to reduce reliance on, improve the adult's quality of life, and to ultimately cease the practice of locking gates, doors or windows
- timeframes for review of the plan. These must be at least every 6 months
- other strategies for reducing the need to lock the gates, doors or windows of the premises
- the positive and negative impacts on the adult's quality of life by the locking of the gates, doors and windows
- strategies for minimising the impact on other people receiving a service at the premises.

The written plan must be approved by the manager of the relevant service provider, explained to the adult in a way that they are able to understand, and a copy must be provided to the adult's support network (including the adult's guardian or informal decision-maker) within 7 days of the assessment being completed. The adult and their guardian or carer must also be advised of the relevant service provider's complaints procedure.

6. Implementation, Monitoring and Review

The relevant service provider is responsible for ensuring the plan is implemented, monitored and reviewed.

Implementation

The service provider will ensure that the plan is implemented as required by ensuring that:

- all interventions outlined in the plan are implemented according to the specific instructions detailed in the plan and
- records are kept of the application of the plan including the progress of skill development strategies outlined in the plan.

Monitoring

The service provider is responsible for monitoring, and where necessary, modifying the plan, in particular taking note of:

- the implementation of the positive elements of the individual plan
- improvements in the adult's quality of life
- the effectiveness of the particular locked gates, doors or windows strategy implemented
- the safety of the adult and other householders when the practice is in place
- negative impacts on other members of the household.

Review

The service provider will review the plan as required and ensure that:

- reviews occur according to timeframes established in the plan
- the adult and members of the adult's network (including the guardian or informal decision maker) are consulted and involved
- the initial assessment is regularly re-examined, particularly the assessment of the adult's skill level, to determine if the locked gates, doors or windows strategy is still necessary and is still the least restrictive way of ensuring the physical safety of the adult with a skills deficit.

In certain circumstances, a review may be initiated before the scheduled review date. These circumstances include:

- the adult moving to a different premises or a service is provided in different premises
- a new person moves into the premises
- the adult, or their guardian or informal decision maker requests a review
- the adult begins to display behaviour that causes harm (and the locking of gates, doors or windows therefore meets the definition of containment, seclusion or restricted access under the Act).

7. Safety measures

The decision to lock gates, doors or windows may require additional safeguards in the premises. For example, fire safety evacuation plans will need to be specifically designed and/or amended to ensure people are not placed at risk. The relevant service provider is responsible for ensuring that all staff and household members are provided with relevant training in respect of emergency evacuation plans.

The following legislation contains specific requirements that relevant service providers may be obliged to meet:

- *Fire and Emergency Services Act 1990*: All owners / occupiers of Budget Accommodation

buildings must prepare a Fire Safety Management Plan and Fire and Evacuation Plan to ensure that all persons, including those with mobility or other evacuation impairments, can exit the building in a timely and safe manner should an emergency arise and

- The *Work Health and Safety Act 2011*: Employers are required to accept general duty of care for the health and safety of all people in the workplace and are responsible for ensuring that all reasonably practicable measures have been taken to control risks against all possible injuries arising in the workplace.

Other persons on the premises

If there is a need to lock the gates, doors or windows at a premises where disability services are being provided to an adult with a skills deficit, review timeframes must be established to ensure on-going assessment/reassessment of how the locking of gates, doors or windows impacts on others receiving disability services at the premises, and how it imposes the minimum restriction on them.

Further information to assist with the determination as to whether the locking of gates, doors or windows is applicable to your situation is provided in the [fact sheet](#).

Roles and Responsibilities:

The department has a responsibility to:

- have a policy about the locking of gates, doors and windows
- make the policy publicly available
- ensure the policy has appropriate regard for linguistic and cultural diversity and Aboriginal tradition and Torres Strait Island custom
- ensure the policy outlines the procedures a service provider will use to ensure gates, doors and windows are locked only if it is:
 - necessary to prevent physical harm to an adult with a skills deficit and
 - the least restrictive way of ensuring the adult's safety as is reasonable in the circumstances.

Relevant service providers have a responsibility to:

- keep and implement a policy about the locking of gates, doors and windows that is consistent with this departmental policy. This includes preparing the provider's policy and keeping it up-to-date, implementing and complying with the procedures and other matters stated in the policy, and keeping a copy of the up-to-date policy at the service provider's premises and
- ensure compliance with the policy by service staff and

decide whether locking gates, doors or windows is necessary and the least restrictive way of ensuring an individual adult's safety as is practicable in the circumstances.

It is important to note that the locking of gates, doors and windows may be considered a regulated restrictive practice under the [National Disability Insurance Scheme \(Restrictive Practices and Behaviour Support\) Rules 2018](#). Where this is the case, service providers will be required to comply with reporting and other obligations to the NDIS Quality and Safeguards Commission.

Authority:

Disability Services Act 2006

Delegations:

There are no delegations under this policy.

Date of approval: July 2020

Office: Positive Behaviour Support and Restrictive Practices, Disability Connect Queensland

Help Contact: 1800 902 006

Links:

[National Disability Insurance Scheme \(Restrictive Practices and Behaviour Support\) Rules 2018](#)

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