

SHORT TERM APPROVALS – FREQUENTLY ASKED QUESTIONS

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.

Important note: This Fact Sheet should be read in conjunction with the Fact Sheet [Short term approvals - A guide for service providers](#).

What is a short term approval?

A short term approval is an approval under the *Disability Services Act 2006* and the *Guardianship and Administration Act 2000* for the use of a restrictive practice with an adult with an intellectual or cognitive disability who exhibits behaviour that causes physical harm or poses a serious risk of physical harm and who is receiving disability services provided by the department, or services prescribed by regulation and funded under a NDIS participant plan.

What is the purpose of a short term approval?

The purpose of a short term approval is to give a service provider the lawful authority to use a restrictive practice while an assessment of the individual is completed, a Positive Behaviour Support Plan is developed, and approval or consent to use the restrictive practice is sought.

A short term approval is not required in a 'true' emergency where there is an imminent risk of harm, where there is no time for an approval, and where the service provider must respond urgently to a critical incident, for example, out of necessity or a duty of care.

What is the difference between a 'short term approval' and 'approval' or 'consent'?

A 'short term approval' is an interim authority provided to a disability service provider by either the Public Guardian or the Chief Executive of the department to use a restrictive practice for a short period of time (up to a maximum of 6 months) where it is determined that the restrictive practice is the least restrictive way of ensuring the safety of the adult or others when there is an immediate and serious risk of physical harm.

An 'approval' or 'consent' is a longer-term authority to use a restrictive practice, provided by either the Queensland Civil and Administrative Tribunal (QCAT) or a guardian for a restrictive practice matter. This approval or consent is based on a comprehensive assessment of the adult's needs and a Positive Behaviour Support Plan for the adult.

The short term approval is designed to authorise the use of the restrictive practice in the short term until an approval or consent is made, at which point the short term approval terminates.

When is a short term approval appropriate?

A request for a short term approval is only appropriate if a restrictive practice will be required in a planned or ongoing way as indicated from circumstances including:

- a critical incident or incidents where an unapproved restrictive practice is used
- a new adult enters the disability service with a known history of behaviour that causes harm
- approval/consent is in place to use physical restraint, chemical restraint, mechanical restraint or restricted access to objects but, due to a change of circumstance, containment or seclusion is the least restrictive way to prevent harm.

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When is a short term approval not appropriate?

There are some instances where a short term approval cannot be given. This can include where there is:

- a containment or seclusion approval in relation to the adult
- a guardian for a restrictive practice (general) matter
- a guardian for a restrictive practice (respite) matter and the relevant service provider proposes to contain or seclude the adult in the course of providing respite services or community access services to the adult.

Who can make a short term approval?

There are two decision makers that can give a short term approval:

- The Public Guardian.
- The Chief Executive of the department.

For containment and/or seclusion (whether or not other restrictive practices are being used), short term approval can only be given by the Public Guardian.

For all other types of restrictive practice (where containment or seclusion is not used) short term approval must be sought from a Principal Clinician.

Who is the delegated departmental officer?

The delegated departmental officers are the regionally based Principal Clinicians, and the Director, Positive Behaviour Support and Restrictive Practices.

When can a decision maker give a short term approval?

A short term approval can be given where it can be demonstrated that:

- there is an immediate and serious risk that, if the approval is not given, the adult's behaviour will cause harm to the adult or others
- the use of the restrictive practice is the least restrictive way of ensuring the safety of the adult or others.

Does a short term approval replace critical incident reporting requirements?

No. Even if a short term approval is sought, critical incident reporting requirements must also be followed.

What steps does a service provider take before requesting a short term approval?

Where there has been a critical incident or incidents, the service manager should undertake an incident review. Relevant stakeholders for the adult should be involved in the review process.

If after an incident review, an ongoing need to use a restrictive practice is indicated, the service manager should consult the decision maker and may initiate a request for a short term approval.

How do I request a short term approval?

To request a short term approval, a service manager telephones the decision maker and discusses the situation. Having the right information and evidence ready will help with a timely decision.

The '[short term approval application form](#)' assists in gathering this information. All information must be documented in the form with evidence attached (e.g. clarification of purpose of medication, behaviour recording) as described on the application form.

What information needs to be provided when requesting a short term approval?

The decision maker may discuss details with the service manager over the phone or may request the information they need to make a decision be provided using the [short term approval application](#) form. The

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decision maker must also consult with relevant interested parties such as the adult, their guardian or informal decision maker.

The information requested may include details about:

- the adult and the service provider
- previous applications and current guardians or informal decision makers
- the immediate and serious risk of harm that the adult's behaviour will cause
- the proposed restrictive practice and the alternative strategies that have been attempted
- how the proposed restrictive practice is the least restrictive alternative
- the impacts of the restrictive practice on the adult and others
- who has been consulted about the adult's behaviour e.g. specialist, treating doctor.

How is a short term approval given?

Once the decision maker has made a decision, they will send a letter to the applicant notifying them of their decision. This must be within seven days of the decision being made. If a short term approval is given the decision maker must outline:

- the period for which the approval has effect
- the conditions under which the approval is subject.

Once a short term approval is provided, the service provider should seek full approval/consent by completing an assessment of the adult and developing the Positive Behaviour Support Plan as soon as possible.

What happens when a delegate does not have enough information to make a decision about the use of restrictive practices (not containment or seclusion)?

Sometimes a delegate is not provided with sufficient information about the restrictive practice. Where a delegate requests further information within a timeframe, and the requested information is not received, the delegate may make a decision based on the evidence available.

Sometimes the delegate is unable to make a decision. This can be for a number of reasons, including where the use of the practice is out of the scope of the DSA, for example where the practice being applied for is identified as not being a Queensland restrictive practice.

Where a delegate is unable to make a decision or does not approve an application, and the restrictive practice is used, service providers should take further advice about their reporting requirements from the NDIS Quality and Safeguards Commission.

How long does a short term approval last?

A short term approval can be made for up to a maximum of six months, for the planned use of a restrictive practice where there is an immediate and serious risk of harm to the adult or others. The term of the approval is at the discretion of the decision maker.

Can a short term approval be changed?

Only in exceptional circumstances. These circumstances need to be discussed with the decision maker.

Can a short term approval be extended?

No. Should another period of short term approval be required an application under exceptional circumstances would be required to be made. These circumstances need to be included in the application form, and discussed with the decision maker.

Can a short term approval be terminated?

A short term approval ceases when:

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- a QCAT containment or seclusion approval is made or denied
- a guardian for a restrictive practice (general) matter is appointed and gives, or refuses to give, consent to the service provider to use the restrictive practice
- the term of the approval expires
- the service provider identifies the restrictive practice is no longer needed.
- The decision maker notifies the service provider that they have ceased the approval

In most cases it is the service manager's responsibility to inform the decision maker of the need to end an approval.

Further Information

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

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