

POLICY

Restrictive Practices

Adults

Note: For children refer to the *Restrictive Practices – Children Policy and Restrictive Practices – Children Procedure*.

1. Policy Statement:

Breakaway Toowoomba Inc. is committed to ensuring clients who require specialist behaviour support and/or require the use of restrictive practices receive services and support in a safe environment that recognises their rights and needs, is the least restrictive and incorporates evidenced-based practices and complies with legislative requirements. The aim is to prevent or reduce the behaviour that causes harm through supporting the adult to engage in their community and activities of interest, learn new skills and develop relationships.

Under the *Disability Services Act (Qld) 2006*, the restrictive practices are containment, seclusion, physical restraint, mechanical restraint, chemical restraint and restricting access to objects.

This policy relates to the *Disability Services Act (Qld) 2006* and only applies to adults. The *National Disability Insurance Scheme (Restrictive Practices and Behaviour Support) Rules 2018* applies to this policy in relation to mandatory notification and reporting to the NDIS Commissioner and the requirement to use a NDIS registered Behaviour Support Practitioner for assessment and the development of Positive Behaviour Support Plans for restrictive practices other than containment and seclusion.

2. Objectives:

The objectives of this policy are to:

- ensure the development and implementation of Positive Behaviour Support Plans and the use of restrictive practices are least restrictive to the client and comply with legislative requirements; and
- identify the roles and responsibilities of staff including mandatory reporting requirements.

3. Definitions:

Restrictive Practice: means any practice or intervention that has the effect of restricting the rights or freedom of movement of a person with disability.

Contain: means physically prevent the free exit of the adult from premises where the adult receives disability services, other than by secluding the adult, in response to the adult's behaviour that causes harm to the adult or others.

Seclusion: is the sole confinement of a person with disability in a room or a physical space at any hour of the day or night where voluntary exit is prevented, or not facilitated, or it is implied that voluntary exit is not permitted.

Chemical restraint: is the use of medication or chemical substance for the primary purpose of influencing a person's behaviour. It does not include the use of medication prescribed by a medical practitioner for the treatment of, or to enable treatment of, a diagnosed mental disorder, a physical illness or a physical condition.

Mechanical restraint: is the use of a device to prevent, restrict, or subdue a person's movement for the primary purpose of influencing a person's behaviour but does not include the use of devices for therapeutic or non-behavioural purposes.

Physical restraint: is the use or action of physical force to prevent, restrict or subdue movement of a person's body, or part of their body, for the primary purpose of influencing their behaviour. Physical restraint does not include the use of a hands-on technique in a reflexive way to guide or redirect a person away from potential harm/injury, consistent with what could reasonably be considered as the exercise of care towards a person.

Restricting Access: means restricting the adult's access, at a place where the adult receives disability services, to an object in response to the adult's behaviour that causes harm to the adult or others to prevent the adult using the object to cause harm to the adult or others.

Short-term Approval: an approval given by the Public Guardian under the *Guardianship and Administration Act (Qld) 2000* (for containment and seclusion) or the Chief Executive of Department of Communities, Disability Services and Seniors (Disability Services) (or a delegate) for restrictive practices other than containment and seclusion.

Reportable Incident: unauthorised use of a restrictive practice in relation to a person with a disability.

Behaviour Support Practitioner: is a person who is registered with the NDIS to undertake behaviour support assessments (including functional behavioural assessments) and to develop positive behaviour support plans that may contain the use of restrictive practices.

Positive Behaviour Support Plan: any person who is subjected to a restricted practice must have an approved Positive Behaviour Support Plan. The Positive Behaviour Support Plan describes how to support the person and demonstrates how restrictive interventions will only be used as a last resort and are the least restrictive option.

Queensland Civil and Administrative Tribunal (QCAT): is responsible for determining whether an adult has the capacity to make decisions about their life and whether there is a need to appoint appropriate decision makers/guardians, to act on the adult's behalf.

Guardian for a restrictive practice (general) matter: a guardian appointed for the adult by QCAT to consent to the use of a restrictive practice where an adult is receiving services (other than respite or community access services).

Guardian for a restrictive practice (respite) matter: a guardian appointed for the adult by QCAT to consent on behalf of the adult in relation to the use of a restrictive practice where an adult is receiving a respite or community access service only.

