Department of Child Safety, Seniors and Disability Services

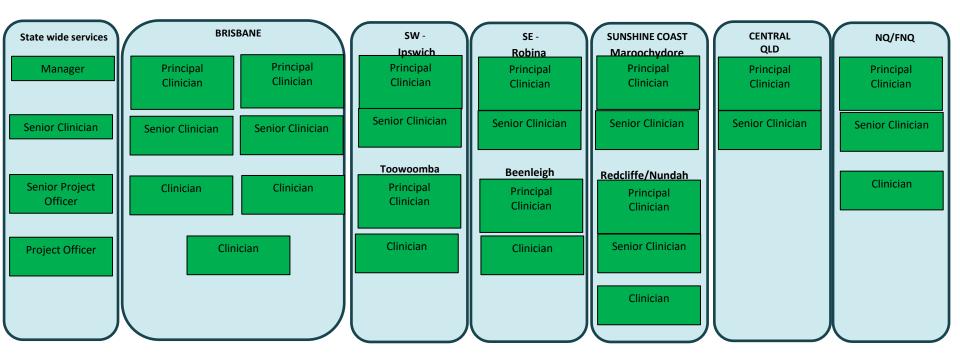


State of the Nation: Queensland

Chris Booker Director, Positive Behaviour Support & Restrictive Practices Unit Disability, Seniors & Carers Department of Child Safety, Seniors and Disability Services



Director PBSRP







Background

- The Disability Services Act 2006 (DSA) regulates the authorisation and use of restrictive practices – including containment and seclusion, chemical, mechanical or physical restraint or restricting access– of vulnerable <u>adults</u> with an <u>intellectual or cognitive</u> <u>disability</u> whose behaviour <u>causes harm</u> to themselves or others.
- *harm* to a person means—

(a) physical harm to the person; or

(b) a serious risk of physical harm to the person; or

(c) damage to property involving a serious risk of physical harm to the person. (DSA s 144)





PBSRP Unit

- The PBSRP unit's work is governed by Part 6 of the *Disability Services Act 2006*.
- Following Queensland's transition to the NDIS on 1 July 2019, the PBSRP has retained the following responsibilities:
 - developing positive behaviour support plans (PBSPs) for all Queenslanders subject to containment and seclusion developing all PBSPs for clients of the department's Accommodation Support and Respite Services (AS&RS)
 - providing approvals for the short term use of restrictive practices (excluding containment and seclusion) by any disability service provider in Queensland



State Legislation Underpinning Positive Behaviour Support

Queensland Legislation

- Disability Services Act 2006
- Guardianship and Administration Act 2000
- Public Guardian Act 2014



Differences between QLD and the Commonwealth

Commonwealth	Queensland
Seclusion	Seclusion
Chemical Restraint	Chemical Restraint
Mechanical Restraint	Mechanical Restraint
Physical Restraint	Physical Restraint
Environmental Restraint	Containment
	Restricting Access



The QLD Authorisation Process

- The DSA, the *Guardianship and Administration Act 2000* (GAA) and the *Public Guardian Act 2014* all regulate the authorisation and use of restrictive practices by disability service providers operating in QLD, with a focus on reducing and eliminating their use.
- There are 4 levels of authorisation in QLD:
 - 1. Short Term Approval
 - 2. Consent by a Relevant Decision Maker (Informal decision maker)
 - 3. Consent by an appointed Guardian for Restrictive Practices
 - 4. Approval by Queensland Civil and Administrative Tribunal (QCAT)





- Regardless of the level of authorisation:
 - Use of all restrictive practices in QLD must be **independently** approved or consented to.
 - A Positive Behaviour Support Plan (PBSP) must be written that includes:
 - o positive strategies to be attempted before using a restrictive practice
 - o when the restrictive practice is to be used
 - why the restrictive practice is the least restrictive way of ensuring the safety of the adult or others
 - o the procedure for the restrictive practice
 - o any other measures to ensure the adult's proper care and treatment and safety
 - o the positive and negative effects on the adult of using the restrictive practice
 - the intervals at which the use of the restrictive practice will be reviewed (DSA 2006 s150)



Difference between a Forensic Order (Disability or Mental Health) and a RP approval

- A forensic order has a list of conditions that the person subject to the order must comply with.
- A restrictive practices approval provides authority to the service provider to restrict the liberty of an adult.
- They are not mutually exclusive, someone can be subject to both.
- Sometimes there is congruency between the order and the authorisation, and sometimes there isn't...



Approval by Queensland Civil and Administrative Tribunal (QCAT)

- Where an adult is subject to either containment or seclusion in a general accommodation setting, approval can only be given by QCAT.
- This is done by way of a tribunal hearing.
- Tribunal hearings can take place as either:
 - an oral hearing, where interested parties attend in person
 - 'on the papers', where the application is considered using the interested parties' submissions only
- The tribunal can make Directions relating to the approval –similar to conditions included as part of an STA approval, or consent by a Guardian for restrictive practices.
- Approval for the use of the restrictive practice can be given for up to 12 months.



Process once consent/approval has been received

- Once consent/approval has been received from the decision maker:
- the service provider must enter details of their restrictive practice approvals directly into the Online Data Collection tool (ODC)
 - For an STA this must be within 14 days
 - For a PBSP this must be within 21 days
- The service provider is responsible for ensuring ODC are correct.
- ODC has a two-step verification process –information entered by a person with a 'data entry' role; and declared as correct by an 'authorising agency officer'.





Further Information

- RP ENQUIRIES
- 1800 902 006
- enquiries_RP@qld.gov.au
- https://www.dcssds.qld.gov.au/ourwork/disability-services/positive-behavioursupport-restrictive-practices







