

Safeguarding People with Disability Restrictive Practices Policy



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Department for Communities
and Social Inclusion

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Intent

This policy provides direction on the minimisation and, where possible, elimination of the use of restrictive practices, and seeks to ensure that any restrictive practice authorised and consented to, be administered appropriately with the least infringement of the rights of people with disability.

Disability service providers are required to ensure that their policies, procedures, guidelines, standards and practices comply with this policy.

Context

The *Disability Services Act 1993* (The Act) requires disability service providers to have restrictive practices policy and procedures in place.

This policy applies to all South Australian disability service providers who are members of the Department for Communities and Social Inclusion's Disability Services Provider Panel and the National Disability Insurance Scheme's Registration Pool. This includes registered or unregistered health practitioners and therapists providing services to people with disability.

This policy does not cover community treatment orders made under the *Mental Health Act 2009*.

Risk

Without a clearly defined policy on the use of restrictive practices, people with disability may be subjected to unnecessary, inappropriate or unlawful practices that deprive them of their liberty and rights, and have a negative impact on their quality of life.

There is also a risk to disability service providers that, without clear direction, they may not be aware of, and therefore contravene, legal requirements relating to the use of restrictive practices. The use of any restrictive practice beyond the extent of those legally authorised, exposes providers to the risk of criminal and/or civil action.

Reference Documents and Definitions

Refer to the *Acronyms, Definitions, Reference Documents and Links* section in the [Restrictive Practices Reference Guide for the South Australian Disability Service Sector](#).

This policy uses *Board* and *Chief Executive Officer* as terms that are intended to cover the equivalent leaders of disability service organisations, whether they may be a sole trader, Director(s), or so on.

General Principles

- People with disability are informed of their inherent human rights and are supported to exercise these rights.
- People with disability have the right to participate in, and contribute to, the social, cultural, political and economic life of the community on an equal basis with others.

- People with disability have the right to live free from abuse, neglect, intimidation and exploitation.
- People with disability have the right to be respected for their worth, dignity, individuality and privacy.
- People with disability have the right to realise their potential for intellectual, physical, social, emotional, sexual and spiritual development.
- People with disability have the right to have access to appropriate assistance and support that will enable them to maximise their capacity to exercise choice and control, and realise their potential.
- People with disability are informed and empowered to determine their own best interests, including the right to exercise informed choice and take calculated risks.
- The cultural and linguistic diversity of people with disability is respected.
- Intervention in the lives of people with disability occurs in the least intrusive way, with the smallest infringements on the fewest rights.
- Services and supports are based on contemporary evidence-based best practice with a strong focus on person-centred approaches and positive behaviour support.
- People with disability have the right to access services where physical environments are organised in a way that meets their support needs and maintains their safety.
- Services will acknowledge the right of families and/or guardians to be informed of the use of any restrictive practices, to make decisions and provide consent in respect to the provision of services (including for children).

Restrictive and Prohibited Practices

The following are classified as **restrictive practices**:

- Aversive restraint/interventions
- Chemical restraint
- Detention
- Environmental restraint
- Exclusion
- Mechanical restraint
- Physical restraint
- Prone physical restraint
- Psycho-social restraint
- Seclusion (see note below)
- Supine physical restraint.

The following are **prohibited restrictive practices** and must **not** be used in any circumstance by a South Australian provider of disability services:

- Aversive restraint/interventions
- Exclusion
- Prone physical restraint
- Psycho-social restraint
- Supine physical restraint.

In South Australia, involuntary or coerced hormonal manipulation or sterilisation of people with disability is illegal. Under the *Guardianship and Administration Act 1993*, the South Australian Civil and Administrative Tribunal (SACAT) can only consent to sterilisation when it is satisfied it is therapeutically necessary. Therapeutic purposes may include endometriosis and cancers of the reproductive system.

All disability service providers captured within the scope of this policy are required to record all uses of chemical, environmental, mechanical, physical restraint, detention and seclusion.

Specific requirements are outlined in the *Standards for the Recording and Reporting of the use of Restrictive Practices* section of the *Restrictive Practices Reference Guide for the South Australian Disability Service Sector*.