Informal Decision Maker: for an adult with an intellectual or cognitive disability, this means a member of the adult's support network, other than a paid carer for the adult.

Visitable site: is a place, other than a private dwelling house, where a client lives or receives services and that is prescribed under a regulation.

4. Use of restrictive practices to manage behaviour that causes harm:

If restrictive practices are considered to be the least restrictive alternative to ensure the safety of the adult and others in response to the behaviour of the adult with an intellectual or cognitive disability, they should only be used in a way that:

- has regard to the human rights of the adult
- safeguards the adult or others from harm

- maximises the opportunity for positive outcomes for the adult and aims to reduce or eliminates the need to use restrictive practices; and
- ensures transparency and accountability in the use of restrictive practices.

5. Principles:

The following guiding principles underpin the delivery of services and support and the use of restrictive practices:

- full and equal enjoyment of all human rights and fundamental freedoms by people with disability without discrimination of any kind
- promotes the client's development and well-being, supports the client to meet their goals and increases opportunities for participation and inclusion in the community
- inclusion of the client and their family/decision maker and significant others in the development of strategies
- addressing the client's needs whilst aiming to improve the quality of life of clients by reducing or eliminating the need for a restrictive practice
- recognises that restrictive practices should not be used punitively or in response to behaviour that does not cause harm to the adult or others
- restrictive practices should only be used in limited and specific circumstances, as the last option and for the shortest possible time and be in proportion to the potential negative consequence or risk of harm
- restrictive practices should be person-centred, the least restrictive option and used only to protect the rights and safety of the person or others
- transparency and accountability in the use of restrictive practices
- monitoring and evaluating the use of restrictive practices and proactively reviewing Positive Behaviour Support Plans
- using evidenced-based practices which include strategies to produce behavioural change, focus on skills development and environmental design
- collaborating with other service providers who also support the client; and
- staff are knowledgeable and skilled in the use of Positive Behaviour Support Plans, restrictive practices and the legislative and regulatory requirements.

6. Scope:

This policy applies to all Breakaway Toowoomba Inc. **adult clients** with an intellectual or cognitive disability whose behaviour either causes harm to the adult or others or represents a serious risk of harm to the adult or others ('behaviour that causes harm').

The adult with an intellectual or cognitive disability must have impaired decision-making capacity in relation to making decisions about the use of restrictive practices.

This policy does not apply to:

- situations where the **only** reason locking gates, doors or windows occurs is to prevent physical harm being caused to an adult with a skills deficit — these requirements are detailed in the *Locking Gates, Doors and Windows Policy and Procedure*; or
- the use of medication prescribed by a health provider or a person acting under the health provider's direction or supervision to facilitate or enable a single instance of health care under the *Guardianship and Administration Act (Qld) 2000*.

7. General Disability Services or Respite and/or Community Access Services:

This policy should be read in conjunction with:

- Restrictive Practices – General Disability Services – Adult Procedure; or
- Restrictive Practices – Respite and Community Access – Adult Procedure.

General Disability Services refers to one or a combination of the following (except where respite or community access is the **only** service being provided):

- accommodation support services
- respite services
- community support services
- community access
- advocacy or information services or services that provide alternative forms of communication
- research, training or development services
- assistance with daily life tasks in a group or shared living arrangement
- daily personal activities
- development of daily living and life skills
- therapeutic supports
- specialist positive behaviour support
- assistance in coordinating or managing life stages, transitions and supports
- management of funding for supports
- participation in community social and civic activities
- interpreting and translation
- high intensity daily personal activities
- group and centre based activities; or
- support coordination.

Respite or Community Access Services refers to situations where the **only** disability service the adult with an intellectual or cognitive disability receives is a respite or community access service. The adult cannot receive any other disability service from another relevant service provider.

8. Assessment of Individual:

Behaviour that causes harm occurs for a reason. Gaining an understanding of the adult and the purpose or function of their behaviour is an essential component in the development of appropriate support strategies. A positive and proactive approach to behaviour support should be implemented. A positive approach involves the development of multi-element positive behaviour support plans that support the adult to live a full and active life and learn new skills.

9. Use of a Restrictive Practice:

A restrictive practice should only be used:

- where necessary to prevent harm to the adult or others; and
- where it is the least restrictive way of ensuring the safety of the adult or others.

