

Position statement

Protecting the human rights of adults with decision-making disabilities

RESTRAINT

The use of restraint is a major infringement on a person's civil liberty and should only be an option of last resort.

The Public Advocate supports the concept of a restraint-free environment and recommends that restraint only is used when all alternative options have been explored and have failed or are considered inappropriate. The primary purpose of restraint should always be the promotion and maintenance of a person's health, wellbeing and safety. The protection of others may also be a consideration.

Restraint should only be used as part of a holistic intervention plan. This plan should be developed and approved by the treating team in consultation with the person and their family and with the consent of a guardian or enduring guardian (where appointed with the relevant authority).

Restraint should not be used for staff convenience or to overcome lack of adequate staff support and supervision. Residential facilities must be able to address the conditions and support the requirements of individual residents.

Restraint can either be physical or chemical.

Physical restraint is the intentional restriction of a person's voluntary movement by use of a device or physical force for behavioural purposes. Lap belts, table tops, posy restraints, bed rails, water chairs and deep chairs that are difficult to get out of are all examples of physical restraint.

Chemical restraint is the intentional use of medication to control a person's behaviour when no medically identified condition is being treated; where the treatment is not necessary for the condition; or the intended effect of the drug is to sedate the person for convenience or for disciplinary purposes.

ALTERNATIVES TO THE USE OF RESTRAINT

Before deciding to use restraint/s, the following less restrictive alternatives for managing behaviour should be considered:

- identify the specific behaviour that is problematic and identify the cause
- make modifications to the physical environment to maximise a person's capability and reduce frustration
- consider possible health or medical factors which could contribute to or cause the behaviour

Position statement

Protecting the human rights of adults with decision-making disabilities

- ensure meaningful activities are provided
- ensure appropriate staff support is provided to enable safe movement around the facility
- avoid activities or situations that could provoke anxiety in the person.

CONSULTATION ABOUT THE POSSIBLE USE OF RESTRAINT

Before deciding to use restraint/s, the following consultation should occur:

- ascertain the view of the person with the decision-making disability
- seek the views of family members and other significant people in the person's life
- obtain information from service providers including the treating doctor.

'TREATMENT' VERSUS CHEMICAL OR PHYSICAL RESTRAINT

The key factor that differentiates restraint from other forms of care or treatment is that it is always applied intentionally to restrict the movement or behaviour of a person.

The appropriate use of drugs to reduce symptoms in the treatment of medical conditions such as anxiety, depression or psychosis, does not constitute restraint.

It is also possible that **physical** restraint could be considered as 'treatment' under the *Guardianship and Administration Act 1990*. Some of the determining factors might include the reason for its use, the purpose to which it would be put and who prescribed its use.

When **chemical** restraint is being considered, an existing medical condition is also a factor. A medical practitioner may prescribe drugs to control the behaviour of a person with an underlying medical condition.

This may meet the definition of 'treatment' under Section 3 of the *Guardianship and Administration Act 1990*. For example, medication prescribed appropriately for some psychiatric conditions may have the effect of controlling a person's behaviour. The appropriate use of psychoactive medication to reduce symptoms in the treatment of medical conditions does not constitute restraint.

However, if a drug were used for behaviour management for the convenience of staff or others it would fall outside the definition of medical treatment (see the Public Advocate's position statement called 'Decisions about treatment' for further information).

Position statement

Protecting the human rights of adults with decision-making disabilities

If physical or chemical restraint is considered to restrict a person's behaviour or movements other than for medical reasons and they are unable to give informed consent, then a guardian may need to be appointed.

An application would need to be made to the State Administrative Tribunal.

This is different from the provisions dealing with treatment, where there is a prescribed hierarchy of people authorised under the Act to give consent to medically treat a person with a decision-making disability.

RESTRAINT AS AN URGENT RESPONSE TO BEHAVIOUR

Restraint may be necessary if a person with a decision-making disability displays sudden, unusual behaviour which is likely to result in self harm or harm to others. The use of restraint is likely to be an urgent response required by necessity or under a duty of care.

GENERAL PRINCIPLES FOR THE USE OF RESTRAINT

The benefit of restraint to the individual person must outweigh the possible negative effect on the person and the risk involved if restraint is not used. Consent should be considered only where there is clear evidence that the level of risk and potential harm outweigh the person's right to remain unrestrained. The following factors should also be taken into account:

- less restrictive alternatives have been tried and failed or deemed inappropriate
- the proposed restraint is the least restrictive form available
- careful consideration has been given to the restraint being proposed as a long-term management strategy rather than a short-term response to the situation
- a specialist clinician has undertaken a thorough documented assessment (Behaviour Management Plan) of the person and the need for restraint
- when the person's condition improves, the restraint is removed or a less restrictive alternative form of restraint is used
- the use and duration of use of each form of restraint is adequately recorded by the facility in the person's file
- review of restraint must be regular and planned by suitably qualified professionals and where appropriate, the Guardian must be advised of the review process and outcome
- adequate training in restraint procedures must be provided to all staff involved in the provision of residential services.

Position statement

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THE PUBLIC ADVOCATE ALSO PUBLISHES POSITION STATEMENTS ON:

- Decisions about treatment
- The role of the Public Advocate as guardian of last resort with authority to make accommodation decisions
- The role of the Public Advocate as guardian of last resort with authority to make treatment decisions
- The role of the Public Advocate as guardian of last resort with authority to make contact decisions

FOR FURTHER INFORMATION CONTACT

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