Note: Seclusion of an adult with disability must only be used if specifically authorised by the South Australian Civil and Administrative Tribunal (SACAT) under Section 32 of the *Guardianship and Administration Act 1993*. Seclusion of a child with disability must only be used if specifically authorised by their legal guardian.

If seclusion has been authorised, such seclusion must only occur within an environment that is safe, is non-threatening to the person and maintains the dignity of the person. Close supervision and monitoring must be used to ensure the safety and wellbeing of the person during the period of seclusion.

Service Provider Responsibilities

Disability support service providers must consider the particular situation and needs of each person receiving a service. This includes understanding the nature of, or triggers for, a person's particular behaviours or reactions, and recognising that they may be reflective of an issue within the service system.

Restrictive practices restrict the liberty of individuals and should only be considered in exceptional circumstances where the health, safety and wellbeing of a person with disability and/or the safety of others is at risk, and all other reasonable, least restrictive alternatives have been trialled and documented.

Any recommendation of the use of restrictive practices with a child must critically consider the potential impact on that child's opportunities for development.

Consent and Authorisation of Restrictive Practices

In all instances, a person with decision-making capacity must have all decisions regarding the use of restrictive practices deferred to them. When a person with decision-making capacity consents to the use of restrictive practices, care should be taken to ensure that such consent is voluntary and not the subject of undue influence by people on whom the person with disability relies.

Restrictive practices applied in the support of children and young people under 18 years of age can be consented to by that child or young person's parent, or another person with legal authority to make decisions on behalf of that child or young person.

Authorisation and consent requirements are contained in *Restrictive Practices – Guideline for Assessing, Planning, Authorising and Consenting for Adults* section of the *Restrictive Practices Reference Guide for the South Australian Disability Service Sector*.

Use of Restrictive Practices in an Emergency

In emergency situations, the primary consideration for staff must be the immediate safety and wellbeing of the person and others.

As far as possible, the application of restrictive practices in an emergency should be consistent with any advance care directive and the person's individual support plan.

Once the safety of all parties is ensured, staff must brief their supervisor or manager and document the emergency and restrictive practice applied as soon as practicable.

Specific requirements are outlined in the *Standards for the Recording and Reporting of the use of Restrictive Practices* section of the *Restrictive Practices Reference Guide for the South Australian Disability Service Sector*.

Where a restrictive practice is required to administer emergency medical treatment to a person with impaired decision-making capacity, a medical practitioner may consent to the restrictive practice on that person's behalf.

Disability service providers must ensure that debriefing of people with disability who are subject to restrictive practices and staff occurs as soon as practicably possible.

Disability service providers must ensure that steps are taken to meet the requirements of this policy as soon as practicable in relation to a restrictive practice initially applied on an emergency basis.

Distinguishing Therapeutic or Safety Devices/Practices from Restrictive Practices

Devices/practices applied or undertaken for therapeutic or safety purposes are not considered restrictive practices and can be consented to by the person or the person providing consent on their behalf.

Where a person has received clear communication in relation to the purpose of its application and still resists or objects to a therapeutic or safety device/practice, its application is considered a restrictive practice and therefore requires authorisation by SACAT.

For further information refer to the *Reducing and Eliminating the use of Restrictive Practices in South Australia – The Code of Practice* section in the *Restrictive Practices Reference Guide for the South Australian Disability Service Sector*.

Service Provider Responsibilities: Safeguards to Minimise and Eliminate the use of Restrictive Practices

Under this policy, disability service providers, including sole traders, are required to implement safeguards in line with their organisational structures and functions.

The following safeguarding requirements are outlined in more detail in the *Reducing and Eliminating the use of Restrictive Practices in South Australia – The Code of Practice* section of the *Restrictive Practices Reference Guide for the South Australian Disability Service Sector*.

- Individual support plans
- Positive behaviour support
- Proactive leadership from each disability service providers' Board, Chief Executive Officer and management
- Appointing a Restrictive Practices Compliance Officer
- Implementing restrictive practice governance arrangements
- Recording and reporting of the use of restrictive practices
- Monitoring the use of restrictive practices
- Training and development of staff
- Supervision and debriefing

Implementing these requirements will assist providers to improve services and meet their responsibilities as outlined in the *Service Outcomes* section of the *Restrictive Practices Reference Guide for the South Australian Disability Service Sector*.