Services to the adult should be provided in a way that:

- promotes the adult's development and physical, mental, social and vocational ability and increase opportunities for participation and inclusion in the community
- responds to the adult's needs and goals
- ensures the adult and their support network are given an opportunity to participate in the development of strategies for the care and support of the adult
- involves positive behaviour support planning informed by evidenced-based best practice which includes the implementation of strategies to produce behavioural change, focused on skills development and environmental design
- ensures transparency and accountability in the use of restrictive practices
- recognises that restrictive practices should not be used to punish an adult or in response to behaviour that does not cause harm to the adult or others
- aims to reduce the intensity, frequency and duration of the adult's behaviour that causes harm to the adult or others
- aims to reduce or eliminate the need for the restrictive practice
- Positive Behaviour Support Plan and the use of restrictive practices are reviewed when circumstances change and at least once per year; and
- ensures adequate standards of staff skills and knowledge both in terms of the legislative and regulatory requirements and the proportionate, safe and responsible use of a restrictive practice.

10. Short-Term Approvals (where there is an immediate and serious risk of harm):

At times it may be necessary to respond to an adult's behaviour that causes harm. An immediate response may be required, and a restrictive practice used in order to prevent a serious risk of harm to the adult or another person.

The *Disability Services Act 2006* and the *Guardianship and Administration Act (Qld) 2000* make provisions to allow for a Short-Term Approval for the use of a restrictive practice, where there is an immediate and serious risk of harm to the adult or another person, while further assessment and positive behaviour support planning is undertaken. The assessment must be conducted of the adult and the Positive Behaviour Support Plan must be developed by Disability Services (containment and seclusion) or a Behaviour Support Practitioner (restrictive practices - other). Short-Term Approvals can be provided for up to six months and can only be extended in exceptional circumstances.

Refer to the *Short-Term Approval for Restrictive Practices Policy* and *Short-Term Approval for Restrictive Practices Procedure* for the use of restrictive practices in disability services.

11. Locking Gates, Doors and Windows:

Locking Gates, Doors and Windows must only be used as the least restrictive way of supporting an adult with an intellectual or cognitive disability safely. Locking gates, doors and windows can only occur if it is:

- necessary to prevent physical harm to an adult with an assessed skills deficit; and
- the least restrictive way of ensuring the adult's safety as is practicable in the circumstances.

Refer to the *Locking Gates, Doors and Windows Policy* and *Locking Gates, Doors and Windows Procedure*.

12. Reportable Incidents:

Under the *National Disability Insurance Scheme (Restrictive Practices and Behaviour Support) Rules 2018* the unauthorised use of a restrictive practice in relation to a person with a disability is a reportable incident and must be reported to the NDIS Commissioner. Refer also to the *Reportable Incident (Unauthorised use of Restrictive Practices) Policy* and *Reportable Incident (Unauthorised use of Restrictive Practices) Procedure*.

13. Approval or Consent to Use a Restrictive Practice:

Short-Term Approval to use a restrictive practice is obtained from:

- Public Guardian for containment and seclusion; or
- Disability Services for all other restrictive practices.

Approval or consent to use a restrictive practice is obtained from:

- QCAT for containment and seclusion
- Appointed Guardian for Chemical, physical or mechanical restraint; or
- Relevant decision maker for restricted access to objects.

14. Notifying:

Disability Services

Disability Services must be notified about approvals given for use of restrictive practices:

- **within 14 days** of receiving the Short-Term Approval
- **within 21 days** of receiving approval for other restrictive practices (containment or seclusion approval; or consent to use of a restrictive practice given by a guardian for a restrictive practice matter or an informal decision-maker); and
- **within 14 days** when any of the above information changes.

Disability Services must also be notified when the approved restrictive practice stops having effect or ceases.

Public Guardian

The Public Guardian must also be notified:

- **within 14 days** of receiving the Short-Term Approval
- **within 21 days** of receiving approval for other restrictive practices (containment or seclusion approval; or consent to use of a restrictive practice given by a guardian for a restrictive practice matter or an informal decision-maker) at a visitable site
- **within 14 days** when any of the above information changes; and when the approval for a restrictive practice stops having effect or ceases.

NDIS Commission:

The Behaviour Support Practitioner is responsible for lodging the Positive Behaviour Support Plan for a restrictive practice as soon as practicable after the Positive Behaviour Support Plan has been developed.

The NDIS Commission must also be notified when the Positive Behaviour Support Plan stops having effect or ceases.

15. Reporting:

Disability Services

Every instance of the use of all restrictive practices **must be reported**:

- **by the second Friday of the calendar month** immediately after the calendar month in which the restrictive practice was used; and at other times if Disability Services requests it. This must be done by reporting on the Online Data Collection (ODC). <https://odc.disability.qld.gov.au>

NDIS Commission

It is a mandatory requirement to report to the NDIS Commission via the NDIS Commission Portal:

- monthly on the use or non use (Nil return) of restrictive practices; and
- every (2) weeks for Short-Term Approvals whilst the approval is in place.

Unauthorised use of a restrictive practice is a **reportable incident** and must be reported **within 5 business days** of becoming aware of the use of a restrictive practice.

16. Record Keeping:

The following written information relating to the use of restrictive practices must be kept:

- a description of the use of the restrictive practice, including:
 - the impact on the adult or another person
 - any injury to the adult or another person
 - whether the use of the restrictive practice was a reportable incident; and
 - why the restrictive practice was used
- a description of the behaviour of the adult that led to the use of the restrictive practice
- the time, date and place at which the use of the restrictive practice started and ended
- the names and contact details of the persons involved in the use of the restrictive practice
- the names and contact details of any witnesses to the use of the restrictive practice
- the actions taken in response to the use of the restrictive practice
- what other less restrictive options were considered or used before using the restrictive practice; and
- the actions taken leading up to the use of the restrictive practice, including any strategies used to prevent the need for the use of the practice.

A record of this information must be kept for seven years from the day the record is made.

17. Decisions by Disability Services:

The Director Clinical Practice or Principal Clinician will work with staff to develop a Positive Behaviour Support Plan where containment or seclusion is proposed (other than when the only disability service the adult is receiving is a respite and/or community access services).

The Director Clinical Practice or Principal Clinician will decide:

- whether to conduct a multidisciplinary assessment (where containment or seclusion is proposed)
- whether to develop a Positive Behaviour Support Plan (where containment or seclusion is proposed)

- Short-Term Approvals (where restrictive practices other than containment or seclusion are proposed); and
- whether a Positive Behaviour Support Plan should be changed.

18. Roles and Responsibilities:

Chief Executive Officer is responsible for:

- being familiar with and complying with the legislative requirements on the use of restrictive practices as described in the *Disability Services Act (Qld) 2006*, *Guardianship and Administration Act(Qld) 2000* and the *NDIS (Restrictive Practices and Behaviour Support) Rules 2018*
- ensuring staff have sufficient knowledge of the requirements for the lawful use of a restrictive practice
- ensuring staff have the skills and knowledge required to use the restrictive practice appropriately and lawfully
- monitoring the use of a restrictive practice to safeguard against abuse, neglect or exploitation
- managing risk and assisting staff in identifying the need for the planned use of a restrictive practice
- ensuring all mandatory reporting requirements are met
- ensuring all reportable incidents are reported to the NDIS Commission
- commencing performance management processes where staff are not implementing Positive Behaviour Management Plans appropriately; and
- ensuring compliance with this policy by all staff.

Operations Manager, Accommodation Manager and Respite Manager are responsible for:

- being familiar with and complying with the legislative requirements on the use of restrictive practices as described in the *Disability Services Act (Qld) 2006*, *Guardianship and Administration Act(Qld) 2000* and the *NDIS (Restrictive Practices and Behaviour Support) Rules 2018*
- ensuring staff have sufficient knowledge of the requirements for the lawful use of a restrictive practice
- ensuring staff have the skills and knowledge required to use the restrictive practice appropriately and lawfully
- monitoring the use of a restrictive practice to safeguard against abuse, neglect or exploitation
- managing risk and assisting staff in identifying the need for the planned use of a restrictive practice
- ensuring compliance with the conditions of a restrictive practice approval
- ensuring the development of Positive Behaviour Support Plans are completed within the specified timeframe
- monitoring the use and effectiveness of the restrictive practice through data collection, team meetings and feedback from the client and staff
- analysing incident data and trends to identify strategies to safely eliminate the use of restrictive practices
- reviewing the Positive Behaviour Support Plan (restrictive practices) regularly, when circumstances change and formally at least once per year
- ensuring all reportable incidents are reported to the Chief Executive Officer and mandatory reporting requirements are met
- ensuring all reportable incidents are reported to the NDIS Commission

- commencing performance management processes where staff are not implementing Positive Behaviour Management Plans appropriately; and
- ensuring compliance with this policy by all staff.

Client Liaison Officers are responsible for:

- ensuring staff have sufficient knowledge of the requirements for the lawful use of a restrictive practice
- assisting staff in identifying the need for the planned use of a restrictive practice
- supporting and collaborating with the Behaviour Support Practitioner in the development of a Positive Behaviour Support Plan
- ensuring each Positive Behaviour Support Plan has strategies that are person-centred and the least restrictive
- ensuring a documented Positive Behaviour Support Plan is in place for each client who has a restrictive practice
- ensuring all staff are trained in the use of Positive Behaviour Support Plans and have the skills and knowledge required to use the restrictive practice appropriately
- ensuring compliance with the conditions of a restrictive practice approval
- monitoring the use of a restrictive practice to safeguard against abuse, neglect or exploitation
- monitoring the use and effectiveness of the restrictive practice through data collection, team meetings and feedback from the client and staff
- analysing incident data and trends to identify strategies to safely eliminate the use of restrictive practices
- reviewing the Positive Behaviour Support Plan (restrictive practices) regularly, when circumstances change and formally at least once per year
- ensuring all reportable incidents are reported to the Line Manager and mandatory reporting requirements are met
- being familiar with and complying with the legislative requirements on the use of restrictive practices as described in the *Disability Services Act (Qld) 2006*, *Guardianship and Administration Act (Qld) 2000* and the *NDIS (Restrictive Practices and Behaviour Support) Rules 2018*
- commencing performance management processes where staff are not implementing Positive Behaviour Management Plans appropriately
- upholding and complying with this policy; and
- ensuring staff uphold and comply with this policy.

Support Workers are responsible for:

- ensuring the safety and well-being of the client
- being familiar with and complying with the legislative requirements on the use of restrictive practices as described in the *Disability Services Act (Qld) 2006*, *Guardianship and Administration Act (Qld) 2000* and the *NDIS (Restrictive Practices and Behaviour Support) Rules 2018*
- attending training relating to the use of restrictive practices
- collaborating with the Behaviour Support Practitioner in the development of a Positive Behaviour Support Plan
- implementing and using restrictive practices appropriately and lawfully as outlined in the client's Positive Behaviour Support Plan
- accurately documenting and reporting reportable incidents to the Line Manager
- documenting and reporting the use of the restrictive practice and providing feedback on its use to the Line Manager and at team meetings
- participating in reviews relating to the use of restrictive practices for a client; and

- upholding and complying with this policy.

19. Authority:

Disability Services Act (Qld) 2006
 Disability Services Regulation 2017
Guardianship and Administration Act (Qld) 2000
National Disability Insurance Scheme Act 2013
 National Disability Insurance Scheme (Restrictive Practices and Behaviour Support) Rules 2018

20. Related Legislation, Procedures and Guidelines:

Short-Term Approval Restrictive Practices – Adult Policy
 Short-Term Approval Restrictive Practices – Adult Procedure
 Locking Gates, Doors and Windows – Adults Policy
 Locking Gates, Doors and Windows – Adults Procedure
 Restrictive Practices - General Disability Services – Adults Procedure
 Restrictive Practices - Respite and Community Access – Adults Procedure
 Reportable Incidents (Unauthorised use of Restrictive Practices) Policy
 Reportable Incidents (Unauthorised use of Restrictive Practices) Procedure

Note: If there is any inconsistency between the policy and related procedure and the *Disability Services Act (Qld) 2006*, *Guardianship and Administration Act (Qld) 2000* or *National Disability Insurance Scheme (Restrictive Practices and Behaviour Support) Rules 2018*, the provision in the *Disability Services Act (Qld) 2006*, *Guardianship and Administration Act (Qld) 2000* or *National Disability Insurance Scheme (Restrictive Practices and Behaviour Support) Rules 2018* applies to the extent of the inconsistency.

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